

## APPENDIX A

### ZONING\*

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\* **Editors Note:** Printed herein is the Zoning Ordinance of Egelston Township of 1982, Muskegon County, Michigan. The copy furnished to the publisher contained ordinances effective as of September 13, 1999. Amendments made by ordinance effective after September 13, 1999, are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original as furnished to the publisher by the township. Obvious misspellings have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system for citations to state statutes and expression of numbers in text as appears in the Code of Ordinances has been used. A consistent scheme of capitalization has also been used. Additions for clarity are indicated by brackets.

**State Law References:** Michigan Zoning Enabling Act, MCL 125.3101 et seq.

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**ZONING ORDINANCE OF 1982**

**TOWNSHIP OF EGELSTON, MICHIGAN**

Ord. eff. 11-26-1982

THE TOWNSHIP OF EGELSTON, MUSKEGON COUNTY, MICHIGAN, PURSUANT TO ALL THE POWERS GRANTED UNDER ACT NO. 184 OF THE PUBLIC ACTS OF 1943, AS AMENDED, DOES HEREBY ORDAIN:

**ARTICLE I.**

**GENERAL PROVISIONS**

- Sec. 1. Title.

This ordinance shall be known as the Zoning Ordinance of Egelston Township of 1982, Muskegon County, Michigan.

## **Sec. 2. Purpose.**

This ordinance is adopted in accordance with Act No. 184 of the Public Acts of 1943 [Repealed--See now MCL 125.3101 et seq.] and has as its purposes the following:

- (a.) The regulation of land development.
- (b.) The establishment of districts which regulate the use of land and structures.
- (c.) Meeting the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, service, and other uses of land.
- (d.) Insuring that use of land shall be situated in appropriate locations and relationships.
- (e.) Limiting the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities.
- (f.) Facilitating adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public services and facility requirements.
- (g.) Promoting the public health, safety and welfare.

## **Sec. 3. Division of township into districts (zones).**

For the above purpose this ordinance divides the township into districts of such number, shape and area as the township board considers best suited to carry out the purposes of Act 184 of the Public Acts of 1943 [Repealed--See now MCL 125.3101 et seq.], as amended. This ordinance designates and limits the location, height, number of stories and size of dwellings, buildings and structures that may be erected or altered, the specific uses for which dwellings, buildings and structures may be erected or altered, the area of yards, courts and other open spaces, and the sanitary, safety and protective measures that shall be required for dwellings, buildings and structures. Further this ordinance limits the maximum number of families which may be housed in buildings, dwellings and structures which have been erected or altered.

## **Sec. 4. Scope of ordinance.**

It is not intended by this ordinance to repeal, abrogate, annul or in any way impair, or interfere with existing provisions of law, ordinance, or with any rules, regulations or premises, unless specifically repealed by the ordinance, or with any private restrictions placed upon property by covenant or deed; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings, or premises, or upon the height of buildings, or lot coverage, or requires greater lot areas or larger yards, courts or other open spaces than are imposed, or required by existing provisions of law, or ordinance or by such rules, regulations or permits or by such private restrictions, the provisions of this ordinance shall control.

## **Sec. 5. Zoning board of appeals.**

This ordinance further in accordance with statutory authority establishes a zoning board of appeals and sets forth its functions and authority, provides for special land uses, site plan requirements, planned use development districts and in general all types of zoning legislation which is authorized by the aforementioned state statute. In the event any ambiguity in procedure or substantive matters occurs, the procedures and requirements of Act 184 of the Public Acts of 1943 [Repealed--See now MCL 125.3101 et seq.], as amended shall prevail and are given effect in this township by virtue of this ordinance.

## **Sec. 6. Basic plan (general development guide).**

The planning commission for the Township of Egelston has adopted the Egelston Township general development guide which is a basic plan promulgated by the planning commission pursuant to Act 168 of the Public Acts of 1959, as amended, MCL 125.321, et seq. The zoning ordinance is enacted, and it is intended to be interpreted in accordance with the said basic plan, where the development guide has an impact on zoning decisions. Every board or commission of Egelston township which is called upon to make zoning decisions shall refer to the said general development guide in the course of its deliberation if the guide or its amendments and updated versions are relevant in any way to the substantive matters for decision.

## **Sec. 7. Suitability of districts.**

This zoning ordinance is enacted with reasonable consideration to the character of each district set forth herein and on the zoning map, the particular suitability of each district for particular uses allowed and permitted therein, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

## **ARTICLE II.**

### **TERMS AND DEFINITIONS**

#### **Sec. 1. Word use, terms and tense.**

For the purpose of this ordinance, certain words and terms are herewith defined as follows: Words in the present tense include future; words in the singular include plural; and words in the plural include the singular, the word "building" includes "structure," and the word "structure" includes the word "building." The word "shall" is mandatory. The word "person" means persons, associations, copartnerships or corporations or any other business or group association whether for profit or nonprofit, the word "occupied" includes designated or intended to be occupied, and the word "used" includes designed or intended to be used.

#### **Sec. 2. Definitions.**

(1.) *Accessory buildings.* A subordinate building, or portions of a main building, the use of which is incidental to that of the main building.

(2.) *Accessory use.* A use naturally and normally incidental and subordinate to the main use of the premises.

(3.) *Apartment house.* A building used or arranged for rental occupancy or cooperatively owned by its occupants, including, but not limited to, condominium ownership, having three or more family units, and with a yard, compound service or utilities in common.

(4.) *Basement.* That portion of a building, partly or completely below grade level.

(5.) *Boarding house.* A dwelling in which lodging or meals or both are furnished to three or more guests for compensation.

(6.) *Breezeway.* A covered structure connecting an accessory building with the principal building, or the building constituting the principal use. For the purpose of determining yard and area requirements, such connecting buildings shall be considered as part of the principal buildings, whether the said buildings constitute a private garage or not.

(7.) *Buildings.* Any structure having a roof supported by columns or walls designed or intended for the support, enclosure, shelter or protection of persons, animals or chattels. When such structure is divided into separate parts by one or more unpierced walls, extended from the ground up, each part is deemed a separate building, except as regards minimum requirements for the side, front or back yards as hereinafter provided. The word "building" includes any structure having a roof and includes, but is not limited to tents, awnings, carports and such devices.

(8.) *Building height.* Building height is defined as the vertical distance measured from the finished floor of the first story of a building to a point one-half the distance between the top of the walls, (measured from the lowermost portion of the top plate thereof), and the topmost portion of the roof structure. The first story of any building shall be considered the lowest story in which the ceiling is four feet or more above the average contract grade level of any exterior wall of the building. The following illustrations demonstrate how this section shall be interpreted:

GRAPHIC UNAVAILABLE: [Click here](#)

(9.) *Building line.* An imaginary line, a specified distance from the road or street right-of-way, on which the front of a building is to be located. In the case of any lot or parcel on a corner, building line shall be further defined to mean any line which is parallel to any street, running parallel with the boundary of the lot or parcel, on which any part of a building is to be located, the term "Building Line" includes the definition of setback line.

(10.) *Building, principal.* A building, or where the context so indicates, a group of buildings in which is conducted the main or principal use of the lot or parcel on which the said building is located.

(11.) *Campground.* A parcel of land devoted to the use of temporary occupancy, to be occupied by persons using house trailers, camping trailers, tents and other temporary dwelling units, for a recreational use only, licensed under the Public Acts of the State of Michigan, being Public Act 171 of 1970 as amended, and all rules and regulations made pursuant thereto.

(12.) *Church.* A building wherein persons regularly assemble for religious worship and which is

maintained and controlled by a religious body, organized to sustain public worship; together with all accessory building and uses, customarily associated with such primary purpose.

(12a.) *Clear vision area.* On a corner lot, the triangular area formed by connecting the road right-of-way lines by passing a line through points on those lines measured 30 feet from their point of intersection. The accompanying illustration of a typical clear vision area is consistent with this definition.

(13.) *District.* A section of the Township of Egelston in all parts of which the regulations of this ordinance governing the area and use of buildings and premises are the same, provided, that a district may contain more than one allowable use in it geographical area.

(14.) *Dwelling, single-family.* A detached building containing only one dwelling unit for residential use, and meeting the standards of article III, section 12.

(15.) *Dwelling, two-family.* A building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in article III, section 12.

(16.) *Dwelling, multiple-family.* A building containing three or more dwelling units arranged either side by side or vertically, and meeting the standards of article III, section 12. This definition includes an apartment house, townhouses and other similar multiple dwelling unit structures.

(17.) *Dwelling unit.* A unit including sleeping rooms, living rooms, baths and principal kitchen facilities designed as a unit for permanent occupancy by only one family for cooking, living and sleeping purposes.

(17a.) *Earth change.* This term includes natural resource removal and further includes any change of the topography of the earth or stripping of any material from the ground, excavation, grading or the moving of soil or material in the ground.

(18.) *Essential services.* The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of overhead, surface or underground gas, electrical steam or water distribution or transmission systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission, or for the public health or safety or general welfare, which shall be permitted as authorized and regulated by law and other ordinances of the township of Egelston in any use district.

(19.) *Farm hobby.* The use of land in any district in the township where farm products grown on the property are allowed to be sold or consumed on the premises. Hobby farming does not include livestock and it does not include the right to erect a structure for the sale of any farm products.

(20.) *Family.* A person living alone, or two or more persons who share a blood, adoption, foster or marital relationship, together with not more than one additional person not so related, living together as one housekeeping unit in a single dwelling unit.



(20a.) *Fence.* A structure erected to serve as a functional, decorative or ornamental enclosure or barrier, whether premanufactured, or made or constructed of posts, boards, wire, stakes, rails or similar materials.

(21.) *Filling, gas station, motor fuel service station.* Buildings or premises or portions thereof, arranged or designed to be used for the retail sale of oil, gasoline or other fuel for the propulsion or lubrication of motor vehicles, including facilities for changing of tire, tube and tire repairing, polishing, greasing, washing or minor servicing of such motor vehicles, but excluding high speed automotive washing, steam cleaning, body repairing, major transmission or chassis or motor repairing, or bumping and painting.

(22.) *Frontage.* The front boundary line of a parcel of land abutting a street.

(23.) *Garage-private.* An accessory building to be used for the storage of noncommercial motor vehicles, and not more than one commercial motor vehicle where such vehicles are equipped, repaired and stored by the occupant of the principal building and having no public shop or services in connection therewith.

(24.) *Garage-public.* Any garage which is a building other than a private garage available to the public and which is used for the storage, repair, greasing, washing, rental, servicing, adjusting or equipping automobiles or other motor vehicles, not including the sales thereof.

(25.) *Home occupation.* An enterprise carried on in the occupant's residence and located in a residential district, conforming to the standards set forth in article III, section 17.

(26.) *Hotel-motel.* A building containing primarily rooming units to be used only for the accommodation of transients. Dwelling units in the building or buildings or accessory buildings erected or used on the same premises may not exceed more than ten percent of the total number of rooming units. The term "rooming unit" includes the term "dwelling unit," and any dwelling unit used in a hotel or motel may only be used for transients, with the exception of any unit occupied by full-time employees, management or staff.

(27.) *Junk yard.* A salvage yard as defined in section (57) of this article.

(28.) *Kennel.* Any premises on which more than three dogs or more than three cats four (4) months old or older are kept.

(29.) *Lot.* Means the contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or structure.

(30.) *Lot area.* The total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.

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

(31a.) *Lot, waterfront.* The waterfront side of the land parcel shall be recognized as the front yard, if the residence is located within 300 feet of the water's edge.

(32.) *Lot line.* A line which marks the boundary of a lot.

(33.) *Lot line, front.* In case of an interior lot, the lot line separating said lot from the street; in the case of a corner lot or double frontage lot, the lot line separating said lot from that street which is designated as the front street in a request for zone change, building permit, certificate of occupancy, or in any proceeding concerning zoning before any board or commission.

(34.) *Lot line, rear.* The lot line opposite and most distant from the front lot line; in the case of irregularly shaped lot, such lot line shall be an imaginary line parallel to the front lot line but not less than ten feet long and measured wholly within said lot.

(35.) *Lot line, side.* Any lot line which is not a front lot line or a rear lot line; a lot line separating a lot from a side street is an exterior side lot line, while a lot line separating a lot from another lot or lots is an interior side lot line.

(36.) *Lot width.* The mean horizontal distance between the side lines as measured at right angles to such side lot lines. Where side lot lines are not parallel, the lot width shall be the average horizontal distance between such side lot lines.

(37.) *Lot of record.* A parcel of land described in a recorded plat created in accordance with the law in effect on the date of the recording thereof, including state law as well as all Township ordinances, and accepted by the proper public authorities on the said date of recording.

(38.) *Mobile home.* A structure used or adapted to be used or so constructed as to permit its being conveyed upon the public streets or highways and for occupancy as a dwelling or sleeping place for one or more persons, and whether or not the same has a foundation thereunder if said foundation is designed to permit the removal of such mobile home and its readaptation to use upon the public streets or highways, and which structure which has been inspected and approved in accordance with the "Mobile Home Construction and Safety Standards" promulgated by the United States Department of Housing and Urban Development, 24 CFR 3280, as from time to time amended, or federal or state standards which provide for mobile homes meeting substantially the same requirements as provided by the said regulations. This definition does not include a travel trailer, camper, or camping trailer.

(39.) *Mobile home park.* A lot, parcel or tract of land licensed by the State of Michigan and used as the site of occupied mobile homes, including any building, structure, vehicle, or enclosure located and used in connection with such mobile home park.

(40.) *Mobile home stand.* A plot or section of ground within a mobile home park designed and situated so as to provide for the parking of the mobile home, the necessary open space around the mobile home and placement of its accessory structures.

(40a.) *Natural resource removal.* Any mining, excavation, or pit operation for the purpose of searching

for or removing, for commercial use, any sand, earth, gravel, clay, or other similar mineral.

(41.) *New construction.* Any new structure or building including any new attachment or addition to an existing structure or building which provides additional floor space or increases the height or the distance below grade of the building.

(42.) *Nonconforming use.* The use which lawfully occupied a structure or land prior to the time of the adoption of this or any previous zoning ordinance, or any amendments thereto, but which does not conform with the use regulations set forth herein of the district in which it is located.

(43.) *Nonconforming structure.* The structure lawfully existing prior to the time of the adoption of this or any prior zoning ordinance or any amendment thereto, and not in violation at the time of its erection, which is occupied by a nonconforming use or is the principal building in which a nonconforming use is carried on.

(44.) *Occupant.* A person who uses, or occupies land.

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

(46.) *Open space, required.* The yard space of a lot which is established by and between the street, or the lot lines, and the required setback line and which shall be open, unoccupied and unobstructed by any structure.

(47.) *Open space, front, required.* The required open space extending the full width of the lot and to a depth equal to the required setback line, measured horizontally at right angles to the front lot line.

(48.) *Open space, rear, required.* The required open space extending the full width of the lot and to a depth equal to the required setback line, measured horizontally at right angles to the rear lot line.

(49.) *Open space, side, required.* The required open space extending from the required front open space to the rear open space and of a width equal to the side required setback line measured horizontally at right angles to the side lot line.

(50.) *Park.* An area laid out for public recreation.

(51.) *Person.* An individual, partnership, corporation or unincorporated association, estate, or any organization of persons or individuals or property capable of being identified as an entity.

(52.) *Plan, basic.* The Egelston Township general development guide, a basic plan promulgated by the township in accordance with the Michigan Statutes in such case made and provided.

(53.) *Premises.* A piece of real estate; a house or other building with its land.

(54.) *Principal use.* The primary and chief purpose for which a lot or parcel or premises is used.

(55.) *Private club.* A voluntary, incorporated or unincorporated association of persons for any lawful purpose, the membership of which is exclusive of the public.

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

(57.) *Salvage yard.* Any premises, establishment, business, or enterprise dealing in the recovery, segregation, sorting, dismantling, baling, packing, storage, handling or sales of salvaged waste, scrap, or recovered used materials, including, but not limited to scrap iron and other metals, paper, rags, rubber tires, glass, construction and demolition debris, and also including auto wrecking yards, but not including uses established entirely within closed buildings. Also commonly known as junk yards, automobile or metal rendering yards, recycling or similar businesses.

(58.) *School.* A building used for the purpose of elementary or secondary education which meets all requirements of the compulsory education laws of the State of Michigan and not providing residential accommodations.

(59.) *School-residential.* A group of buildings located on a single premises containing, in addition to educational facilities, residential accommodations which have been approved by the planning commission in accordance with a site plan which [has] met the requirements of all building codes and health regulations.

(60.) *Service buildings.* An accessory building as hereinabove defined.

(61.) *Setback.* The minimum horizontal distance between the front line of the building, excluding steps, and including porches, open or enclosed, and the street line or right-of-way.

(62.) *Setback line, required.* A line, marking the setback distance from the street or lot lines, which establishes the minimum required front, side or rear open space of a lot. The term "setback line, required" includes the definition of the term "building line."

(63.) *Shoreline.* Land bordering on any permanent body of water, including any creek, stream, lake, canal or open drain established by the County of Muskegon.

(64.) *Signs.* The term "sign" shall mean and include every announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained outside of any building or structure in view of the general public for identification, advertisement or promotion. This definition shall include, without limitation, billboard signs, signs painted directly on walls or parts of structures, free standing signs and temporary signs. Signs are further defined as to type and characteristics by the following definitions:

(a.) *Area.* Area of a sign shall mean the total square footage of a sign including all parts thereof

exposed to public view, meaning the area within a single, continuous perimeter composed of any line or geometric figure which encloses the extreme limits of writing, representation, emblem, logo, pictorial matter or any other figure of similar character together with any frame, material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

- (b.) *Billboard.* Any freestanding sign which exceeds 100 square feet in area which advertises a service, commodity or establishment which is not sold, produced, manufactured, furnished or located at the property on which the sign is located. An "off-premises sign," "outdoor advertising structure," or pole sign, may constitute a billboard.
- (c.) *Community special event sign.* A portable sign erected for a limited time for the purpose of calling attention to special events of interest to the general public, which events are sponsored by governmental agencies, schools, or nonprofit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature.
- (d.) *Construction sign.* The sign identifying the owners, contractors, architects or other professionals of a building or development project under construction.
- (e.) *Directional sign.* A sign solely limited to directional messages principally for pedestrian or vehicular traffic.
- (f.) *Electronic or changeable reader board.* A sign in which copy may periodically change through electrical, mechanical or electronic means.
- (g.) *Flashing sign.* Any illuminated sign in which the artificial light is not maintained stationary or constant in intensity or color at all times while in use.
- (h.) *Freestanding sign.* Any nonmovable sign not affixed to a building.
- (i.) *Governmental sign.* A sign erected or required to be erected by the township, the county of Muskegon, or by the state or federal government.
- (j.) *Identifying sign.* Any sign on the same premises which serves only to tell the name or use of a building or structure on the premises, or to tell the name or address of an apartment building, garden apartment, hotel, motel or similar business enterprise, or to inform the public as to the use of a parking lot or transit stop.
- (k.) *Memorial sign.* A sign, tablet or plaque memorializing a person, event, structure, or site.
- (l.) *Motion sign.* A sign of any type with moving parts or characters, except time/temperature, electronic message boards or barber poles.
- (m.) *Monument sign.* A sign set directly on a foundation at ground level with the display space not exceeding three feet from grade.

- (n.) *On-premises sign.* A sign located on the parcel of land or lot advertising a business, product, service of person or subject present on the said parcel of land or lot.
- (o.) *Pole sign.* An advertising structure which is supported by one or more uprights on permanent footings with all parts of the display surface of the sign eight feet or more above grade.
- (p.) *Political sign.* A sign erected for a limited period of time for the purposes of political campaigns for public office, for elections on public questions, or otherwise relating to public elections, referenda or events held for the purpose of voting on or for public offices or public questions. The definition does not include permanent commercially operated billboards, but pertains to signs such as yard signs and other temporary signs erected in connection with an election or referendum.
- (q.) *Portable sign.* A sign which is not permanently affixed to a building, structure or the ground. The definition includes temporary sign. Portable or temporary signs include without limitation signs supported on wooden posts, mobile chassis, motor vehicles, banners, flags, pennants, tripods, trailers or other movable objects.
- (r.) *Real estate sign.* A sign advertising that the premises on which it is located is for sale, lease or rent.
- (s.) *Subdivision identification sign.* A sign identifying or otherwise stating the name of a platted subdivision, site condominium development, multifamily development, cooperative development or other residential development.
- (t.) *Wall sign.* A sign fastened to or painted on the wall of a building in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 12 inches from the building or structure.
- (u.) *Sign structure.* Any combination of supports or mounting devices holding a sign.

(65.) *Storage.* Place to save, put aside, or accumulate for future use.

(66.) *Story.* That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the upper surface of the ceiling or roof above. If the finished floor level directly above a useable or unused under-floor space is more than six feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such useable or unused under-floor space shall be considered as a story. In any event, no story shall have a height more than 12 feet, for the purposes of this ordinance.

(67.) *Story-half.* That portion of a building between the eaves and the ridge of a pitched roof, which may or may not be used for living space.

(68.) *Street.* A public or private way, square or lane, permanently open to common and general use which affords the principal means of access to abutting property, and which is adequately maintained and open

for vehicular use, both public and private, throughout the entire year.

(69.) *Structure alterations.* Any changes in the supporting members of a building or structure, such as bearing walls columns, beams or girders.

(70.) *Swimming pool.* Any structure located out of doors which is used or is intended to be used for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

(71.) *Variance.* The use granted by the zoning board of appeals to an individual, firm, corporation, or unincorporated company to use any structure or premises for a specific purpose in an area where such use is not normally permitted by this ordinance.

(71[a].) *Wireless communication antenna (WCA).* Any antenna used for the transmission or reception of wireless communication signals, except those used exclusively for dispatch by public authorities, amateur radio antennae, satellite antennae, those which receive video programming services which are one meter or less in diameter, and those which receive television broadcast signals.

(72.) *Wireless communication towers (WCT).* A monopole, guyed, or lattice type tower designed for the attachment of or as support for wireless communication antennae or other antennae.

(73.) *Wireless communication facilities (WCF).* All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including, without limitation, radio towers, television towers, telephone devices and exchanges, microwave towers, and shelters, structures and commercial mobile radio service facilities utilized in conjunction with all said facilities. This definition does not include citizen band radio facilities, short wave facilities, amateur radio facilities, satellite dishes, or government facilities which are subject to state or federal law or regulations which preempt local regulatory authority. This definition includes wireless communication antennae ("WCA's") and wireless communication towers (WCT's).

(74.) *Yard.* Space, or an occupied ground adjacent to and on same premises as a building.

(75.) *Yard, rear.* A space unoccupied except for an accessory building and extending the full width of the lot, between the principal building and the rear lot line.

(76.) *Yard, side.* An open, unoccupied space between the principal building or its attached accessory building or a garage accessory building erected not less than ten feet from the principal building, and the side lot line.

(Ord. of 6-16-2003)

### **ARTICLE III.**

#### **GENERAL REGULATIONS**

##### **Sec. 1. Zoning affects every structure and use.**

Except as herein specified, no building, structure or premises shall hereafter be used or occupied, and no building or part thereof or other structure will be erected, raised, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with the regulations specified for the district in which it is located.

**Sec. 2. Establishment [of] zoning districts.**

The Township of Egelston shall be and is hereby divided into zoning districts as enumerated hereafter, and in each district there are hereafter set forth certain use and area regulations.

R-1-Residential

R-2-Residential

R-3-Residential

R-4-Mobile home parks

R-5-Agricultural and resort uses

C-1-Commercial

C-2-Commercial

I-1-Industrial (light)

I-2-Industrial (heavy)

**State Law References:** Districts authorized, MCL 125.3201.

**Sec. 3. Boundaries of zoning districts, and zoning map.**

The boundaries of the said zoning districts are hereby established as set forth in legal descriptions and enacted as part of the text of this ordinance, and as shown on the zoning map which is part of this ordinance with all notations, references and other information shown thereon. The zoning map shall be certified as the official copy by the township clerk and shall be kept on display in the public office of the township. Maps and descriptions accompanying enacted amendments shall be displayed adjacent to the official copy until such time as the official copy is corrected. In the event that distributed copies of the map or legal descriptions have not been amended, the official map and descriptions contained in the township office shall prevail. Copies of all amendments shall be available at all times at the township office for distribution in accordance with law.

**Sec. 4. Interpretation of the zoning map.**

Where due to the scale, lack of detail, or illegibility of the zoning map accompanying this ordinance, there is uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary as shown thereon, interpretation concerning the exact location of the zoning district boundary line shall be determined by the zoning board of appeals. The board, in arriving at a decision on these matters, shall apply the following standards:



- (a.) Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the centerlines of alleys, streets, rights-of-way, or watercourses, unless such zoning district boundary lines are fixed by dimensions as shown on the zoning map.
- (b.) Where zoning district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- (c.) In unsubdivided property, or where a zoning district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
- (d.) If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary, the zoning board of appeals shall determine and fix the location of said line in a reasonable manner.

### **Sec. 5. Use regulation.**

Except as otherwise provided herein, the regulations governing land and structure use are hereby established as shown in the various districts under the heading "permitted principal uses" and in this Article. Uses not expressly permitted are prohibited. Special Land Uses may only be permitted by the action of the Planning Commission in accordance with the procedure established therefor. In the absence of such approval, Special Land Uses are prohibited uses.

### **Sec. 6. Applicability of lot area, width and setback requirements.**

[A.] *Lot area, frontage and width.* No lot or parcel of land shall be divided, subdivided or reduced in area, frontage or width in any way that results in existing or newly created lots or parcels having area, frontage or width that is less than is permitted in the zoning district in which the lot or parcel is located.

[B.] *Required setbacks.* Existing uses, buildings and structures may not be extended, expanded or added to in any way that results in a reduction of existing or required setbacks to a point less than that permitted in the zoning district in which the use, building or structure is located.

[C.] *Number of parking spaces.* The number of parking spaces established for existing uses may not be reduced in number in any way that results in a reduction of the number of parking spaces below the minimum number required for the use or zoning district in which an existing use is located.

[D.] *Setbacks on corner lots.* On corner lots, each yard fronting on a road right-of-way is considered to be a front yard. Front yard setbacks established for the zoning district in which a corner lot is located shall apply to both front yards. The configuration of side and rear lot lines shall be determined as follows:

- a. A lot line separating a corner lot from an adjacent lot's side yard shall be a side lot line. In such cases, side yard setback requirements shall apply.
- b. A lot line separating a corner lot from an adjacent lot's rear yard shall be a rear lot line. In such cases, rear yard setback requirements shall apply.

## **Sec. 7. Minimum floor space of dwellings.**

No building to be used as a dwelling shall be hereafter erected or altered having a living area of less than 850 square feet of usable floor space for a one- or two-bedroom dwelling, plus 110 square feet for each additional bedroom. Floor space shall not include porches, garages, breezeways, carports, decks or other appendages to the dwelling.

(Ord. of 6-16-2003)

## **Sec. 8. Accessory buildings.**

Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

1. *Use prior to principal building.* No accessory building shall be used prior to the principal building, except as a construction facility for the said principal building. Such facility shall not be used for residential dwelling purposes. The construction exception is a temporary one which shall lapse 30 days after completion of the principal building or buildings.
2. *Use in residential districts.* The use of accessory buildings in residential districts shall be limited to those uses customarily associated with residential purposes such as the storage of private motor vehicles, garden and lawn equipment, and recreational equipment.
3. *As part of principal building.* Where the accessory building is structurally attached to a principal building, it shall be subject to, and must conform to, all regulations of this ordinance applicable to the principal building.
4. *Setback and location of detached accessory buildings.* Detached accessory buildings shall not be erected in any required yard except a rear yard, provided the minimum distance between any part of the accessory building and the rear lot line of the property must be ten feet. An accessory building constructed in a nonrequired side yard area shall not extend into the required side yard or required front yard, and shall be subject to the setback distances required for the principal building. The distance between dwelling and accessory building must be not less than ten feet.

GRAPHIC UNAVAILABLE: [Click here](#)

5. *Yard area and building size.* Detached accessory buildings may occupy not more than the area of a required rear yard allowed in the applicable section of this ordinance, plus 40 percent of any nonrequired rear yard. R-1 through R-3 zoning districts, an accessory building shall not have floor area in excess of 1000 square feet provided an accessory building may have additional floor area as follows:
  - a) An accessory building may have floor area in excess of 1,000 square feet, provided that no accessory building shall have floor in excess of 1,800 square feet.
  - b) For any accessory building in excess of 1,000 square feet, there is imposed additional set

back and distance requirements of five-foot increments for each 160 square foot increment in the accessory building floor area over 1,000 square feet. The said five-foot increments shall apply to any required set back line or required distance for placement within the premises from structures or other improvements.

6. *Maximum number of accessory buildings.* The maximum number of accessory buildings in the R-1 through R-4 districts shall be limited to two.
7. *Building heights.* No detached accessory building in R-1 through R-4 districts shall exceed 12 feet in height. Provided, any accessory building which complies with the side yard requirements of this ordinance may be erected having an increased height as follows: for each five feet of nonrequired side yard (in addition to required side yard area), existing between any part of the building and the side lot line, the accessory building height may be increased by one foot. In no case however shall the accessory building height exceed 18 feet. In determining the applicable side yard setback for purposes of this subsection, the smallest side yard, including both required and nonrequired areas, adjoining the accessory building shall be used. Accessory buildings in all other districts may be constructed to equal the accessory building shall be used. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts. (Refer to article II, section 2(8), for determining the method of height calculation.)
  - a. In the R-1 through R-3 zoning districts, the height of an accessory building shall not exceed 12 feet in height, provided an accessory building may be increased in height up to a maximum of 18 feet in height, but there is imposed for such a building additional five-foot increments increased of additional set back from any required set back line or required distance for placement within the premises from the structures or other improvements, for each additional one foot or part of one foot increase in height.
  - b. In all other zoning districts, the height of an accessory building shall not exceed the maximum height permitted for all buildings and structures in such districts for determining the method of height calculation.
8. *Corner lot setback.* Accessory buildings on corner lots shall be located so that they do not project into setback or required side or rear yard areas as if extended from contiguous properties.

### **Sec. 9. Conversion of dwellings.**

The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, dimensions of yards and other spaces, and offstreet parking.

### **Sec. 10. Outside toilets.** Deleted. **Amended March 02, 2015**

## **Sec. 11. Tents, trailers, motor homes and recreational vehicles--occupancy.**

Tents, trailers, travel trailers, and/or automobile trailers shall not be used for dwelling purposes within the "Township limits; provided, however, that they may be used for temporary dwellings for a total period of not more than 14 days in any one year when located upon premises having running water and sewage facilities, and provided further that automobile trailers and travel trailers may be occupied for dwelling purposes within duly licensed travel trailer camps and subject to the requirements thereupon imposed.

## **Sec. 12. Mobile homes.**

No structure which is a mobile home may be used, erected, occupied or permitted outside of a licensed mobile home trailer park unless it meets the following standards:

- (a.) It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
- (b.) It has a minimum width across any front, side or rear elevation, meaning the entire width of the building facing in one direction, of 20 feet and complies in all respects with the township building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different from those imposed by the township building code in effect, then and in that event such federal or state standard or regulation shall apply.
- (c.) It is firmly attached to a permanent foundation constructed on the site in accordance with the township building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. The mobile home shall, in addition thereto, be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
- (d.) It shall be installed with the wheels removed. Additionally, no mobile home shall have any exposed towing mechanism, undercarriage or chassis.
- (e.) It is connected to a public sewer and water supply or to such private facilities approved by the local health department.
- (f.) It contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (g.) It is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with windowsills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side

of the dwelling; and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the township zoning inspector upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the zoning board of appeals within a period of 15 days from the receipt of notice of said zoning inspector's decision. Any determination of compatibility shall be based upon the standards set forth in this definition as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of residential development located outside of mobile home parks throughout the township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

- (h.) It contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- (i.) It complies with all pertinent building and fire codes. All construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (j.) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the township pertaining to such parks.
- (k.) All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable township building code provisions and requirements.

### **Sec. 13. Mobile home--Temporary permit.**

A mobile home not meeting the above standards, except as set forth below, may be used as a temporary dwelling, during the time of construction of a permanent dwelling that is not a mobile home, under the following conditions:

- (a.) A building permit must be issued and currently in effect for the said permanent dwelling to be constructed.
- (b.) A separate permit must be issued under this section for the use of the mobile home as a temporary dwelling, said permit to be issued by the zoning administrator only after all the requirements of this section are met.

- (c.) The mobile home temporary occupancy permit shall be issued for a period of six months. The permit may only be renewed if the zoning administrator is satisfied that satisfactory progress is being made toward the completion of the said permanent dwelling.
- (d.) Unless the temporary dwelling permit is currently in force, occupancy or placement of the mobile home shall be a violation of this ordinance and subject the owner or occupant of the premises to the penalties thereof.
- (e.) Determination by the zoning administrator shall be final, except an appeal to the zoning board of appeals shall be available in accordance with the procedures set forth in this ordinance.
- (f.) The mobile home to be occupied under the temporary permit shall be located on the same or adjacent property to that for which the building permit has been issued.
- (g.) The mobile home shall be connected to a water supply and sewer system which have been approved by the county health department. It shall have approved tie-downs.
- (h.) No temporary occupancy permit shall be issued for a travel trailer, camper or other recreational vehicle.
- (i.) The mobile home shall comply with the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, at 24 CFR 3280, or same or similar standards as set forth or amended in the federal regulations or in state regulations.
- (j.) Before occupancy the owner or occupant shall deposit with the township a performance bond, guaranteed by an acceptable corporate surety, or cash in the amount of \$500.00 to be held in an escrow account by the township.
- (k.) Said performance bond or escrow amount shall be returnable to the owner or occupant, conditioned on removal of the mobile home, either after expiration of a permit or the completion of the permanent dwelling, said removal to be to a legal place. If after written notice from the township, removal is not accomplished within 30 days, the said performance bond shall be collected or the cash retained for use by the township to remove the mobile home from the property. Any expense of the township in excess of the said performance bond or cash shall be assessed against the real property for which the building permit was issued.

#### **Sec. 14. Motor vehicle storage.**

Currently licensed, family or occupant owned motor vehicles, travel trailers, campers, boats, snowmobiles and similar vehicles, if the same are in running condition, may be stored on the owner's premises in any area or district, provided said storage is compatible with the uses permitted in the said district. No more than one unlicensed vehicle may be stored at any dwelling in district R-1 through R-4 unless stored in an enclosed accessory building. The outdoor storage of an unlicensed vehicle in districts R-1 through R-4 shall be limited to rear yard areas only. In any other district, the occupant operating any motor vehicles in pursuit of

permitted purposes shall provide parking areas sufficiently large to accommodate all motor vehicle units. Such vehicles shall be parked in this area when not in use.

### **Sec. 15. Nonconforming uses, structures and lots of record.**

Nonconforming uses shall be treated under this ordinance as follows:

- (a.) Lawful nonconforming uses or structures in existence at the time of passage of this ordinance may be continued but shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this ordinance, and result in a conforming use as required by the district regulations where such use is located, provided however:
  - 1. Single-family dwellings located within a C-1, C-2, I-1 or I-2 district may be enlarged by an addition containing floor space which does not exceed 25 percent of the existing floor space as defined in Article III, Sec. 7 of this ordinance, or containing up to 300 sq. ft., whichever is greater. Provided further, subsequent to such enlargement, there shall be no further additions except in accordance with the regulations of the district in which the dwelling is located, both as to use and size requirements.
  - 2. Enlargement of a single-family dwelling in the C-1, C-2, I-1 or I-2 district shall be subject to the minimum property space requirements of the district in which the dwelling is located, if stated. If not stated, the property space requirements shall be as in the R-1 district for a single-family dwelling.
  - 3. A single-family residence which fails to conform to the minimum floor space requirement of this zoning ordinance, but which at least meets the minimum requirements of the township building code as to number of rooms and room sizes and which is lawfully occupied as a nonconforming structure, may be repaired and occupied and occupancy continued, and its floor space may be increased with additions meeting the building and construction codes of the township. In the event of such addition, all requirements of said code shall be met. There shall be no limit to the size of the addition except the limits set forth above where such a dwelling is located in a C-1, C-2, I-1 or I-2 district. In the event occupancy has ceased for 90 days as hereinafter set forth, occupancy or additions shall not be allowed.
- (b.) One residential garage and one residential storage building may be constructed accessory to an existing nonconforming single-family dwelling subject to the general regulations of this ordinance pursuant to "accessory buildings" provided however, said accessory buildings shall not exceed one story or 12 feet in height.
- (c.) If a nonconforming structure or use is damaged or destroyed, repairs or replacements shall be started within 90 days and completed with reasonable diligence. The repaired or replaced area shall not exceed the original area without a permit under article VI.
- (d.) If occupancy of a nonconforming use or structure shall terminate for a continuous period of 90 days or the use or structure has been changed to that permitted in the district in which it is

located, the said nonconforming use or occupancy shall not be resumed or reestablished and any future use or occupancy of the land or structure shall be in conformity with the requirements of its district and the other sections of this ordinance.

- (e.) A lot of record that was legally established prior to the effective date of this ordinance, and that does not comply with zoning district lot area and width requirements, may be used as permitted by district regulations provided:
1. The use established on the lot complies with front, side and rear setback requirements for the zoning district in which the lot is located;
  2. The lot may not be further reduced in area or width;
  3. That the lot has not at any time been owned or controlled together with contiguous lots which could have been combined to form a parcel at the time of said ownership or control. Any conveyance or separation of such lots at any time shall be considered an illegal lot split, and shall not result in the creation of a buildable lot or lot of record. Common owners or controllers of contiguous nonconforming lots of record shall be required to combine lots to conform to the present zoning ordinance in the event they seek to place improvements of any kind thereon.
- (f.) A lot of record that was legally established prior to the effective date of this ordinance, and that does not comply with zoning district lot area and width requirements, may not be divided or altered in any way that results in the creation of any single lot that does not comply with applicable area and width requirements.

**State Law References:** Nonconforming uses or structures, MCL 125.3208.

## **Sec. 16. Hobby farming--Gardening.**

Hobby farming as defined in Article II, Section 2(19.), shall be allowed in any district.

## **Sec. 17. Home occupations.**

When allowed as a special land use, home occupations in dwellings shall comply with the following standards:

- (a.) They shall be operated in the entirety within the dwelling and not within any garage or accessory building located upon the premises, except for incidental storage or in the use of a residential garage upon the premises.
- (b.) Such occupation shall be conducted only by the person or persons occupying the premises as their principal residence, provided, however, the planning commission shall have the authority in granting the special use to permit additional subordinate assistants who do not so reside within the said dwelling to be employed therein where the same would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems. In no event, however, shall such additional assistants exceed three in number.



- (c.) The occupation shall use no more than 25 percent of the floor area of one story of the building.
- (d.) The dwelling shall have no exterior evidence other than a permitted sign to indicate that the same is being utilized for any purpose other than that of a dwelling.
- (e.) The occupation conducted therein must be clearly incidental and subordinate to the principal use of the premises for residential purposes.
- (f.) No goods shall be sold from the premises which are not strictly incidental to the principal home occupation conducted therein.
- (g.) No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting or the creation of unreasonable traffic to the premises. Such disturbances or lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted.
- (h.) Such occupation shall not require internal or external alterations or construction features, equipment or machinery not customary in residential areas, except as the planning commission in granting the special land use may determine to be innocuous or designed to avoid disturbance of the residential character of the neighborhood.
- (i.) As a condition of allowing a home occupation on any premises as defined herein, the occupant of the premises shall agree in writing to allow the township zoning inspector to make an annual inspection of the property to determine compliance with the requirements of this subsection. A home occupation may be terminated by order of the township board in the event it fails to comply after any such inspection.

#### **Sec. 18. Reverted zoning.**

In the event that a zone change is granted pertaining to any premises in the township, then the said premises shall be used or the use or structure shall be substantially begun or erected within 12 months from the date of the permit. In the event such substantial use or construction has not begun within the said period, the township planning commission may on its own motion immediately initiate procedures to rezone the changed area to its former zoned district or to revoke the special land use permit, using the procedures set forth in Act 184 of the Public Acts of 1943 [Repealed--See now MCL 125.3101 et seq.], as amended, including all notice provisions therein.

#### **Sec. 19. Variance record.**

Whenever a variance from this zoning ordinance shall be granted by the zoning board of appeals for any use or purpose, written copies of the variance and its terms shall be retained in a permanent file in the township office. In the event a variance is granted, but no use thereof is made on the premises for a period of one year with the option for a request of a one-year extension, then the said variance shall expire and be automatically extinguished. The variance record shall be reviewed at least annually by the zoning administrator and he shall make permanent record of any such expiring. Further, the zoning administrator shall report to both the planning

commission and the zoning board of appeals in the event any variance thus expires. The structure of premises shall not be used in accordance with the terms of any such variance which has expired until and unless a new variance has been granted.

**State Law References:** Variances, MCL 125.3603.

## **Sec. 20. Essential services.**

In all zoning districts, where essential services are allowed, as defined in article II, section 2, subsection (18.), the following requirements shall be applied in every case:

- (a.) Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six feet high and adequate to obstruct passage of persons or materials.
- (b.) Public utility facilities in any zoning district shall be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.
- (c.) Brine lines, hydro-carbon lines, oil and gas transmission lines, private power lines, including the easements for the same, shall be considered and subject to all provisions set forth for essential services even though all of the same may be maintained and/or owned by a private person.

## **Sec. 21. Access to roads.**

No structure or use involving occupancy, whether as a resident or for any other purpose by any person or persons, shall be used or occupied in Egelston Township unless the premises and structure have unobstructed access to either a public or private easement and thereby to a public street or road which easement and road are continuously maintained open and accessible to the structure or premises sufficiently to permit vehicular traffic ingress and egress at all times. Such road, including a private road, driveway or access easement shall comply with the regulation of the zoning ordinance.

## **Sec. 22. Permits required for building.**

No structure shall be erected in Egelston Township without the issuance of a building permit as set forth in the various building and energy codes in effect at the time of the proposed construction. Building permits and certificates of occupancy shall be issued as required in the applicable building and energy codes.

## **Sec. 23. Required parking and loading spaces.**

- (a.) *Required parking space.* Within any district no building structure or premises shall be used, erected or structurally altered except that there be provided, on the same lot as the principal use they are intended to serve, offstreet parking spaces in accordance with the following schedule:
  - (i.) *Residential uses including hotels and motels.* One parking space required for each dwelling unit or for each sleeping unit in a hotel, motel or boarding house.
  - (ii.) *Commercial.* One parking space required for each 300 square feet, or fraction thereof of gross floor space, or for each employee on a maximum working shift, whichever produces the greater

number of spaces required.

(iii.) *Industrial.* One parking space required for each 600 square feet, or fraction thereof of gross floor space, or for each employee on a maximum working shift, whichever produces the greater number of spaces required.

(iv.) *Places of public assembly.* One parking space for each five seats.

(b.) *Required loading and unloading spaces.* There shall be provided and maintained on all property, the use of which requires the receipt or distribution by vehicle of materials and/or merchandise, adequate offstreet loading and unloading space. Any use of public streets or other public ways for loading or unloading purposes shall be deemed to be a violation of this ordinance.

#### **Sec. 24. Plat violations.**

No building permits, special land use permits, variances or other actions allowing any use or structure in any zoning district shall be issued where there reasonably appears to be a violation of the Subdivision Control Act of 1967 now Land Division Act (P.A. 288 of 1967, as amended).

#### **Sec. 25. Interpretation as minimum requirements.**

The general regulations set forth in this article and other provisions of this ordinance are determined to be the minimum requirements for the promotion of the purposes set forth in this ordinance and for the maintenance of the safety, health and welfare of the residents and citizens of Egelston Township.

#### **Sec. 26. Animal density.**

No animals may be kept in Egelston Township except in accordance with this section:

(A.) *Wild and normally wild animals.* Wild and normally wild animals may only be kept in the township if licensed by the department of natural resources and in no event shall such animal species be kept in numbers or locations which exceed the density or location requirements of this ordinance for comparable domestic animals.

(B.) *Domestic animals-density.*

(1.) [*Horses, ponies, mules and other equine species.*] Horses, ponies, mules, and other equine species shall require at least two acres and with a width of 150 feet measured, between the side property lines on a property where two or less animals are kept. For each additional animal maintained on the property there shall be one additional one-half acre of area. In addition, such animals shall be confined so that they never are located closer than 300 feet from an active school property line or a residential subdivision property line.

(2.) *Livestock, including cattle, dairy stock, sheep, goats, hogs, and pigs.* Livestock, including but not limited to cattle, dairy stock, sheep, goats, hogs, and pigs may not be kept in any

zone except agricultural, R-5. Except for hogs and pigs, livestock shall be kept and maintained in a land area of not less than five acres per animal. Hogs and pigs shall be kept in pens with sufficient land area to meet industry, agricultural and health standards.

- (3.) *Dogs and cats.* No more than three dogs and three cats may be kept on any premises in the township, unless the occupant has a special use permit to operate a kennel.
  - (4.) *Poultry, ducks, geese, fowl, except ornamental birds, fur bearers, rabbits, except dogs or cats.* Except in the R-5 zone, no more than ten animals or fowl may be kept on any premises. They shall be housed in enclosures adequately maintained in accordance with commercial or governmental health standards.
  - (5.) *Snakes, amphibians, exotic species.* Snakes, amphibians, lizards and other exotic species are wild animals and are not permitted to be kept in the township without licensing from the department of natural resources of the State of Michigan. No snakes or amphibians of the size and type dangerous to humans, whether or not kept as household pets or domestic animals, shall be kept in the township regardless of the enclosure used.
  - (6.) *Miniature animals.* All miniature animals such as miniature pigs, goats, horses, cows and any other miniature animal shall not be maintained on any property in numbers not more than one per household. All such miniature animals shall be required to be maintained on a leash whenever they are taken off the premises or when they are not confined on the premises. All state health requirements for maintenance of any animal shall pertain to the maintenance of miniature animals. No animal shall be considered a miniature animal unless the person who is in possession or ownership of the animal produces certification by a veterinarian that the animal is a dwarf of miniature nature of a species.
- (C.) *Setbacks and enclosures.*
- (1.) *General.* All domestic animals shall be in enclosures with fencing designed to restrain and prevent the species involved from escaping, which fencing or enclosures shall be kept in good repair. Pigs and hogs shall be restrained in pens which are at least 100 feet from any property line.
  - (2.) *Setbacks from water supplies and dwellings.*
    - (a.) Horses, ponies, mules, equine species, livestock of any description, pigs or hogs, shall be kept in field or areas where the enclosure limit fences are at least 150 feet from any human water supply or dwellings.
    - (b.) Poultry, ducks, geese and other fowl shall be kept in enclosures, the limits of which are at least 100 feet from any human water supply or dwelling.
    - (c.) Fur bearing animals, rabbits and similar species shall be kept in enclosures or pens which are at least 25 feet from any human water supply or dwelling.

(D.) *Other provisions.*

- (1.) *[Proper zoning.]* This section does not authorize the commercial raising or maintaining or displaying of animals unless the zoning therefor is proper.
- (2.) *[Special land use.]* In the event raising of animals is allowed as a special land use, then the density requirements for the same shall be determined by the planning commission in connection with the permit to be issued or allowance granted, and the density requirements in this section shall not apply.
- (3.) *Nuisance.* Any noise, animal litter and waste products, dead or sick animals or vicious animals are declared nuisances and shall not be kept in the township. Failure to dispose of same shall constitute a violation of this ordinance and shall subject the owner or occupant of the premises to prosecution and the nuisance shall be abated.

**Sec. 27. Fences.**

Fences are permitted in all zoning districts subject to the following conditions:

A. *Nonindustrial zoning districts.*

1. *Front yards.*
  - a. Fences within front yards shall not exceed four feet in height.
2. *Side and rear yards.*
  - a. Fences within side and rear yards shall not exceed six feet in height.

B. *Industrial zoning districts.*

1. Fences shall not exceed ten feet in height.
2. Fences erected to screen a junk or salvage yard, or as may be required elsewhere in this ordinance, or as may be a condition of site plan, special use or PUD approval, shall be completely solid or opaque.

C. *Materials and appearance.*

1. It shall be unlawful to erect a fence consisting or constructed of tires, vehicle or motor vehicle component parts, tree stumps, rotting lumber or any materials capable of providing habitat or harborage for pests or vermin. It shall also be unlawful to erect a fence constructed or consisting of rubbish or trash as defined by article II, sections 1(B) and 1(C), of the Egelston Township garbage, rubbish and trash ordinance.
2. Barbed and electric wire fences are permitted in the R-5 zoning district only.

## **Sec. 28. Swimming pools, spas and hot tubs.**

A. Swimming pools, spas and hot tubs are permitted as an accessory use in all zoning districts subject to applicable setback regulations established for accessory uses, buildings and structures.

B. Swimming pools, spas and hot tubs located out of doors, whether constructed in, on or above the ground, shall be provided with a fence or other barrier that complies with all provisions of the Egelston Township building code applicable to swimming pools. Individuals are encouraged to talk with the building inspector to discuss what type of fence or other barrier will be required by the building code. Fences or other barriers must be approved by the building inspector before a swimming pool, spa or hot tub will be approved for use or occupancy.

## **Sec. 29. Private roads.**

A. *Purpose.* This ordinance has been adopted to assure that:

1. Private roads are designed, constructed and maintained to assure the safe passage and maneuverability of private passenger and emergency services.
2. Private roads are constructed of suitable materials to ensure minimal maintenance and safe passage.
3. Private roads will be constructed so as to protect against or to minimize soil erosion and to prevent damage to lakes, streams, wetlands, and natural environment of the township.
4. Private roads are constructed and maintained to safely accommodate public and private infrastructure, such as, without limitation, electric, gas, communication, water and sewer lines.
5. Support the master plan build-out (be compatible with the master plan).
6. The township encourages joint use and development of existing and new private roads by adjacent property owners to become one road.

B. *Definitions.* The following definitions shall apply to the interpretation of these regulations:

1. "Private road" means any privately owned, improved and maintained right-of-way and roadway which provides primary means of ingress and egress from public road right-of-way to more than one parcel. The term "private road" shall include extensions, relocations, additions and any private road, which joins or intersects to no more than one lot-parcel or condominium unit.
2. "Driveway" means an improved or unimproved path or trail that serves as or is intended to provide the only means of ingress and egress from an improved public road or from a private road improved to the standards of this ordinance to no more than one lot-parcel or condominium unit.

3. "Drain commission" means Muskegon County drain commission.
4. "Road commission" means the Muskegon County road commission.
5. "MDOT" means the Michigan department of transportation.
6. "Parcel" means a property, lot, condominium unit, or land upon which an improvement exists, is erected or may be erected as evidenced by a plat, condominium proposal, proposed site plan, application for approval under the Land Division Act, request for a separate tax parcel or any oral statement or written indication by the owners or occupant of the land. A separate parcel shall also be created for purposes of the private regulations when a second principal improvement is placed on a parcel or where an improvement housing an additional family or separate living unit is established.

C. *Application and effect.*

1. *Improvement on land; new private road.* No building permit shall be issued for any improvement, nor shall any improvement be constructed where a private road is utilized or is to be utilized for access unless the said private road has been constructed and completed under permit and in accordance with the standards of this ordinance, and security has been furnished as required for the construction of the road. A road which serves no improved property shall not be considered an existing private road, but must be treated as a new private road.
2. *Existing private road.* A private road existing on September 13, 1999, may continue in existence and be maintained and used, though it may not comply with the provisions of this ordinance. Such private road shall be continuously maintained so as to provide a safe and unimpeded route of travel.

For a private road existing on September 13, 1999, which is used to access one or more additional lots or parcels, the entire length of such road shall be upgraded to comply with the applicable requirements of this ordinance.

Upon application, the planning commission may grant an exception from any of the requirements of this ordinance for private roads existing on September 3, 1999, after finding that all the following conditions exist:

- a. There are such special circumstances or conditions that strict application of the provisions of this ordinance would clearly be impractical or unreasonable. These special circumstances may include topographic, vegetative or drainage conditions, and/or other significant natural features which physically preclude or prevent compliance. These circumstances and conditions shall be clearly identified and described in the application for any exemption.
- b. The granting of the exemption will not be detrimental to the public health, safety and welfare or injurious to other property in the area in which such, exemption is requested.

- c. Such exemption will not have the effect of nullifying the intent and purpose of this ordinance, the adopted master plan or the township zoning regulations.
- d. The justification for any exemption is not due solely to financial consideration, which upon approval of the requested exemption would provide a financial benefit.
- e. No other reasonable private road design alternatives are available that would comply with the requirements of this ordinance.
- f. That the appropriate officials or consultants designated by the planning commission have reviewed and commented on the request for the exemption.

3. *Legal entitlement.* Any private road, new, existing or extended, must be located on land affording the absolute and permanent right to install, improve, use and maintain the road for all required ingress and egress.

D. *General regulations.*

1. *[Special use.]* Where permitted, private roads constitute and are permitted only as special uses in all zoning districts.

2. *Frontage requirements.* All parcels served by a private road shall maintain frontage along the private road right-of-way as would be required to provide the minimum lot width on the road or frontage dimension required for the zoning district in which the parcel is located.

3. *Extensions and additions.* All extensions, additions and branches of or to a private road shall be considered part of the private road which provides access to and from an improved public road shall be constructed in compliance with these regulations, except as set forth above.

E. *Permits required; special use grant.* No private road shall be constructed, extended or relocated unless a private road construction permit ("permit") has been applied for and obtained, a special use has been granted, and the regulations of the ordinance are complied with. An application for a private road construction permit shall consist of the following materials and documents and once completed and has met planning commission approval, shall become the private road permit.

- 1. A completed application form, containing the name(s) of the owner(s) and any other parties having any legal interest in the proposed private road and the property on which it is to be constructed along with the time frame and completion date of the project.
- 2. A scale drawing, prepared by a Michigan professional engineer and professional surveyor that shows the following:
  - a. The exterior boundaries of the lot or parcel on which the private road will be constructed.
  - b. The proposed layout, grade, elevation, dimensions, and design of the private road right-of-way and roadway, including the location of proposed ingress from the adjoining



public street(s).

- c. The location of all public utilities, including water, sewer, telephone, gas, electricity and all types of communication cable to be located in the private road right-of-way.
  - d. The location of any lakes, streams, wetlands and drains in or within 500 feet of the proposed right-of-way.
  - e. The proposed layout and location of parcels which can be served by the proposed private road.
  - f. The location, description and dimensions of all intersections with other roads.
  - g. The location and distance of any private or public roads which the private road will intersect.
  - h. A survey of the proposed private road right-of-way prepared by professional surveyor in the state of Michigan.
  - i. The location of any buildings or structures located or to be located or to be located within 100 feet of the private road right-of-way.
3. A proposed maintenance agreement as described in this ordinance.

F. *Review and approval procedure.* Applications for private road construction permits shall be subject to the procedures applicable to special uses set forth in this ordinance. In addition to the procedures for approval of the special uses, applications shall also be subject to the criteria for site plan review and approval set forth in the ordinance.

G. *Maintenance and repair.*

1. Private roads shall be maintained in a manner that complies with the provisions of the ordinance.
2. All private roads shall be continuously maintained in such a way that they will not constitute a danger to the health, safety and welfare of the inhabitants of the township. All private roads shall be continuously maintained so that they are readily accessible to and used by emergency vehicles in all types of weather.
3. All cost for the maintenance and repair of the private road shall be the responsibility of all property owners and any condominium association or adjacent land, which will be served by the private road. A maintenance agreement and covenant, running with the land, in recordable form, shall be required.

H. *Design and construction standards.* The following table of standards shall apply for each improved portion of a private road:

1. A private road or interconnected private road and public road system, or any combination of public and/or private roads shall not serve more than 29 residential lots, site condominium units, or dwelling units, unless a secondary means of egress is provided for the entire property served. This secondary access shall meet the minimum standards of this chapter.

2. The International Fire Code, 2003 edition, requires dead-end access roads in excess of 150 feet to be provided with width and turnaround provisions as follows:

Length	Width (min)	Turnarounds Required
0-150 feet	20 feet	None required
151-500 feet	20 feet	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac.
501-750 feet	26 feet	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac.
501-750 feet	Required special provisions as approved by the fire code official.	

3. A private road shall not exceed a grade of five percent. Grades of six percent but not to exceed ten percent may require drainage structures. Any private road intersecting another private or public road shall not exceed a four percent grade within 50 feet from the shoulder of the intersecting road.

4. All private roads shall include a base of 22A gravel (or equivalent) to a depth of six inches with compaction of 98 percent.

Standards	Serving 2-8 Parcels (min)	Serving 9 or More Parcels (min)
A. Right-of-way width (easement)	66 feet (minimum)	66 feet (minimum)
B. Cleared, width of road bed	28 feet	32 feet
C. Width of gravel base with shoulders	22 feet	26 feet
D. Width of pavements	16 feet	20 feet
E. Thickness of asphalt	1 1/2 inches at 165 lbs.	
Per square yard	3 inches at 330 lbs.per square yard	

F. Road bed placement	In center of right-of-way	In center of right-of-way
G. Boulevards	May be permitted through the planning commission	
H. Road crown	(Minimum) Two-tenths of one foot (0.2) from the centerline of the road to outside edge of the road.	
I. Shoulders	6 feet (3 feet each side)	6 feet (3 feet each side)
J. Layout/clear vision	A private road intersecting a public road shall meet the requirements of the road authority. A private road intersecting another private road shall meet the same requirements as a public road.	
K. Intersection distance	Meet specifications of the road authority.	
L. Driveway spacing	Meet specifications of the road authority.	
M. Drainage system-design	Must be adequate to handle surface water. Surface water shall be discharged to, and detained on, land served by the private road.	
N. Stream crossing	Shall meet local, state, and federal requirements.	
O. Road name	Must be approved by central dispatch, road authority, and township fire department. The private road shall be given a name and street signs shall be installed in accordance with the standards and approval of the road authority. The address of lots or condominium units serviced by the private road shall be permanently located in a conspicuous place in front of each lot or condominium unit along the private road right-of-way.	

P. Traffic control	Stop signs, meeting MUTCD (Manual of Uniform Traffic Control Devices) requirements and the policies and guidelines of the road authority for public roads, shall be placed at the intersection of private roads. (Planning commission may require traffic control device study.)	
Q. Road materials	All paving materials shall meet the requirements of this ordinance.	
R. Debris and construction	Any debris, construction material, excess fill material, or other waste resulting from the construction of a private road shall be removed from the right-of-way and from any adjoining property and legally disposed of.	

I. *Indemnity.* As a condition of applying for and obtaining a private road construction permit, all applicant(s) and owner(s) of a private road shall agree to indemnify and hold the township, and anyone else authorized by the township to assist in the private road review process, harmless from any claims for personal injury or property damage out of the construction, use, maintenance or repair of a private road.

J. *Maintenance agreement.* The applicant(s) and owners shall provide the township with a recordable private road maintenance agreement between the owner(s) of the private road right-of-way and any parcel which can be served by it or is adjacent to it, said ownership to be current on the date of recording. The maintenance agreement shall be in a form satisfactory to the township and shall provide that the private road shall be privately maintained and repaired to assure safe travel at all times and during all seasons of the year. The maintenance agreement shall be a recordable covenant running with the land, binding on all the said parcels.

K. *Certificate of compliance.* Upon completion of construction of the private road, the permit holder shall provide the zoning administrator with a set of as-built drawings bearing a certificate and statement from a professional engineer certifying that the private road has been completed in accordance with the requirements of the permit issued. Authorized township personnel shall inspect the private road to determine whether it complies with the approved plans and permit as issued. A certificate of compliance shall be issued by authorized township personnel if it is determined that the private road has been constructed in compliance with the approved plans and the permit as issued. If the completed private road does not satisfy the requirements of the permit or this ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within [which] to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this ordinance. Authorized township personnel shall have the right to enter upon tile property where the private road is or will be located to

conduct such inspections as may be necessary to administer these regulations.

L. *Fees.*

1. Application fees for permits required by these regulations shall be set by the township board from time to time by resolution.
2. All other fees including, but not limited to, road construction inspection fees.

M. *Building permits for parcels on private roads.* No building permits shall be issued for any parcel on a private road unless the applicant demonstrates that the property in question has been conveyed by deed or other instrument complying with the law of the State of Michigan, the Land Division Act, and the township ordinance concerning land divisions, and that the required notice regarding the existence of a private road serving the property has been delivered and recorded.

N. *Access approval by road authority.* No permit shall be issued for a private road until the applicant(s) has presented the township with a current permit issued by the Muskegon County road commission, the state (MDOT) or other appropriate road authority allowing access for the private road to an improved public road, or letter from the road authority indicating that no such permit is required.

O. *Performance guarantee.*

1. The township will require the applicant(s) to post a performance guarantee in the form of a cash bond, bank letter of credit or other surety in order to insure compliance with the requirements of these regulations.
2. The amount of the performance guarantee shall be equal to the total estimated cost of construction of the private road as approved by the township.
3. The performance guarantee, or unspent portion thereof, will be returned to the applicant(s) by the township upon completion of the private road to the standards required by this ordinance.
4. The permit fee, by issuance of the permit, consents to the use of the proceeds from the security or guarantee by the township to complete the private road to the standards of this ordinance. Every guarantor or bonding company must agree in writing to this use of the proceeds before the township will accept the performance guaranty.

P. *Conflict with other ordinances.* To the extent that other ordinances regulate the subject matter regulated by this ordinance, the ordinances shall be construed together, if possible, and the remedies of the ordinances shall be cumulative. Where the provisions of any other ordinance conflict with the provisions of this ordinance, this ordinance shall prevail and its terms shall control. If any part of this ordinance conflicts with any other part, it shall be administratively appealed to the township zoning board of appeals for final determination of intent. The remainder of the ordinance shall remain in full force.  
(Ord. of 12-13-1999; Ord. of 6-16-2003; Ord. eff. 8-2-2006)

**Sec. 30. Site condominiums.**

A. *Purpose and scope.* Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of surface or sub-surface vacant air space within which a building or other improvement may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for purposes of determining compliance with the requirements of the zoning ordinance and other applicable laws, ordinances, and regulations. Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project.

This article requires preliminary review by the zoning administrator and planning commission followed by final review and approval by the zoning administrator and township board of site condominium project plans to ensure that site condominium projects comply with all applicable laws, ordinances, and regulations, including, without limitation, this zoning ordinance, and the Condominium Act, Public Act 59 of 1978 [MCL 559.101 et seq.], as amended. Site condominium projects may be approved as provided by this article in any zoning district for the uses permitted by the zoning ordinance in the zoning district in which the project is located.

B. *Definitions.*

1. For purposes of determining compliance with the applicable requirements of the zoning ordinance (including, without limitation, height, area, yard, and density requirements) or with other applicable laws, ordinances, or regulations, a "building site" shall be considered to be the equivalent of a "lot."
2. Except as otherwise provided by this ordinance, the following words and phrases, as well as any other words or phrases used in this section which are specifically defined in the condominium act, shall conform to the meanings given to them in the condominium act: "common elements"; "condominium documents"; "condominium unit"; "contractible condominium"; "convertible area"; "expandable condominium"; "general common elements"; and "master deed."
3. Other terms specific to site condominium projects are defined herein:
  - a. *Building envelope.* The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condominium project, the *building envelope* refers to the area of each condominium unit within the dwelling and any accessory structures may be built.
  - b. *Building site.* A building site as related to a site condominium may be considered as either:
    - i. The area within the site condominium unit itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope and the area around and contiguous to the building envelope; or

- ii. The area within the condominium unit (as described above), taken together with any contiguous and appurtenant limited common element.
  - c. *Condominium act.* Public Act 59 of 1978 [MCL 559.101 et seq.], of the State of Michigan, as amended.
  - d. *Front yard setback.* The distance between the front line of the building site, and the building envelope.
  - e. *Limited common element.* An area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium project for the exclusive use of the owner of the site unit.
  - f. *Rear yard setback.* The distance between the rear line of the building site, and the building envelope.
  - g. *Side yard setback.* The distance between the side line of the building site, and the building envelope.
  - h. *Site condominium project.* A plan or project consisting of not less than two site condominium units established in compliance with the condominium act.
  - i. *Site condominium project plan.* The plans, drawings, and information prepared for a site condominium project as required by section 66, of the Condominium Act [MCL 559.166], and as required by this section for review of the project by the zoning administrator, planning commission, and the township board.
  - j. *Site condominium unit.* A condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of surface or sub-surface vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner.
- C. *Review of preliminary plans by the planning commission.*
- 1. *Preliminary review.* Prior to final review and approval of a site condominium project plan by the township board, a preliminary site condominium project plan shall be reviewed by the zoning administrator and the planning commission in accordance with the procedures, standards, and requirements provided by this section.
  - 2. *Application.* Application for review and approval of a site condominium project plan shall be initiated by submission to the township clerk a minimum of ten copies of a preliminary site condominium project plan which complies with the requirements of subsection F, of this section, and an application fee in accordance with the fee schedule established by resolution of the township board.

3. *Review by zoning administrator.* The township clerk shall forward the copies of the preliminary plan to the zoning administrator who shall review the preliminary plan to determine its completeness, and to provide any comments to the planning commission regarding the plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the zoning administrator shall forward it to the planning commission on completion of his review together with any comments.
4. *Planning commission review.* The planning commission shall review the preliminary site condominium project plan in accordance with the standards and requirements of this ordinance for site plan review, and in accordance with the following additional standards and requirements:
  - a. In its review of a site condominium project plan, the planning commission may consult with the zoning administrator, township planner, township attorney, township engineer, or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design, or other aspects of the proposed project, and compliance of the proposed project with all requirements of the Condominium Act or other applicable laws, ordinances, or regulations.
  - b. The building site for each site condominium unit shall comply with all applicable provisions of this ordinance, including minimum lot area, minimum lot width, required front, side, and rear yards, and maximum building height. For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front, side, and rear yards shall be determined by measuring the distance from the equivalent front, side, or rear yard boundaries of the building site to the closest respective front, side, or rear boundary of the building envelope. With regard to building height, the condominium documents shall expressly provide that no building shall exceed the maximum building height permitted by the applicable zoning district regulations.
  - c. Streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the Muskegon County road commission.
  - d. The site condominium project shall be connected to the township's water and sanitary sewer facilities, if available. The township's water and sanitary sewer facilities shall be determined to be available if there is municipal water supply main or sanitary sewer line to which connection can be made within 2,640 feet of the site condominiums nearest common element and the connection can be engineered. If public water and sanitary sewer facilities are not available, the site condominium project shall either be served by a private central system designed for connection to a public system when, and if a public system is made available, or shall have a well, septic tank, and drain field located within the condominium unit's building site. Water and sanitary sewer facilities shall be



approved by the Muskegon County department of health, and the township in accordance with applicable standards.

- e. The proprietor shall install street lighting fixtures in accordance with the specifications of the electrical utility which supplies electricity to the site condominium project. A light district shall be established under the provisions of Public Act 264 of 1917, as amended. The developer shall petition for the establishment of a street lighting special assessment district under the provisions of said Public Act 264 of 1917, as amended. Any cash deposit or bond made under this subsection shall be returned to the developer on application to the township clerk after the light fixtures have been installed. The developer shall either:
  - i. Install the light fixtures prior to the issuance of any building permits for structures on any site in the site condominium project; or
  - ii. At the time of application for final approval of the site condominium, deposit with the township clerk an amount of money or a bond in a form which is acceptable to the township board, equal to the cost of installing the light fixtures and a copy of the petition demonstrating that application for a special assessment district has been made.

D. *Planning commission recommendations.* After reviewing the preliminary site condominium project plan, the planning commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan. The planning commission shall provide a copy of its written recommendations to the applicant and to the township board.

E. *Review and approval of final plans by township board.*

- 1. After receiving the planning commission's recommendations on the preliminary plan, the applicant shall submit to the township clerk a minimum of ten copies of a final site condominium development plan which complies with the requirements of this subsection, and of subsection F, of this section. The township clerk shall forward the copies of the final plan to the zoning administrator who shall review the final plan to determine its completeness, and to provide any comments to the township board regarding the plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A correct application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the zoning administrator shall forward it to the township board on completion of his review together with any comments.
- 2. The final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the planning commission based on its prior review of the preliminary plan. If any of the planning commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated, and the reasons why they have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the planning commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the

planning commission. Changes made to the plan other than those necessary to incorporate the recommendations of the planning commission shall be reviewed by the planning commission as provided by this section prior to approval of the plan by the township board.

3. After receiving the planning commission's recommendations on the preliminary plan, and a final site condominium development plan from the applicant, the township board shall proceed to review and may approve, deny, or approve with conditions, the plan in accordance with the standards provided by subsection C, and other applicable procedures, standards, and requirements provide[d] by this section.
4. As a condition of approval of a final site condominium project plan:
  - a. The township board shall require that the plan be submitted to the Muskegon County health department, Muskegon County road commission, Muskegon County drain commission, Michigan department of natural resources, Michigan department of environmental quality, Michigan department of public health, and other appropriate state and county review and enforcement agencies ("the agencies") having direct authority over any aspect of the proposed site condominium project. Unless a different time limit for completion of review by the agencies has been established by law or regulation, the review by the agencies must be completed within 120 days after submission of an administratively complete project plan. If no response is received within the applicable time period for review, the approval of the agency or agencies shall be presumed.
  - b. The township board may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the board covering the estimated cost of improvements associated with the site condominium project for which approval is sought be deposited with the township as provided by the township Rural Zoning Act.
  - c. The township may impose additional reasonable conditions of approval as provided by the site plan review, and any other provisions of this ordinance, any other township ordinance, state law or regulations, or any other applicable law or regulation.

F. *Contents of site condominium project plans.* A condominium project plan shall include the documents and information required by section 66, of the Condominium Act [MCL 559.101 et seq.] and by this section of this ordinance as determined necessary by the planning commission for review of a preliminary plan or by the township board for review of a final plan, and shall also include the following.

1. The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
2. A storm drainage and a stormwater management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
3. A utility plan showing all water and sewer lines and easements granted to the appropriate municipality for installation, repair, and maintenance of all utilities.

4. A narrative describing the overall objectives of the proposed site condominium project.
5. A narrative describing the proposed method of providing potable water supply, waste disposal facilities, and public and private utilities.
6. A street construction, paving, and maintenance plan for all private streets within the proposed condominium project.

G. *Construction in compliance with approved final site condominium project plan.* No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a final site condominium project plan as approved by the township Board, including any conditions of approval.

H. *Commencement of construction; issuance of permits.* No construction, grading, tree removal, soil stripping, or other site improvements or changes shall be commenced by any person and no building, construction, or grading permits shall be issued by the building inspector for a site condominium project until:

1. A final site condominium project plan has been approved by the township board;
2. All conditions to commencement of construction imposed by the township board have been met; and
3. All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.

I. *Expandable or convertible condominium projects.* Approval of a final site condominium project plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the township board in compliance with the procedures, standards, and requirements of this section.

J. *Revisions of approved final site condominium project plan.* Any proposed changes to an approved final site condominium project plan shall be reviewed by the planning commission and reviewed and approved by the township board as provided by this section for the original review and approval of preliminary and final plans.

K. *Incorporation of approved provisions in master deed.* All provisions of a final site condominium project plan which are approved by the township board as provided by this section shall be incorporated, as approved, in the master deed for the site condominium project. A copy of the master deed as filed with the Muskegon County register of deeds for recording shall be provided to the township within ten days after filing the plan with the county.

L. *Approval effective for one year.* Approval of a final site condominium project plan by the township board shall be effective for a period of one year. This one year period may be extended by the board in its discretion for additional periods of time as determined appropriate by the board if the extension is applied for by the applicant within the effective period of the approval.

M. *Exemption of existing projects.* This section shall not apply to a site condominium project which is determined by the township board to have met the following conditions as of the effective date of this section (an "existing project"):

1. A condominium master deed was recorded for the project with the Muskegon County register of deeds in accordance with the requirements of the Condominium Act and other applicable laws and ordinances; and
2. The project fully complies with all other applicable requirements under township ordinances in effect on the date when the condominium master deed was recorded.

The exemption provided by this section shall apply only to an existing project precisely as described in the condominium master deed recorded for the project on the effective date of this section, and not to any subsequent expansion, conversion, or replatting of the project or subsequent modification or amendment to the master deed which shall be fully subject to the review and approval requirements as provided by this section.

### **Sec. 31. Signs.**

This section of the zoning ordinance is enacted to regulate the size, lighting, spacing, location and manner of display of signs and sign structures as defined by this ordinance, in Egelston township.

- A. *Purpose of the sign regulation.* The regulation of signs in the township is for the following purposes:
1. To protect the health, safety and welfare of township residents and to enhance the landscape of the township by regulating signs to prevent problems which arise from excessive size, height, number, lack of spacing, poor or invasive lighting, and, without limitation, other characteristics of signs which adversely affect the community.
  2. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision or are distracting or confusing.
  3. To reflect the primary purpose of signing as being the identification of a particular user or use on a property, and to limit off-premises signs.
  4. To retain property values by reducing visual blight caused by signs involving clutter, poor maintenance, glare, distraction of motorists, obstruction of scenic views, and regulating signs in ways to retain aesthetic appeal on properties and surrounding areas.
- B. *Signs prohibited.* The following signs are expressly prohibited:
1. Any sign which has flashing, blinking, intermittent, on and off, or directional lighting, and any flashing sign, is prohibited, except for time and temperature signs, electronic message boards, and barber pole signs.

2. Any sign imitating or resembling traffic or governmental signs or signals.
3. Any sign not expressly permitted by this ordinance.
4. Motion signs are prohibited.

C. *Signs exempted.* The following signs shall be exempt from provisions of this chapter. Even though exempt, all signs listed herein shall conform with the size limitations set forth in this ordinance. The said exempt signs are allowed in all districts provided they conform to the general regulations applicable to all signs found in this ordinance.

1. Governmental signs.
2. Signs for essential services.
3. Historical markers.
4. Memorial signs or tablets.
5. Address and identification signs, having no more than two square feet of area, attached to a mailbox, light fixture or exterior wall.
6. Political signs, except they must be removed on or before ten days after the election to which they relate.
7. Community special event signs, provided they are removed on or before ten days after the event is completed.
8. Directional signs.

D. *General regulations applicable to all signs.*

1. Maintenance. All signs shall be maintained in good condition and repair including, without limitation, maintenance of supports and fastenings to prevent deterioration and falling.
2. Traffic hazards. No sign shall be constructed, erected, reconstructed or located in such a manner as to cause a hazard to vehicle or pedestrian traffic including without limitation visual hazard caused by flashing lights or glare which impairs vision or is unreasonably distracting, or blocking clear views at intersections.
3. No sign of any sort shall be constructed, erected or reconstructed upon or over any sidewalk, street, alley or other public right-of-way except for government signs. A further exception may be allowed for such sign where the planning commission has authorized the encroaching sign as a special use. In considering such authorization the planning commission shall consider the following standards in addition to the special use criteria

of this ordinance.

- (1.) Whether or not placement of the sign over the public right-of-way is necessary for access or viewing
  - (2.) Whether the sign will obstruct or otherwise interfere with the potential use of the right-of-way.
4. Illumination. All illuminated signs shall be lit with electrical power and shall conform with all codes in effect in the township from time to time. No flashing, blinking, intermittent, on and off or directional illumination is allowed. No open neon lights are allowed. Any sign illumination shall be located so as to prevent any glare or light being directed at any street or at any adjoining property.
5. No sign shall interfere with, obscure the view of or be confused with an authorized traffic sign.
6. There shall be no moving component of the sign. Motion signs are prohibited.
7. No billboard or other freestanding sign shall exceed 30 feet in height measured from the crown of the nearest street, and there shall not be less than four feet measured from the crown of the nearest street to the bottom of any freestanding sign, except a monument sign.
8. Freestanding sign materials and construction. All freestanding signs, sign structures or poles shall be self-supporting, erected on, and permanently attached to, concrete foundations. Such structures shall be made only from painted steel or other materials approved by the codes in effect in the township. All materials, walls, supports, wind loads, and sign anchoring shall conform with all codes in effect from time to time.
9. No signs in the right-of-way or on public property. No sign shall be located in the public right-of-way or on public property, or attached to any tree, utility pole, street sign, traffic control device or any other similar object or affixed to any public building or structure, except as authorized by this ordinance or in writing by the township.
10. Roof mounting of signs. No sign shall be mounted on a roof, nor shall any sign extend more than four feet above the roof line of a building.
11. Billboards.
  - (a.) Billboards may be placed in I2 zoning only.
  - (b.) No billboard may be placed closer than 2,000 feet from another billboard on the same side of the street.
  - (c.) No billboard shall be closer than 1,000 feet from a billboard on the other side of

the street.

- (d.) No billboard shall be placed more than 1,000 feet from a major, arterial, or primary collector street, intersection, or from an expressway access or exit ramp.
- (e.) No billboard shall be placed closer than 35 feet to a street right-of-way. This setback requirement shall be modified to conform with any requirement under any state law concerning setbacks, in the event the setback under state law requires a greater distance.
- (f.) No billboard shall be located closer than 300 feet from the property line of a property upon which a residence is located.
- (g.) Billboards shall not be stacked or placed one above the other. No more than one billboard shall be permitted on a single location, except that a double faced billboard may be considered one billboard.
- (h.) No billboard shall have an area as defined in this ordinance in excess of 300 square feet per sign face.
- (i.) Billboards shall require a permit to be issued by the township. The said permit shall be expire[d] in five years after its issuance and renewal permits shall carry terms of five years. As a condition of renewal, the billboard shall be kept and maintained in good condition and repair, and utilized in full conformance with all the requirements of this ordinance. In the event of the failure of the billboard occupant or owner to perform the maintenance and repair requirement by this ordinance, the permit may be canceled and the billboard shall be removed. This section does not require amortization of a billboard or a nonconforming billboard. This section concerns the maintenance and repair requirement.

12. Wall signs. Wall signs shall not project more than 12 inches from the wall.

E. *Signs permitted in zoning districts; specific requirements.* In each of the zoning districts in the township only the signs set forth in this section are permitted. They shall conform to all general regulations in this ordinance as well as specific regulations herein.

1. *R-1 and R-2 residential districts.*

- (a.) One real estate sign not in excess of six square feet in area, not illuminated and placed entirely within the boundaries of the parcel or lot to which the sign refers.
- (b.) Construction signs advertising the development of property in a residential, subdivision or condominium project. The said signs shall be removed when 75 percent of the lots or units within the development have been improved with buildings. They shall not exceed 32 square feet in area.

- (c.) Subdivision identification signs for a residential subdivision or development, not exceeding 32 square feet in area, and limited to two per residential subdivision or development.
- (d.) An identifying sign for a lot or condominium unit indicating the name of the occupant, the street address and not exceeding two square feet in size.
- (e.) Churches, schools and other permitted nonresidential uses within a residential zoning district may erect signs as permitted by a special use permit.

2. *R-3 and R-4 residential districts.*

- (a.) All signs authorized in the R-1 and R-2 districts.
- (b.) A building identifying sign provided it is not greater than 32 square feet in area and attached flat against the building it identifies.

3. *R-5 agricultural and residential districts.*

- (a.) Those signs allowed in districts R-1 through R-4.
- (b.) Signs advertising the sale of agricultural products produced on the premises from a stand on the property. The signs shall not exceed 32 square feet in area, and there shall not be more than two signs per property.

4. *C-1 commercial districts.*

- (1.) All signs permitted in the R-1 and R-2 districts.
- (2.) Signs located on buildings as wall signs, limited as follows:
  - (a.) Such signs limited to the elevation of the building fronting on the principal street providing access to the building.
  - (b.) Such sign shall not exceed an area of 20 percent of the area of the side of the building on which said sign appears.
- (3.) One freestanding on-premises sign per public road, street or highway frontage advertising or referring to the activities on the premises which is located in the setback and does not exceed two square feet in area for each five feet of frontage measured at the building setback line for the business premises on which the sign is located, subject to a maximum of 300 feet each. All such signs shall be located out of the public right-of-way. Said sign may not be over or under public utilities. Additional setback may be required through site plan approval.
- (4.) Portable signs are permitted for a period of 30 days advertising a new business.



5. *C-2 commercial districts.*

- (1.) All signs permitted in the C-1 district subject to the same conditions, restrictions and requirements as provided in that district.

6. *I-1 and I-2 industrial districts.*

- (1.) All signs permitted in the R-1 and R-2 zoning district subject to the same conditions set forth therein except real estate signs located in industrial districts may have up to 32 square feet in area.
- (2.) Wall signs attached to buildings provided the area of the sign does not exceed two percent of the total area of the wall to which it is attached or 100 feet whichever is lesser.
- (3.) A freestanding on-premises sign in a front yard setback provided the sign does not exceed 48 square feet in area or two percent of the area of the front wall of the building, whichever is greater, however the height of the sign shall not exceed four feet. Such freestanding sign shall be appropriately landscaped.
- (4.) An identifying sign erected at the entrance to a industrial park or cluster of industrial properties, naming the park or cluster and the industries located therein. Such sign may be freestanding or attached to a wall or fence and shall be appropriately landscaped. The sign may have an area not exceeding 48 square feet.
- (5.) Billboards when authorized by the planning commission as a special use, must be placed in I2 only. All such billboards shall comply with the general regulations of the township ordinances concerning billboards.

F. *Nonconforming signs.* Every permanent sign which lawfully exists at the time of the adoption of this ordinance or amendments thereto but which does not conform to the requirements of this ordinance, (except for a sign the physical condition of which threatens life or safety), is deemed nonconforming. Such nonconforming signs may not be expanded, enlarged or extended, but may be maintained and repaired. A nonconforming sign may be diminished in size or dimension without adversely affecting its nonconforming status, however after any reduction in size or dimension, any later increase shall be considered an expansion and is prohibited.

G. *Permits.* Except for signs declared exempt under this ordinance, no sign shall be erected, enlarged or placed without a permit issued by the township. Permits will be issued by the zoning administrator, but any application for a permit may be referred to the planning commission if their determination is required by this ordinance or in the event the zoning administrator deems it advisable to seek a recommendation of the planning commission. The planning commission shall not have variance powers; any such appeal from a decision of the zoning administrator shall be made to the zoning board of appeals.

1. *Application.* Application for a permit shall include a site plan indicating the location and an illustration of the sign, (not necessarily its content except to show the type of sign), including all dimensions necessary for any determination. The said site plan shall include information showing the relationship or distance from buildings and other structures, setbacks, etc. In addition to scale drawings of the plans and specifications for the sign shall be provided. Electrical and other code compliance permits or applications therefor shall be submitted.
  2. *[Issuance.]* The zoning administrator shall issue a sign permit if all the provisions of this article and all other ordinances of the township are satisfied. The permit shall expire after six months if construction not begun. Fees shall be required for every permit, the amount to be determined by the township board by resolution.
  3. *[Exempt signs.]* Permits are not required for signs set forth as exempt in this article.
- (Ord. of 6-16-2003)

### **Sec. 32. Open space preservation projects.**

A. *Purpose and applicability.* The purpose of this section is to adopt open space preservation provisions consistent with the requirements of the Michigan Zoning Enabling Act. Section 506 of the Zoning Enabling Act requires that zoned townships having a population of 1,800 or more and having undeveloped land zoned for residential purposes must adopt zoning regulations to permit "open space preservation" developments.

Under these regulations, a landowner has the option to retain at least 50 percent of the property as open space and placing dwelling lots on the remaining portion. The number of dwelling structures and lots cannot be more than the number which would be permitted on the land without the open space preservation regulations, nor may the township require less than the number of dwelling lots which would be permitted on the land without the open space preservation regulations.

This section shall only apply to open space preservation projects supporting single family detached residential dwellings in qualifying residential zoning districts and where no open space option has been previously exercised.

B. *Qualifying conditions.*

1. The option to develop land under the provisions of this section may be exercised only if each of the following conditions is satisfied:
  - (1) If the land is not served by a public sewer system, the zoning district in which the land is located permits development at a density equivalent to two or fewer single family dwelling units per gross acre; or if the land is served by a public sanitary sewer system, the zoning only permits development at a density equivalent to three or fewer single family dwelling units per gross acre. Under these terms, as of the effective date of these provisions, these provisions shall only apply to the R-1, R-2, R-3 and R-5 Zoning Districts;

- (2) The development of land under this section shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering option provided by this section would also depend on such extension; and
  - (3) The clustering option provided pursuant to this section shall not have previously been exercised with respect to the same land.
- (b) If all of the preceding conditions are satisfied, the land may be developed, at the option of the landowner, in accordance with the provisions of this section.

C. *Permitted uses.* Only single family residential dwellings and accessory land uses thereto, as permitted by the zoning district in which the land is located, shall be permitted on land developed or used pursuant to the provisions of this section.

D. *Development requirements.*

1. *Required open space.* At least 50 percent, of the land proposed for development under the provisions of this section shall remain in a perpetually undeveloped state (i.e., "open space") by means of conservation easements, plat dedication, restrictive covenants, or other legal instrument that runs with the land. Such open space may be dedicated to the public, may be held in common in private ownership, or may be privately held by one or more individuals. Each distinct form of open space shall be so designated on the site plan.
2. *Areas not eligible.* The following areas shall not constitute open space:
  - (1) The area within all public street rights-of-way.
  - (2) The area within all private street easements.
  - (3) Any easement for overhead utility lines, unless include within or is adjacent to open space.
  - (4) The area within a platted lot or site condominium unit or metes and bounds parcel occupied by a structure not permitted to be located in open space.
  - (5) Off street parking and/or loading areas.
  - (6) Detention and retention ponds.
  - (7) Golf courses.
  - (8) Community drain fields.
  - (9) Fifty percent of the area of wetlands, creeks, streams, ponds, lakes or other bodies of

water.

(10) Fifty percent of the area of floodplains and steep slopes (20 percent or over).

(11) Areas within building envelopes.

3. *Standards for open space.* The following standards shall apply to the open space required pursuant to this section:

(1) The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, an agricultural use or other use which, as determined by the planning commission, is substantially similar to these uses.

(2) The open space may be, but is not required to be, dedicated to the use of the public.

(3) At least 50 percent of the open space shall be either dedicated to the public or held in common and be available for all residents of the development, subject to reasonable rules and regulations.

(4) If the land contains a lake, stream or other body of water, the planning commission may require that a portion of the open space abut the body of water.

(5) A portion of the open space shall be located along the public street abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help reduce the view of houses on the land from the adjacent roadway and to preserve the rural view.

(6) A portion of the open space held in common shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.

(7) Open space dedicated to the public or held in common shall be located to be reasonably accessible by safe, convenient and appropriately located pedestrian access points.

(8) Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land. If these types of land features are not present on the land, then the open space shall be located, along the road frontage as indicated in paragraph (5) or as buffer between other adjacent land uses.

(9) Where feasible, open space shall be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.

4. *Use of open space.* All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the planning commission, at its discretion, may permit structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open

space. By way of example, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use.

E. *Application and review procedure; review by the planning commission.* Except as otherwise provided in this section, the application requirements and review procedures for land proposed to be developed pursuant to the provisions of this section shall be those governing site plans, as outlined in article V of this section.

1. *Additional review procedures.* For any development proposed as a platted subdivision or a site condominium development, all procedures and information required for subdivision review under chapter 117, Subdivisions and Other Divisions of Land, or for site condominium review and approval under article III, section 30 of this article shall also be required, as applicable. Such additional preliminary plat or preliminary site condominium review procedures may at the discretion of the planning commission, occur concurrent with, or subsequent to, the review procedures required herein, but not prior to open space preservation project approval. Any development project permitted by these provisions which is to be governed as a land division under chapter 117, article III section 117-140 must be approved prior to application for land division under section 117-141.
2. *Required submittals.* In addition to the site plan application materials required by article V, an application for the development of land under the provisions of this section shall include the following:
  - (1) *Existing zoning plan.* An existing zoning plan prepared for demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this section were not exercised. The existing zoning plan may be conceptual in nature but shall include at least the following information:
    - (a) Date, north arrow and scale, which shall not be more than 1" = 100. The scale shall be the same as the scale utilized for the site plan illustrating the proposed open space preservation project permitted by this section.
    - (b) Location of existing and proposed streets and joint access driveways.
    - (c) Location of all lots, illustrating the lot area and width of each lot and demonstrating compliance with the minimum requirements of the applicable zoning district.
    - (d) Location of all utilities necessary to serve a development under the existing zoning plan, including those which would not be located within a public road right-of-way, private street easement or buildable lot area. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
    - (e) If development under the existing zoning plan will require the use of private

wells, septic tanks and drain fields, the applicant shall submit evidence that the proposed ground water supply and septic tank and drain field location for each lot would be approved, or has been approved, by the Muskegon County Health Department.

- (f) The existing zoning plan shall illustrate all un-buildable land, which shall include slopes of 20 percent or greater, regulated and unregulated wetlands, public utility easements, floodplains, and other similar features which limit or prevent construction of buildings or roads. Each lot shown on the existing zoning plan shall contain at a minimum, a concise, unrestricted building footprint area, exclusive of all required setbacks and yards, of 6,000 square feet or greater.
- (2) *Open space preservation project site plan.* The site plan for the cluster development option permitted by this section shall include the following minimum information, in addition to that required by article V of this section:
- (a) Date, north arrow and scale which shall not be more than 1" = 100, and, in all cases, the scale shall be the same as that utilized for the existing zoning plan.
  - (b) The site plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.
  - (c) The site plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for clustered residential lot development, the total acres that are proposed to be used for streets and other easements that are subject to utility use, and the percentage of each, as compared to the total site acreage.
  - (d) The site plan shall illustrate the location of all proposed lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side and rear yard building setbacks. The number of proposed dwelling lots on the site plan shall not exceed the number of lots on the existing zoning plan, as approved by the planning commission, and reduced to accommodate non-dwelling structures, if necessary, as described in subsection F. 10 of this section.
  - (e) The site plan shall illustrate the location and type of all proposed structures or improvements that are not dwellings.
  - (f) If the clustered development will include septic tanks and drain fields, the site plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Muskegon County Health Department.
- (3) *Conservation easements and restrictive covenants.* A draft copy of the proposed

conservation easements, plat dedications, restrictive covenants, or other legal instruments that are to run with the land, and that will have the legal effect of preserving the open space required by this section in an undeveloped state, in perpetuity, shall be submitted.

The proposed legal documentation shall, at a minimum:

- (a) Indicate the proposed permitted use(s) of the undeveloped open space.
  - (b) Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except such engineered drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, agricultural structures or similar improvements that are approved by the planning commission.
  - (c) Require that the undeveloped open space be maintained by parties who have an ownership interest in the undeveloped open space.
  - (d) Provide standards and limitations for maintenance of the undeveloped open space, including pruning and harvesting of dead and diseased trees and new plantings.
- (4) *Compliance with street standards.* If the development is to be served by public streets, plans and evidence shall be require indicating that the design, layout and construction of the streets will meet the standards of the local road authority and that such streets will be accepted by the road authority. If the streets are to be private, plans shall be submitted meeting the Egelston Township private road standards contained in article III, section 29.
3. *Determination of number of lots by the planning commission.* When reviewing an application submitted under the terms of this section, the planning commission shall determine whether the existing zoning plan accurately reflects the number of detached single family dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this section were not exercised. If the planning commission determines that the number of dwellings illustrated on the existing zoning plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning, if the clustering option provided by this section were not exercised, the applicant shall submit a revised site plan for the clustering option reflecting the permitted number of dwellings, as determined by the planning commission.
4. *Approvals.*
  - (a) Prior to project approval by the planning commission, all proposed legal documents shall be reviewed and approved by the township attorney who shall assure the following:
    - (i) That the proposed manner of holding title to the preserved open land is acceptable to the township.
    - (ii) That the proposed restrictions will adequately preserve the natural features and regulate the use of the open land.

(iii) That the restrictions can be enforced by all property owners and by the township.

(b) If an open space preservation project site plan and all other submittals satisfy all requirements of this section, and all conditions of approval imposed by the planning commission pursuant to article V of this chapter, the planning commission shall approve the proposed project. If the open space preservation project option permitted by this section is proposed as a platted subdivision or a site condominium development, the applicant shall be required subsequently demonstrate compliance with all requirements and procedures of the chapter 117, or article III, section 30 of this article, as applicable.

F. *General design standards.*

1. *Water and sanitary sewer.* Open space preservation projects shall be served by public water supply and sanitary sewer system or a private community water supply or sanitary sewer system as established under applicable township utility ordinances and policies or by private wells and septic systems subject to the approval of the Muskegon County Health Department. When such collective means of water supply or waste water collection and treatment are not reasonably available.

2. *Minimum lot sizes and setbacks.* In order to accommodate both the required open space and the number of lots permitted according to the existing zoning plan the planning commission shall allow a reduction in the minimum lot size and building setback requirements of the zoning district in which the open space preservation project is located. The following minimum lot sizes shall be required unless it is demonstrated that a waiver is required:

Zoning District		Minimum Lot Size <sup>1</sup>	Minimum Lot Width*
R-1, R-2 and R-3 Districts without public or community sanitary sewer. <sup>3</sup>		10,000 square feet <sup>2,3</sup>	85 feet
R-1, R-2 and R-3 Districts with public or community sanitary sewer		6000 square feet	65 feet
R-5 Districts without public or community sanitary sewer <sup>3</sup>	5 acre	2.0 acres <sup>2,3</sup>	165 feet
	2.5 acre	1.0 acres <sup>2,3</sup>	120 feet
	1 acre	21,000 square <sup>2,3</sup> feet	90 feet
R-5 District with public or community sanitary sewer		13,000 square feet	85 feet

<sup>1</sup>The planning commission shall adjust the minimum lot size and/or lot width requirements of one or more lots to achieve the required 50 percent open space allotment and the maximum number of lots allowed as demonstrated on an approved existing zoning plan, only if a practical difficulty in meeting the stated minimums is demonstrated and only when such adjustments are the minimum necessary.

<sup>2</sup>Subject to individual septic system and domestic well approval of the Muskegon County Health Department.



<sup>3</sup>Subject to an Egelston Township determination of sanitary sewer availability and utility improvement standards for platted and site condominium subdivisions.

3. *Compliance with zoning district.* The development of land under this section shall comply with all requirements of this article applicable to the zoning district in which the land is located, except for the lot size and lot width requirements. The minimum front, side and rear yard setback standards are:

Front Yard: 25 feet

Side Yard: 8 feet

Rear Yard: 25 feet

Accessory buildings: The setbacks and rear yard lot coverage requirements for accessory buildings shall be the same as the requirements established for the underlying district.

4. *Maximum number of lots:* The open space preservation project shall contain no more than the maximum number of lots as determined from the existing zoning plan approved by the planning commission under this section.
5. *Perimeter lots:* Notwithstanding any other provision of this section, the planning commission may require that the open space preservation project be designed and constructed with lot sizes and setbacks or open space buffers on the perimeter that will create transitional net densities reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
6. *Sidewalks:* In the event that the township has adopted uniform sidewalk installation, maintenance and construction policies and standards sidewalks, consistent with such policies and standards shall be required.
7. *Grading.* Grading shall comply with the following requirements:
  - (1) All graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof.
  - (2) All areas indicated as open space on the approved development plan shall be undisturbed by grading or excavating, except as specifically approved by the planning commission.
8. *Uniform lot size.* Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable.
9. *Building envelopes.* The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the planning commission. Building envelopes shall not be located on steep slopes, or in positions that will negatively impact wetlands or other environmentally sensitive areas.

10. *Non-dwelling unit structures.* Lots containing non-dwelling structures such as a clubhouse and its related amenities or an accessory building, shall be subject to all requirements of this section applicable to lots containing dwellings and shall further be subject to all other requirements of this article and other township ordinances applicable to the type of structure proposed. If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced as follows:

The area of a lot or lots occupied by non-dwelling structures shall be calculated and then divided by minimum required dwelling lot area. If this number derived is a fraction, it shall be rounded up to the nearest whole number. The number calculated shall then be subtracted from the number of dwelling lots that could be permitted in the clustered development in the absence of the non-dwelling structures to determine the maximum number of dwelling lots permitted along with the non-dwelling structures included.

11. *Private streets/driveways.*

- (1) All streets within a clustered development shall be located away from areas of steep slopes.
- (2) Private streets within a clustered development shall conform to the private street requirements of this article.

12. *Other laws.* The development of land under this section is subject to all other applicable township ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

- G. *Amendments to an approved site plan.*

1. An approved clustered site plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the planning commission and the applicant, except as otherwise stated below with respect to a minor change.
2. A minor change may be approved by the zoning administrator who shall notify the planning commission of the minor change and that such change does not substantially alter the basic design or conditions required for the plan by the commission.

The following items shall be considered minor changes:

- (1) Plantings approved in the landscaping plan may be replaced by similar types of plantings.
- (2) Changes requested by the township for safety reasons.

3. The zoning administrator may refer any decision regarding any proposed change in an approved site plan to the planning commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the planning commission for approval, the zoning administrator shall consult with the chairperson of the planning commission.
4. Should the zoning administrator determine that a requested change in the approved site plan is not minor, re-submission to the planning commission for an amendment shall be required, and the consideration thereof shall take place in the same manner as for an original application.

H. *Definitions.* Words and phrases used in this section, if defined in the Zoning Enabling Act, shall have the same meaning as provided in the act.  
(Ord. of 6-5-2007)

### **Sec. 33. Wind turbines and related structures.**

*Wind turbine* shall mean equipment which converts wind energy into electricity through the use of a turbine generator and includes turbine, blade, tower, base, transformer and all associated equipment and apparatus.

- A. *Permitted use:* A building mounted wind turbine or a free-standing wind turbine which is 60 feet or less in height shall be considered a permitted accessory use in any zoning district if it meets the following standards and requirements.
  1. All wind turbines shall comply with the Egelston Township Building and Electrical Codes. Code permit applications shall be accompanied by a drawing of the wind turbine structure including its location on the property.
  2. All components of the wind turbine shall conform to applicable state and national codes and standards.
  3. Wind turbines shall be kept in the original manufactured color.
  4. Wind turbines shall not be artificially lit except as required by law.
  5. Wind turbines shall not display advertising.
  6. A free-standing wind turbine shall be set back from the nearest property line a distance at least equal to the turbines maximum height.
  7. The owner shall, at its expense, complete decommissioning of a wind turbine within 12 months after it ceases useful operation.
  8. All wind turbines shall have lightning protection.

9. The owner shall take reasonable steps to avoid any disruption or loss of radio, telephone, television or similar signals and shall mitigate any harm caused by the wind turbine.
10. All wind turbines connected to a utility grid must comply with all applicable requirements of the Michigan Public Service Commission and the owner's electricity supplier.
11. Wind turbines must be kept and maintained in good repair and condition at all times and shall not pose a safety hazard.
12. The ambient sound level from a wind turbine shall not be in excess of 50 decibels at the nearest property line.
13. The owner shall take reasonable steps to minimize shadow flicker to any occupied building or structure on adjacent or neighboring property.

B. *Special land use:* Free-standing wind turbines and anemometer towers exceeding 60 feet in height shall be considered a special use in any district, subject to the planning commission site plan review requirements of article V and the special land use permit requirements of article VI. The site plan and special land use permit application shall also contain the following information and demonstrate compliance with the following requirements:

1. A drawing of the project signed or stamped by a licensed professional engineer, including a narrative describing the project, its location, the approximate generating capacity of the wind turbine or project, the height and location of the turbine or turbines to be constructed and a description of all ancillary facilities and transmission lines.
2. Each proposed wind turbine or anemometer tower shall be set back from any adjoining property line or public road a distance equal to 1.5 times the height reached by any part of the turbine or tower.
3. Wind turbines and anemometer towers shall be kept in the color in which they are manufactured.
4. Wind turbines and anemometer towers shall not be artificially lit except as required by law.
5. Wind turbines and anemometer towers shall not display advertising.
6. The ambient sound level from a wind turbine shall not be in excess of 50 decibels at the nearest property line.
7. The project will not cause disruption or loss of radio, telephone, television or similar signals to any adjacent or neighboring property.
8. The project will not be the source of shadow flicker to any occupied building or structure

on adjacent or neighboring property.

9. Written approval, if required, from the Michigan Public Service Commission and any public utility to which the project may be connected.
10. Appropriate measures to insure public safety, including, but not limited to, warning signs, fencing, emergency contact information, and an emergency plan appropriate to the size and scope, of the project.
11. A decommissioning plan describing the intended disposition of the wind turbine project facilities at the end of their useful life. The plan shall describe any agreement with the land owner regarding equipment removal upon termination of any lease.

(Ord. of 8-16-2010(2))

## **ARTICLE IV.**

### **EARTH CHANGES AND NATURAL RESOURCES REMOVAL**

#### **Sec. 1. Topography alterations.**

Certain earth changes in Egelston Township are regulated by the building codes in effect from time to time which include in their regulations rules concerning excavation and grading. Certain types of excavation and grading, however, are excepted by the building code, and because they are of a nature which seriously affect the use of land, they are regulated herein. No such earth change, removal of soil or sand or any other material or natural resource removal shall be made or carried on in Egelston Township except as allowed by this article.

- (a.) No waste disposal site, dump or landfill shall be allowed at any place in the Township of Egelston, except one which has been licensed by the State of Michigan pursuant to Act 641 of the Public Acts of 1978, being MCL 299.401, et seq., The Solid Waste Management Act [repealed--see now MCL 324.11101 et seq.].
- (b.) Stripping of topsoil, quarrying, gravel processing, sand processing, gravel miring, sand mining, mineral extraction, natural resource removal and major earth changes are prohibited in the Township of Egelston, except as special uses where designated by this ordinance, or unless the land owner or occupier demonstrates to the planning commission that no very serious consequences will result, and the standards of this article and article VI are met, requiring a special land use.
- (c.) The standards and requirements contained herein are intended to complement the provisions of Act 347 of 1978, The Soil Erosion and Sedimentation Control Act [repealed--see now MCL 324.9101 et seq.]. Any topography alterations shall conform to the requirements of said act, where applicable.

#### **Sec. 2. Limited exceptions.**

The following shall be excepted from the requirements of sections 3 and 4 only in the following respects:

- (a.) Where the earth change is confined to landscaping [that] does not substantially change the topography, the area is less than one acre, no area becomes filled with water, and the project takes place at least 200 feet from a property line.
- (b.) Temporary excavations which are directly related to construction of a building foundation, associated with a bona fide building permit. Provided, however, that if under the discretion of the building administrator, such an excavation is of a significant nature, the provisions and regulations of sections 3 and 4 shall apply. The determination of "significant" shall be based on a review of the standards of sections 3 and 4.
- (c.) All exceptions enumerated under this section 2 shall require a rehabilitation plan in accordance with section 5 of article IV, said plan to be approved by the building official.

### **Sec. 3. Application requirements.**

For every major earth change project set forth in section 1, in addition to the ordinary requirements of an application for special land use permit, the planning commission shall require the applicant to submit the following:

- (a.) A site plan, including a contour map of the premises with recognizable dimensions, using no more than five-foot contours and indicating the nature of adjoining land uses, roads and all locations of any watercourses.
- (b.) Plans for the number of acres and the timing of all operations, the type of mining, excavation, extracting or processing proposed to be conducted and the nature of the equipment used, the location of all buildings and installations, soil boring tests in sufficient numbers to indicate conditions satisfactory for lateral support, groundwater flow and the nature of the substrata in the area proposed to be used.
- (c.) Proposed fencing, gates, parking and signs shall be noted on the site plan. The entire periphery of the active mining/extraction area shall be enclosed by a fence not less than eight feet high. Such fences shall be designed and maintained to prevent uncontrolled access and shall be free and clear of stockpiles.
- (d.) The stripping of topsoil shall only require a site plan indicating the limits of soil removal, site features, method of removal, and an operational statement (section 4) and rehabilitation plan (section 5).

### **Sec. 4. Operational statement.**

An operational statement shall be required, which includes:

- (a.) The approximate date of commencement of the excavation and the duration of the operation.

- (b.) Proposed hours and days of operation.
- (c.) Documentation which demonstrates that:
  - (i.) All areas within the operation site shall be reclaimed progressively as they are worked out. All slopes and banks shall be graded to slopes which do not exceed those found on the site prior to operation.
  - (ii.) Stock piling, surface and subsurface excavation shall not be allowed within 200 feet of any adjacent property in a residential district.
  - (iii.) Driveways, parking lots and loading/unloading areas within 100 feet of any property line shall be regularly paved, watered or chemically treated so as to be maintained in a dust free condition.
  - (iv.) Excavations shall not result in slopes of greater than 30 degrees at any time.
  - (v.) Truck routing is specified on roads approved by the Muskegon County road commission under such securities and conditions as are necessary to protect the surface and base condition of the roadway and to ensure safety to the public.
  - (vi.) The operator of the mining/extraction facility shall keep all routes used by their trucks free from spillage of materials, dirt, rocks and other debris.

#### **Sec. 5. Rehabilitation plan.**

A rehabilitation plan shall be required which includes:

- (a.) A statement of planned rehabilitation, including methods of accomplishment, phasing and timing.
- (b.) A plan indicating: the final grade of the excavation; any water features included in the rehabilitation and methods planned to prevent stagnation and pollution; landscaping or vegetative planting, and areas of cut or fill. This plan shall be included with the site plan. For quarry applications, the final grade shall mean the approximate planned final grade.
- (c.) A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
- (d.) The method of disposing of any equipment or structures used in the operation of the excavation upon completion of the excavation.

#### **Sec. 6. Review standards for approval.**

In determining whether or not to issue a permit, the planning commission shall, in addition to the

standards considered in connection with special land use permits, consider the following criteria:

- (a.) Whether or not the proposed operation and project is the most advantageous use of the land, resources and property and whether the character of the area in question is suitable for the said use.
- (b.) Whether the activities and project proposed will have any adverse effect on surrounding property value and whether persons occupying surrounding or nearby properties will be subject to any nuisance whatsoever resulting from applicant's operations.
- (c.) Whether the scarcity or the value of the minerals sought to be mined or excavated as compared with the effect upon the adjacent community justifies the proposed operation.
- (d.) Whether very serious consequences will result from the activity.

### **Sec. 7. Special conditions in permit.**

In the event the planning commission determines that a permit under article IV may be issued, it shall require in addition to normal conditions designed to protect the health, safety and welfare of the community, the following:

- (a.) The permit shall contain a time limit, at which time the permit must be renewed by the applicant and shall only be renewed upon compliance with the site plan and reclamation requirements made by the planning commission.
- (b.) The permit shall require a performance bond in a reasonable amount per acre, the said amount to be that reasonably required to carry on reclamation or rehabilitation activities, based on a review of the materials required by the provisions of this ordinance. Said bond may be transferred from one area to another on the premises in the event the application provides for staged or unit extractions.
- (c.) The permit shall require the applicant to provide liability insurance for personal injury and property damage while any unreclaimed or unrehabilitated area exists on the premises in amounts which are reasonable, but not less than \$100,000.00 for each person or property interest injured or damaged and not less than \$300,000.00 for the total personal injuries or incidents of property damage arising out of one occurrence. Said insurance shall cover and protect against injury occurring on the site and upon properties adjacent thereto. The permit shall require that a copy of the policy shall be filed with the township clerk.
- (d.) The permit shall require the removal of all installations, plants, buildings, foundations, stockpiles and equipment upon the cessation of mining or extraction operations or the expiration or revocation of a permit.

### **[Sec. 8.] Wireless communication facilities.**

This amended ordinance provides for appropriate areas for the siting of wireless communication



antennae, towers, support facilities and equipment shelters, collectively defined above as wireless communication facilities, (WCF), in recognition of the public need and the requirements of federal law. It is the further purpose and intent of these regulations to:

1. Provide for the appropriate location and development criteria for wireless communication support facilities and wireless communication antennae within the township;
2. Allow and encourage the location of wireless communication support facilities in special zoning districts;
3. Minimize the adverse effects of such facilities through careful design, siting and screening criteria;
4. Maximize the use of existing and future wireless communication support facilities and encouraging multiple uses and collocation of such facilities;
5. Protect the character of residential areas throughout the Township from the effects of wireless communication facilities and preserve property values; and
6. Promote the public health, safety, and welfare.

**[Sec. 9.] Uses permitted in all zones: wireless communication antennae (WCA).**

Wireless communication antenna (WCA) shall be considered a permitted accessory use in any zoning district only when:

1. Placed on or attached to any existing structure over 50 feet in height, which constitutes a principal or previously allowed special use, including existing communication towers and water towers; provided that any WCA shall not extend more than 20 feet above the tallest portion of the structure to which it is attached.
2. Placed on an existing utility or light pole which will serve as a wireless telecommunications facility and where the height of said existing pole or other structure is not increased more than 20 feet, and the existing pole and other structure is not proposed to be modified in a manner which would materially alter the pole or structure and/or result in an impairment of sight lines or other safety interest.

Provided:

- a. WCAs shall require no personnel on the premises except as necessary for maintenance and repair.
- b. All WCAs shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.

- c. A WCA proposed to be located on a historic landmark or in a designated historic district may be denied if the WCA would create an adverse impact on the historic character of the historic landmark or district.
- d. Associated wireless telecommunication equipment shelters meet accessory building size, height and setback limitations of the district, and receive administrative approval.
- e. A site plan meeting the standards of this ordinance has been submitted and approved by the planning commission.
- f. This section shall not exempt the applicant from other government review, including, without limitation, permitting procedures of the Federal Communications Commission or Federal Aeronautics Administration.

**[Sec. 10.] Special districts where wireless communication towers (WCT) may be located as special uses.**

Intent: The following geographic locations shall be districts (which are otherwise zoned for other uses), for the siting of wireless communication facilities (WCF), including wireless communication towers, when approved by the planning commission as a special use. These special districts are identified as:

- 1. Industrial zones - I - 1 and I - 2.
- 2. R-5 agricultural zones.
- 3. Commercial zones C-1 and C-2.

(Ord. of 7-18-2005)

**[Sec. 11.] Standards in special districts allowing wireless communication towers (WCT).**

Wireless communication towers (WCT) are special uses in the said special districts after review and approval of the use by the planning commission, after public hearing, subject to the applicable conditions for site plans and special uses, generally, and as follows:

- 1. The facility shall comply with all applicable Federal Aeronautics Administration and the Federal Communications Commission requirements.
- 2. All WCT's shall be constructed in compliance with all applicable construction and safety codes and shall be certified as such by a professional structural engineer licensed in the State of Michigan.
- 3. All WCT's shall be set back from any property line or the boundary of a designated area in the site plan approved by the planning commission a distance of 1 1/2 their height, unless engineering plans and specifications have been verified by an engineer selected by the township that the structural integrity of the tower will withstand high winds and impact and the likelihood of a tower failure is minimal, in which case the setback may be reduced to a distance not less than the fall zone as certified by the township engineer. The applicant shall incur all costs

associated with the township engineering review.

4. Accessory equipment storage structures shall meet the size setback and height limitations of the underlying zone. No accessory equipment or structure shall be allowed in any rights-of-way, nor in any existing public or private easement without written authority of the easement holder.
5. The WCT shall not be used for advertising purposes and shall not contain any signage, except one which shall show the identity of the service provider and emergency telephone numbers. The sign shall not exceed two square feet in size, and shall be easily readable from ground level.
6. The WCT may be located on a zoning lot containing permitted other principal uses or approved special uses, provided that any applicable site plan shall be first reviewed and amended by the planning commission.
7. The WCT may be located within an area smaller than the minimum lot size of the underlying zoning district, provided the above required setback is met. The said area shall be designated and identified by the planning commission in the site plan. The area within which the WCT is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein, or reasonably required by the planning commission. However, the designated area shall continue, subject to the zoning requirements of the entire lot, unless specifically excepted by the planning commission.
8. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible. The WCT shall have a landscaped buffer so that the base of the WCT and accessory equipment structure shall be screened from any right-of-way, residential use, or residential zoning district. Such landscaped buffer shall be placed on the site in a manner which will maximize the aesthetic and environmental effects, while at the same time providing the required visual buffer. The landscaped buffer shall consist of hedges planted leaf to leaf which shall reach a height of not less than six feet at maturity and conifer trees planted on 15 foot centers along the approved buffer. Requirements may be modified by the planning commission as appropriate for the specific site, including, without limitation, a modification in the required buffer landscape to permit filtered views into the site for safety purposes.
9. The application shall contain information showing the geographic search area within which the proposed WCT must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.
10. WCTs shall not have a shiny or reflective finish.
11. The WCT shall not exceed 200 feet in height, including any antenna.
12. If located on the same zoning lot with another permitted use, the WCT shall not be located in a front yard abutting a street.
13. Legal access to the WCT shall be provided for purposes of tower maintenance, inspection, safety, and emergency purposes regardless of other developments that may take place on the

property. Said access shall be maintained such that reasonable entry to the WCT for the above purposes is possible throughout the year.

14. Towers shall not be artificially lighted unless required by the FAA. When lighting is required by the FAA or other federal or state authority, it shall be oriented inward so as not to project onto surrounding property or the site shall be landscaped to mitigate light impact.
15. All exterior building material shall be compatible with surrounding structures. Towers, guy wires, and other supports shall be enclosed by a continuous security fence not less than six feet in height.
16. Monopoles may be required by the planning commission if it is deemed to be more aesthetically compatible with the area than a lattice pole.
17. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable state and local statutes.
18. Tower owners shall provide maintenance and safety reports to the city's building official on a schedule determined by the planning commission.
19. A written maintenance plan shall be filed and made a condition of the site plan.
20. Proof of responsibilities in the case of abandonment shall be submitted with the application, including, without limitation, lease provisions.
21. A written consent by all owners of the land to approval of the use and site plan, including the lien provided by this ordinance.

(Ord. of 7-18-2005)

## **[Sec. 12.] Replacement of existing WCTs.**

1. The replacement WCT shall not exceed a total height of 200 feet or, if the existing WCT has an approved height greater than 200 feet, the replacement WCT shall not exceed the approved height.

2. The replacement WCT shall be located within the same zoning lot as the existing WCT and shall be located to comply with existing minimum yard requirements, as well as the designation permitted or required by section 5.66(6) [sic].

3. The existing WCT shall be removed within 90 days of completion of the replacement WCT and the relocation or installation of the WCA.

4. If the location of the replacement WCT is such that the existing WCT must be moved before the replacement WCT is constructed, temporary portable antennae support facilities may be used, but must be removed within 30 days of the completion of the replacement WCT and the relocation or installation of the WCA.

**[Sec. 13.] Review criteria for new WCTs.**

A new WCT shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCT which cannot be met by placing a WCA on an existing WCT or on other structures or replacement of an existing WCT. Information concerning the following factors shall be considered in determining that such need exists:

1. Insufficient structural capacity of existing WCTs or other suitable structures and inability to reinforce or replace an existing WCT;
2. Unavailability of suitable locations to accommodate system design or engineering on existing WCT or other structures;
3. Radio frequency interference or other signal interference problems at existing WCT or other structures; or
4. The cost of using an existing WCT or other structure exceeds the costs of permitting and constructing a new WCT.
5. Inability after an effort, determined by the planning commission to be in good faith, to reach agreement with the existing tower, land or structure owner.
6. Other factors which demonstrate the reasonable need for the new WCT.

**[Sec. 14.] Collocation effort required.**

1. The applicant must include in the application an affidavit stating space on a proposed tower will be made available to future users when technically possible.

2. Future applicants wishing to locate an antenna requiring placement on a WCT shall attempt to utilize existing tower space. In the event existing tower space is technically unfeasible or unavailable, the applicant shall provide written certification detailing the basis for same.

**[Sec. 15.] Removal of abandoned WCTs.**

All persons owning a WCT shall notify the zoning administration when the use of said tower located in the township will be discontinued and the date it will cease. Any WCT which is abandoned shall be removed or demolished within 90 days of abandonment. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCT for 180 days or more. Where a WCT is abandoned but not removed or demolished as required, the township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be placed as a lien on the property, to be collected in the manner of real estate taxes, or, without election, by personal action.

**ARTICLE V.**

## **SITE PLAN REVIEW\***

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\* **State Law References:** Site plans, MCL 125.3501.

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### **Sec. 1. Site plans required.**

A site plan shall be submitted for review and approval by the planning commission, or by authorized township personnel, as required by this section. Amendments or additions to previously approved site plans are subject to review and approval as described under section 3 below.

Site plan review and approval shall be required in the following instances:

- a. Prior to the establishment or expansion of any use permitted in R-3, R-4, C-1, C-2, I-1 and I-2 zoning districts, except for the expansion of existing uses described under section 3 of this article.
- b. With an application for a special use in any zoning district. A site plan shall be submitted at the time application is made for a special use permit. Review of the site plan shall be concurrent with deliberations on the application for a special use permit.
- c. With an application for a planned unit development. A site plan shall be submitted at the time application is made for PUD approval. Review of the site plan shall be concurrent with deliberations on the application for the planned unit development.
- d. For variances required before a site plan can be approved by the planning commission. A site plan shall be submitted at the time application is made for a hearing before the zoning board of appeals. Site plans submitted to the ZBA need not be approved by the planning commission unless required by a, b or c above. The zoning board of appeals may make the site plan a condition of any variance granted.

A site plan shall not be required for the construction of single-family dwellings and related accessory buildings in any zoning district in which single-family dwellings are permitted.

### **Sec. 2. Preliminary site plans.**

Preliminary proposed site plans may be presented for informal review and comment by the planning commission prior to submission of a formal application for site plan approval. The purpose of this provision is to allow discussion between a developer and the planning commission to better inform the developer of the accessibility of proposed plans prior to incurring extensive engineering and other costs which might be necessary for site plan approval.

### **Sec. 3. Amendments to previously approved site plans.**

Amending a site plan previously approved by the planning commission under site plan review is

permitted under the conditions and circumstances described in this section. Provided amendments shall be reviewed by authorized township personnel, subject to the application and review procedures outlined under section 4 of this Article.

Site plans previously approved pursuant to special use or PUD procedures are not eligible for consideration under the provisions of this section.

Amendments to a previously approved site plan may be approved under the provisions of this section as follows:

- a. An addition to an existing principal building if the addition does not exceed 50 percent of the gross floor area of the building approved by the planning commission.
- b. Construction of not more than one separate building that is incidental or accessory to the principal use or principal building located on a commercially or industrially zoned lot or parcel provided that:
  1. The lot or parcel is not located adjacent to a residential zoning district. In such cases where a site is located adjacent to a residential zoning district, site plan review and approval by the planning commission is required;
  2. The gross floor area of the new building does not exceed 50 percent of the gross floor area of the existing principal building.
- c. Expansion of existing site improvements, such as outdoor display, storage or parking areas, provided that the proposed expansion does not exceed 50 percent of the area of the improvement subject to review and approval originally approved by the planning commission.
- d. Eligibility for site plan review and approval under the provisions of this section shall be contingent upon full current compliance with site plan or special use approval, including any conditions attached to that approval, previously granted by the planning commission.
- e. Authorized township personnel may require that applicants seek site plan review and approval by the planning commission if they determine that:
  1. The proposed construction activity or use is not consistent with the use previously approved by the planning commission; or
  2. The proposed construction activity or use may have a significant impact on the use and/or character of surrounding properties.

In such cases, the zoning administrator shall notify the applicant in writing of such a determination stating the reasons for same within seven days of receipt of the completed application and site plan. A copy of the determination shall be forwarded to the planning commission. Such a determination shall not be appealable to the zoning board of appeals.

**Sec. 4. Application [and] review procedure for previously approved site plans.**

a. Applications for approval of amendments to previously approved site plans described under section 3 shall be submitted to the zoning administrator and shall consist of the materials and information outlined below:

1. A completed application form. An application fee is not required.
2. A written statement, dated and signed by the applicant, indicating that the use subject to the previous site plan is being operated and maintained in full compliance with that previous approval, as well as any conditions upon which that previous approval was granted.
3. Three copies of the previously approved site plan showing the following information:
  - A. The zoning designation of all adjacent properties;
  - B. The location, dimensions, area in square feet, height, setback from lot lines and proposed use of the proposed building addition, if applicable;
  - C. The location, dimensions, area in square feet, height, setbacks from lot lines and proposed use of the proposed additional incidental or accessory building, if applicable;
  - D. The location, dimensions, area in square feet, setback from lot lines and nature of proposed site improvements, if applicable;
  - E. The name and address of the person or firm that prepared the amended site plan;
  - F. The date on which the amended site plan was prepared.

b. Site plans submitted under the provisions of this section shall be approved, approved with conditions, or referred to the planning commission within ten days of the application date. A decision to approve, approve with conditions, or deny amendments to a site plan shall be based on the standards outlined in section 7 of this article. Authorized township personnel shall provide the applicant with written notification of the decision on the application. In the event conditional approval is granted, the notification shall list the conditions in detail. In the event the application is denied, the reasons for denial shall be listed in detail.

c. Three copies of an approved amended site plan shall be signed and dated by the chairman of the planning commission. One copy shall be returned to the applicant. One copy shall be provided to the zoning administrator. One copy shall be provided to the secretary of the planning commission to be placed in the planning commission's permanent record.

d. Conditions of approval, if required, and referrals to the planning commission, shall not be appealable to the zoning board of appeals.

**Sec. 5. Application procedure for review of site plans before planning commission.**



a. Applications for site plan review and approval before the planning commission shall be submitted to the zoning administrator no less than 14 days prior to the meeting at which the planning commission will consider the application. Applications that do not comply with the material or informational requirements of this section, or those submitted less than 14 days prior to such meetings shall not be eligible or accepted for consideration.

b. Applicants wishing to submit a site plan for review and approval must submit the materials and information described in [subsections b.1 and b.2] below. Individual site plan elements may be waived by the zoning administrator if deemed unnecessary. The materials and information required include:

1. A completed application form and application fee;
2. Seven copies of a site plan containing the following information:
  - A. The name and address of the person or firm that prepared the site plan;
  - B. The date on which the site plan was prepared;
  - C. The legal description of the parcel or parcels subject to the application;
  - D. The exterior property lines of the property subject to the site plan review;
  - E. Topography of the site at five-foot contour intervals;
  - F. The location and dimensions of all existing and proposed buildings and other man made features with the measurements of existing and proposed setbacks indicated;
  - G. The location and width of existing and proposed public and private rights-of-way and easements;
  - H. The location of existing and proposed parking and loading areas, driveways and driving lanes;
  - I. The location of existing and proposed sanitary sewers, storm sewers or other drainage facilities, and other infrastructure and facilities;
  - J. The location, type and height of existing and proposed fences;
  - K. The location and type of existing and proposed landscaping and screening;
  - L. Proposed earth changes;
  - M. The location of existing and proposed signs and exterior lighting fixtures;
  - N. The percent of land covered by existing and proposed buildings. The location and area of reserved open space and buffer areas; and

- O. Any additional information necessary to consider the impact of the project upon adjacent properties and the public.

**Sec. 6. Review [and] approval procedure.**

- a. Site plans subject to review by the planning commission shall be reviewed as described below:
  - 1. Decisions to approve, approve with conditions or deny applications subject to review by the planning commission shall be made within 60 days of the application date.
  - 2. The planning commission's decision shall be recorded in writing and shall be based upon a finding that the site plan complies with the standards outlined under section 7.
  - 3. Three copies of an approved site plan shall be signed and dated by the chairman of the planning commission. A copy of the approved and/or corrected minutes of the planning commission meeting at which approval was granted shall be attached to each copy. One copy shall be returned to the applicant. One copy shall be provided to the zoning administrator. One copy shall be provided to the secretary of the planning commission to be placed in the permanent record of the commission's proceedings.

**Sec. 7. Standards for site plan approval.**

A decision to approve, approve with conditions, or deny an application for site plan approval shall be based on the following criteria as they may apply to a site plan under consideration:

- 1. There is a proper relationship between the proposed use and existing streets and highways within its vicinity.
- 2. Proposed driveway entrances and exits, parking areas, service drive and other internal circulation routes are located and arranged so as to assure the safety and convenience of pedestrian and vehicular traffic.
- 3. All buildings, structures, driveways, internal circulation routes, parking and storage areas are designed and located so as to minimize potential adverse effects or impacts on adjacent and nearby properties.
- 4. As many natural features of the landscape will be incorporated into the design and layout of the site so as to buffer the site from adjacent incompatible land uses as well as to assist in preserving the general appearance of the surrounding area and to help control erosion or the discharge of waters. Reasonable buffer and open space areas may be required.
- 5. Adverse effects or impacts upon adjoining incompatible land uses shall be minimized by appropriate screening, fencing and/or landscaping.
- 6. The land use subject to review and approval complies with all applicable provisions of this

ordinance.

7. All buildings, structures, parking and storage areas are accessible to emergency vehicles at all times of the year.
8. That the plan as approved is consistent with the intent and purpose of this zoning ordinance to promote the public health, safety and general welfare, and that it is further consistent with the purposes and scope of this zoning ordinance as set forth in article V.

### **Sec. 8. Record of determination.**

In making a decision to approve, approve with conditions or deny a site plan, the planning commission shall record the basis for its determination in writing. The standards for site plan approval listed under section 7 shall be incorporated into the record of determination.

### **Sec. 9. Compliance with approved site plan required.**

The construction of buildings, structures and other improvements following approval of a site plan shall be accomplished in full compliance with the approved site plan and applicable conditions of approval.

### **Sec. 10. Validity of approved site plan.**

a. Approval of a site plan under the provisions of section 4 shall be valid for a maximum period of two years. If actual physical construction of the building and improvements included on the approved site plan has not commenced in a substantial way during this period, approval shall be null and void. In this event, no construction or site improvement activities may occur [until] approval is renewed by the planning commission.

An application for renewal of approval shall be made in writing to the planning commission through the zoning administrator no less than 20 days prior to the meeting at which the planning commission will consider the application. The planning commission shall review the record of proceedings and site plan subject to renewal and shall either grant a one year extension, or deny the request.

b. Approval of site plans under the provisions of section 6 shall be valid for a period of one year during which time construction of the proposed improvements must be substantially commenced. If commencement does not occur during the year following approval, then the applicant shall refile the site plan application and site plan for review by the planning commission. In such cases, the site plan shall be subject to all application and review procedures outlined in sections 3 and 4.

## **ARTICLE VI.**

### **SPECIAL LAND USES AND STRUCTURES\***

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\* **State Law References:** Special land uses, MCL 125.3504.

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### **Sec. 1. Authority for special uses.**

The planning commission is hereby designated as the body to approve or disapprove, modify, condition or prescribe contingencies for special land uses. The zoning administrator shall receive applications for special land uses, review same and submit the application and its contents to the planning commission for the final decision. Said submission shall be made by the zoning administrator within ten days from his receipt of the application.

## **Sec. 2. Conditions for granting special uses.**

Special land uses and activities which are eligible for approval or consideration for approval by the planning commission shall be and are enumerated in the zoning district sections and articles of this ordinance. Special land use permits shall not be granted by the planning commission unless a proposed special land use, if not enumerated in an article setting forth a zoning district, does present to the planning commission a use which is entirely compatible with the district in question and with conformity to the site plan submitted, and will have no tendency to change the character of the district or the neighborhood. However, the planning commission shall in exercising its discretion when such a special land use is proposed deem it presumed that an enumerated special land use will disturb the character of the district and neighborhood in which it is proposed to be located. Therefore, any approval of such a special land use shall carry with it in addition to the usual written reasons for approval, a statement in writing by the planning commission demonstrating why the said presumption has been overcome in reaching its decision.

## **Sec. 3. Application.**

Application for a special land use permit shall be filed with the zoning administrator at the same time a site plan is filed, and shall be accompanied by the site plan fee. The application shall contain the following:

- (a.) The site plan conforming to the requirements of article V.
- (b.) A statement by the applicant setting forth the reasons for the grant of approval of a special land use and addressing in particular any environmental effects that the special land use would have on surrounding properties and on the public in general, and including where deemed necessary by the planning commission or the zoning administrator, copies of all engineering studies, soil borings, hydrological studies and all data, if appropriate, to indicate the expected levels of noise, glare, dust, smoke, air pollution and special provisions if needed for disposal of wastes and protection of surrounding water supplies.
- (c.) Evidence of compliance with all federal, state and county statutes, ordinances, rules and regulations.

## **Sec. 4. Application procedure statute.**

The planning commission shall proceed in accordance with section 16b of Act 184 of the Public Acts of 1943 [Repealed--See now MCL 125.3502], as amended, and shall in connection with any application for special land use follow the procedure set forth in section 16b(3) which provides for a public hearing, and shall use the public hearing method of notification regarding its review and decision.

## **Sec. 5. Criteria guide.**

In determining whether or not to grant, deny or approve with conditions and contingencies a special land use, the planning commission shall be guided by the following criteria:

- (a.) It shall insure that the special land use is compatible with adjacent uses of land, the natural environment and the capacities of public services and facilities affected by the special land use proposed.
- (b.) It shall determine that the special land use is consistent with the public health, safety and welfare of the township.
- (c.) It shall require adequate setbacks, open space and buffer area in the site plan to provide the minimum of disturbance or intrusion upon adjacent lands and the neighborhood. It shall consult with such experts and use such standards and materials as may be relevant to determine effects of the proposed use on the general health, safety and welfare of the township as well as its effects on adjacent properties.
- (d.) It shall make a record of and consider the comments of persons attending the public hearing to the extent that such comments are factual and based upon reasonably ascertainable conditions and fact.

## **Sec. 6. Records of actions.**

Special land uses which have been approved or finally approved after contingencies and conditions have been met shall be placed on permanent file and permanent notations shall be made on the zoning map of the township. Special land uses will expire in the times set forth in the planning commission's site plan approval and be subject to the same procedural and substantive conditions therein set forth in the event substantial commencement of the use has not occurred within those time limits.

## **Sec. 7. Security for compliance with requirements.**

To insure compliance with the zoning ordinance and any conditions, limitations or requirements imposed by the planning commission as necessary to protect natural resources or the health, safety, and welfare of the residents of the township and future users or inhabitants of the proposed project or project area, the planning commission may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition, limitation or requirement conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the township clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than six months to be completed, the planning commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

## **ARTICLE VII.**

### **PLANNED UNIT DEVELOPMENT\***

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\* **State Law References:** Planned unit development, MCL 125.3503.

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### **Sec. 1. Purpose of planned unit development.**

For the purpose of permitting flexibility in the regulation of land development; and encouraging innovation in land use and variety in design, layout, and type of structures constructed; achieving economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encouraging useful open space; and providing better housing, employment and shopping opportunities particularly suited to the needs of the residents of this township, the Township of Egelston will consider from time to time the establishment of planned unit developed districts which meet the requirements of procedure and contingencies and conditions as set forth in this article.

### **Sec. 2. Authority of planning commission.**

The planning commission shall have the ultimate responsibility and authority for the reviewing and approval of any planned unit development request. The zoning administrator shall preliminarily review any such request and refer same within ten days after the receipt of an application to the planning commission for further review and action. The zoning administrator shall determine that the required submissions have been made by the applicant before submitting same to the planning commission, and if there are substantial or material omissions, the application and its contents shall be returned to the applicant by the zoning administrator together with written reasons for the rejection. The zoning administrator shall have no authority to make substantive determinations in taking any such action.

### **Sec. 3. Eligibility for establishment of a planned unit development.**

(a.) *Minimum area.* The minimum area required to qualify for a planned unit development and a permit allowing same shall be not less than ten contiguous acres of land.

(b.) *Ownership.* The tract of land for a project must be either in single ownership or be the subject of an application filed jointly by the owners of all properties included in the proposed planned unit development. The holder of a written option to purchase land or the holder or vendee of an executory land contract shall, for the purposes of such application, be deemed to be an owner of such land.

(c.) *Location.* Planned unit developments shall be allowed within any zone of the township, provided that planned unit developments located in either I-1 or I-2 zones shall contain structures and uses which are particularly compatible with industrial uses. No uses first permitted in R-1, R-2, R-3, R-4, R-5, C-1 or C-2 districts shall be permitted in an industrial planned unit development.

(d.) *Control act, subdivision.* In the event subdivision is proposed which would otherwise require application of the Subdivision Control Act of the State of Michigan or its amendments or successor legislation [now Land Division Act (MCL 560.101 et seq.)], the said act or acts shall be complied with prior to the final issuance of a planned unit development permit.

(e.) *Other control statutes.* Any and all other statutes, whether federal, state or local, permits, certificates or approvals of any kind shall be acquired before the issuance of a planned unit development permit.

#### **Sec. 4. Procedure for planning commission.**

Upon the filing of an application for a planned unit development, the following procedures shall be followed:

- (a.) *Application.* The application shall be filed with the zoning administrator who shall review the application and its contents as set forth above and if it conforms to section 3 of this article and with article V, the application and its contents shall be forwarded to the planning commission.
- (b.) *Copies required.* Seven copies of the application shall be provided by the applicant for use of the Planning Commission.
- (c.) *Conferences, preapplication.* The planning commission shall give notice to the applicant of his right to preapplication conferences. Said preapplication conferences shall be held with the planning commission at its regular meetings or special meetings held for that purpose, all of which shall comply with the Open Meetings Act of the State of Michigan, and may include the submission of preliminary site plans and other written material. No such conference, or statements, discussions or memoranda had or made at said conference shall constitute in any way any commitment by the planning commission to finally issue a planned unit development permit. No commitment or indication shall be given by the planning commission at any such conference indicating probability or lack of probability of the issuance of a permit. The purpose of such conferences shall be solely to familiarize the planning commission with the project contemplated by the applicant.
- (d.) *Public hearing.* Notification and the holding of a public hearing shall be accomplished by the planning commission in accordance with the procedural and notice requirements of Act 184 of the Public Acts of 1943, Section 16b [Repealed--See now MCL 125.3502], as amended.
- (e.) *Further procedures.* All procedures set forth in this ordinance in connection with site plan submissions and approvals shall be followed simultaneously with these procedures.
- (f.) *Final consideration.* Within a reasonable time following the public hearing, the planning commission shall meet for final consideration of the request at an open meeting, and deny or approve with conditions, the request for planned unit development.
- (g.) *Decision report.* In making its decision, the planning commission shall prepare a report stating its conclusions on the request, the basis for its decision, the decision itself, and any conditions relating to an affirmative decision if any.
- (h.) *Approval--Multi-phased plan.* Final approvals may be granted on phases of a multi-phased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the planned unit development and residents and occupants of the surrounding area. Each phase so considered by the planning commission shall meet all the standards set forth in this ordinance and in Act 184 of the Public Acts of 1943 [Repealed--See now MCL 125.3101 et seq.], as amended.

## **Sec. 5. Concluded procedure; record.**

The approval of a planned unit development shall not constitute a zone change. The written approval as finally determined by the planning commission together with all final site plans and other written material contained in the application shall be placed on permanent record of the township, the zoning map notated and a legal description permanently recorded in the township records which shall be maintained by the zoning administrator as in the case of variances, special land uses and other site plan material that are required by this ordinance.

## **Sec. 6. Standards.**

The standards required of an applicant and to be followed by the planning commission shall comply with the requirements of section 16d of Act 184 of the Public Acts of 1943 [Repealed--See now MCL 125.3504 et seq.]. Particular standards which the planning commission shall follow include the following for both preliminary and final submission:

- (a.) *Density of area (zone) occupancy.* Density of buildings or uses in a planned unit development shall comply with area, yard, setback and height requirements of zoning districts in which said uses are allowed, unless the applicant can demonstrate through competent expert opinion and evidence that sanitary sewer, storm sewer, water supply, utility and other installations alleviate the negative effects of higher densities than otherwise allowed in such use districts.
- (b.) *Codes for consideration.* The planning commission may use such nationally or state-wide recognized building, engineering, scientific or other codes or standards arriving at decisions concerning the effects of various uses and their location on the users and occupants of the planned unit development as well as the users and occupants of the surrounding and adjacent areas and the community.
- (c.) *Nuisances uses.* The planning commission shall insure that no use or combination of uses in a planned unit development creates any disturbance, nuisance or adverse effects on human habitation or occupancy within or without the development. Such effects may include noise, glare, emissions and other environmental effects.
- (d.) *Utility installation.* The planning commission shall require unless reasonable substitutes can be found (which substitutes comply with health department requirements), that water, sanitary sewer and storm drainage facilities are installed and connected as part of the site development. All electric, telephone transmission, cable television and other wires shall be placed underground in a planned unit development.
- (e.) *Compatible mixed uses.* The mixing of various land uses within a planned unit development shall be compatible, so that for example, commercial uses would be such that would serve surrounding residential uses, as opposed to commercial uses which serve transient automobile traffic which would be incompatible with residential uses.
- (f.) *Ratio of dwelling to other units.* The planning commission shall require a reasonable ratio



between the number of dwelling units permitted and the amount of open space, recreation and park area required within the planned unit development. Setback, yard and lot area requirements, if reduced, as above, below the requirements of similar districts shall be taken into account, however, in arriving at the total open space to be required and in arriving at the reasonable ratio to be determined by the planning commission.

- (g.) *Mixture of uses.* The planning commission shall not approve a planned unit development which mixes or mingles industrial uses with any other kind of use allowed by this ordinance.
- (h.) *Open space requirements.* Open space shall be set aside within the planned unit development in a permanent manner. Open space shall be sufficient in size and suitably located for the uses proposed within the planned unit development. Access shall be adequate and satisfactory arrangements shall be required for the maintenance of such open land by private developers or the applicant, and not by the Township.
- (i.) *Landlocked areas.* No land being set aside within the planned unit development for anything but open space or buffer area shall be landlocked or without adequate access to a public street.
- (j.) *Public access.* No planned unit development shall be closed to the public, and all streets shall meet township and county standards, and shall be open for public access whether or not they are privately owned and maintained.
- (k.) *Access format.* The planning commission shall determine the adequacy and arrangement of vehicular traffic access and circulation, including the size and location of intersections, road widths, channelization, traffic controls and pedestrian movement.
- (l.) *Parking format.* The planning commission shall insure that the location, arrangement, appearance and sufficiency of offstreet parking meets the standards of this ordinance and is reasonably related to the uses proposed within the planned unit development.
- (m.) *Entrances, lighting.* The planning commission shall review and approve the location, arrangement, size and entrances of buildings, walkways and lighting.
- (n.) *Landscaping.* The planning commission shall determine the adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring screen between adjacent uses and adjoining land.
- (o.) *Compatibility.* The planned unit development must be compatible with the basic plan of the township known as the Egelston Township general development guide.
- (p.) *Variance of lot area permitted.* The lot area for various uses shall not be reduced below 90 percent of the normal requirements which would be required for a use if established in a normal zoning district providing for said use.
- (q.) *Formula for number of dwellings in PUD unit.* The maximum number of dwelling units permitted within the project shall be determined by dividing the net multiple use development

area by the minimum residential lot area per dwelling unit required by the district in which the project is located. In the event the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately.

- (r.) *Security for compliance with requirements.* To insure compliance with the zoning ordinance and any conditions, limitations or requirements imposed by the planning commission as necessary to protect natural resources or the health, safety, and welfare of the residents of the township and future users or inhabitants of the proposed project or project area, the planning commission may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition, limitation or requirement conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the township clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than six months to be completed, the planning commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

## **ARTICLE VIII.**

### **R-1 RESIDENTIAL DISTRICT**

#### **Sec. 1. Purpose.**

The R-1 residential district is established to encourage the construction of and the continued use of land for single-family dwellings and to limit and prohibit business, commercial or industrial use of land in the said district, except special land uses which are determined to be appropriate for neighborhood and residential services, and which do not adversely affect the character of the neighborhood. It is further the purpose of the R-1 residential district to minimize and discourage traffic other than that necessary to service residences, and to limit the need for public services to those required in orderly residential areas.

#### **Sec. 2. Permitted principal uses.**

No premises shall be used and no building altered or erected except for the following principal permitted uses:

- (a.) Single-family dwellings.
- (b.) Publicly owned and operated parks, playgrounds and other recreational facilities.
- (c.) Churches, schools, libraries and museums.
- (d.) Accessory buildings incident to any of the above uses when located on the same premises.
- (e.) Wireless communication antenna - with site plan.

#### **Sec. 3. Special land uses.**

(a.) Special land uses to be permitted by the planning commission in R-1 districts must be compatible with residential uses and designed to preserve and encourage the residential character of the neighborhood.

(b.) The following special land uses or others which are found to be similar, may be approved by the planning commission in accordance with the procedures and requirements of this ordinance.

- (i.) Two-family dwellings, duplex houses.
- (ii.) Home occupations.
- (iii.) Professional or business offices carried on in the residence of the principal owner of the business, but which may occupy more than 25 percent of the floor area of the residence. No mechanical or electrical equipment which will create noise, fumes or electronic interference shall be installed.
- (iv.) A complex or development of a multiple number of "permitted" or designed "special exception" uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the planning commission under the procedure and standards specified in the ordinance for special land uses. Such uses shall comply with the requirements of article VII before being allowed.
- (v.) Private recreational uses, such as marinas, boat liveries, tackle shops, riding stables and similar uses, but not including automotive activities.
- (vi.) Signs except realtor signs advertising the premises for sale not exceeding six feet square in size, shall be special land uses. No sign shall be allowed as a special use exceeding six feet square, and the planning commission may require smaller sizes in the permit as may be appropriate.
- (vii.) Day-care centers or nurseries, licensed by the State of Michigan.

**Sec. 4. Space requirements (in square feet or feet).**

Use	Minimum Lot Area	Width of Lot (feet)	Setback (feet)	Yards		Percentage of Rear Yard w/Accessory Buildings	Misc. Requirements
				Side (feet)	Rear (feet)		
Single-family dwelling/sanitary sewer hook-up	13,000 sq. ft.	100	25	8	25	30	None
Single-family dwelling/sanitary sewer not available	21,500 sq. ft.	130	25	8	50	15	None
Schools	5 acres	330	100	50	100	None	No parking in setback
Churches, libraries and museums	3 acres	165	50	50	50	None	No parking in setback

Special land uses: Determined by planning commission.

**Sec. 5. Space requirements--General.**

When the majority of buildings built on one side of the street between two intersecting streets at the time of the passage of this ordinance have been built with a minimum setback different from that required by this ordinance, no building hereafter erected or altered shall project beyond the minimum resulting setback so established; provided, that no single-family dwelling shall be required to maintain a setback more than 40 feet. No accessory building shall be located in a side yard, the side yard distance being mandatory and not including accessory buildings.

**Sec. 6. Height limitations.**

No building shall be erected in an R-1 residential district which exceeds 2 1/2 stories, or 30 feet in height.

**ARTICLE IX.**

**R-2 RESIDENTIAL DISTRICT**

**Sec. 1. Purpose.**

R-2 residential districts are designed to provide for and continue residential use, but allowing more density than R-1 districts, and provides for various types of residential uses involving multifamily and multiple dwelling unit buildings. Such districts are meant to be located near sanitary sewer and other services and to have increased accessibility to general transportation services.

**Sec. 2. Permitted principal uses.**

[Following are the permitted principal uses for the R-2 residential districts:]

- (a.) Any use permitted as a principal permitted use in R-1 residential districts.
- (b.) Two-family dwellings, duplex houses.
- (c.) Wireless communication antenna - with site plan.

**Sec. 3. Special land uses.**

[Following are the special land uses for the R-2 residential districts:]

- (a.) All special land uses allowed in R-1 districts.
- (b.) Apartments, Condominiums, cooperatives and other types of multiple dwellings.

- (c.) Boardinghouses and lodginghouses, not exceeding five sleeping units.
- (d.) Hospitals.
- (e.) Convalescent and nursing homes.
- (f.) Retail business or service establishments which handle principally the commercial needs of residential and neighborhood occupants in the area, not including service establishments which are devoted to automotive uses; such as filling stations, garages, etc. Included in such uses would be grocery stores, drug stores, bakeries, neighborhood hardware store, small resort uses and other similar uses.

**Sec. 4. Space requirements.**

[Following is the table for space requirements for the R-2 districts:]

Use	Minimum Lot Area	Width of Lot (feet)	Setback (feet)	Yards		Percentage of Rear Yard w/Accessory Buildings	Misc. Requirements
				Side (feet)	Rear (feet)		
R-1 Principal							Permitted uses: Same requirements as set forth in article VIII
Two-family dwellings and duplex houses w/sanitary sewer available	16,900 sq. ft.	130	25	8	25	30	None
Two-family dwellings and duplex houses w/o sanitary sewer available	25,000 sq. ft.	130	25	8	50	15	None
Apartments, condominiums, cooperatives and other multiple dwellings	8,000 sq. ft. per dwelling unit	165	40	25	50	30	No parking in setback
Board[inghouses] and lodginghouses	13,000 sq. ft.	100	25	8	25	30	
Hospitals	5 acres	330	100	50	100	N/A	No parking in setback. Driveways may be included in side yards fenced to protect adjoining residences.

Nursing homes, convalescent homes	5,000 sq. ft. per bed	130	25	8	5	15	No parking in setback
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Special land uses: Determined by planning commission.

**Sec. 5. Space requirements--General.**

When the majority of buildings built on one side of the street between two intersecting streets at the time of the passage of this ordinance have been built with a minimum setback different from that required by this ordinance, no building hereafter erected or altered shall project beyond the minimum resulting setback so established; provided, that no single-family dwelling shall be required to maintain a setback more than 40 feet. No accessory building shall be located in a side yard, the side yard distance being mandatory and not including accessory buildings.

**Sec. 6. Height limitations.**

No building shall be erected in an R-2 residential district which exceeds 2 1/2 stories, or 30 feet in height.

**ARTICLE X.**

**R-3 RESIDENTIAL DISTRICT**

**Sec. 1. Purpose.**

R-3 residential districts are designed to afford the most intensive residential uses. No R-3 use which is not permitted in R-1 or R-2 districts shall be permitted unless sanitary sewer is available, and accordingly R-3 districts are designed to be zoned where such services are already in place, unless the owner or developer of uses in an R-3 district installs such services prior to the issuance of a certificate of occupancy.

**Sec. 2. Permitted principal uses.**

[Following are the principal permitted uses for the R-3 residential districts:]

- (a.) All uses permitted in R-1 and R-2 districts.
- (b.) Medical clinics and doctors' offices for the treatment of human beings, provided they are constructed in appearance as a residence.
- (c.) Multiple dwellings, excluding hotels, motels, and similar transient residence buildings.
- (d.) Wireless communication antenna - with site plan.

**Sec. 3. Special land uses.**

[Following are the special land uses for the R-3 residential districts:]

- (a.) Special land uses allowed in R-1 and R-2 districts.
- (b.) Hotels, motels and other multi-occupancy transient residential buildings.
- (c.) Restaurants - not to include fast food, takeouts, and traffic generators.
- (d.) Private clubs, fraternities, and lodges, excepting those of which the chief activity is a service customarily carried on as a business.

**Sec. 4. Space requirements.**

[Following is the table for space requirements for the R-3 residential districts:]

Use	Minimum Lot Area	Width of Lot (feet)	Setback (feet)	Yards		Percentage of Rear Yard w/Accessory Buildings	Misc. Requirements
				Side (feet)	Rear (feet)		
R-1 and R-2 uses	Same Requirements as set forth in Articles VIII and IX						
Medical clinics and doctors' offices	21,500 sq. ft.	130	25	8	50	15	No parking in setback

Special land uses: Determined by planning commission.

**Sec. 5. Space requirements--General.**

When the majority of buildings built on one side of the street between two intersecting streets at the time of the passage of this ordinance have been built with a minimum setback different from that required by this ordinance, no building hereafter erected or altered shall project beyond the minimum resulting setback so established; provided, that no single-family dwelling shall be required to maintain a setback more than 40 feet. No accessory building shall be located in a side yard, the side yard distance being mandatory and not including accessory buildings.

**Sec. 6. Height limitations.**

No building shall be erected in an R-3 residential district which exceeds 2 1/2 stories, or 30 feet in height.

**ARTICLE XI.**

**R-4 MOBILE HOME PARK RESIDENTIAL DISTRICT**

**Sec. 1. Purpose.**

The purpose of [an] R-4 mobile home park residential district is to provide for areas in which mobile home parks are permitted as the single principal use.

**Sec. 2. Principal permitted uses.**

[Following are the principal permitted uses for the R-4 mobile home park residential district:]

[(a.) Mobile home parks [are to be as] licensed under Act 419 of the Public Acts of 1976 [repealed--see now MCL 125.2301 et seq.] as amended from time to time and as licensed pursuant to the requirements of the said Act and all other state laws applicable to such installations. A mobile home park does not include a mobile home sales lot or the retail sales of mobile homes except the incidental transfer from one occupant-owner to another of a mobile home already located in a regulated mobile home park.

[(b.) Wireless communication antenna - with site plan.  
(Ord. of 8-23-1999)

**Sec. 3. Special land uses.**

[Special land uses for R-4 mobile home park residential districts are as follows:] None.

**ARTICLE XII.**

**R-5 AGRICULTURAL AND RESORT USES**

**Sec. 1. Purpose.**

Agricultural districts involve larger tracts of land, farming, forestry and other rural uses and activities, and large tract rural residential uses. Because of the remoteness of agricultural districts, special land uses which do not adversely affect the rural character of the district may be allowed which might not otherwise be allowed in more densely populated areas. Such special uses would not include, however, uses which attract high traffic load, excessive noise, light or smoke emission or industrial type uses.

**Sec. 2. Principal permitted uses.**

[Following are the principal permitted uses for the R-5 agricultural and resort uses:]

- (a.) All principal uses allowed in R-1 residential districts, subject, however, to space requirements set forth in this article.
- (b.) General farming, agricultural and horticultural uses.
- (c.) Animal and livestock farms.
- (d.) Poultry raising and poultry ranches.



- (e.) Riding stables with a minimum size of 40 acres.
- (f.) Greenhouses and nurseries.
- (g.) Hobby farming and gardening on five acres or more.
- (h.) Reforestation and tree farms.
- (i.) Truck gardening.
- (j.) Dairy farming.
- (k.) Agricultural experimentation.
- (l.) Fish hatcheries.
- (m.) Any agricultural type use not incompatible with those set forth above.

**Sec. 3. Special land uses.**

[Following are the special land uses for the R-5 agricultural and resort uses:]

- (a.) Nursing and convalescent homes.
- (b.) Wildlife and hunting preserves.
- (c.) Animal feedlots and structure farming.
- (d.) Earth removal quarrying, gravel processing, mining, sand mining and related mineral extraction activities.
- (e.) Lagoon and spraying areas, sewage disposal and soil enrichment areas.
- (f.) Sanitary landfills licensed in accordance with Act of 641 of the Public Acts of 1978, MCL 299.401 et seq. [Repealed--see now MCL 324.11501 et seq.].
- (g.) Kennels, veterinary hospitals and clinics.
- (h.) Radio, television and communications towers.
- (i.) Cemeteries.
- (j.) Water impoundment and manmade lakes.
- (k.) Hotels, motels, golf courses, parks and playgrounds, marinas and resort installations.

- (l.) Private landing fields.
- (m.) Home occupations.
- (n.) Wireless communication towers.

**Sec. 4. Space requirements.**

[Following is the table for space requirements for the R-5 agricultural and resort uses:]

Use	Minimum Lot Area	Width of Lot (feet)	Setback (feet)	Yards		Percentage of Rear Yard w/Accessory Buildings	Misc. Requirements
				Side (feet)	Rear (feet)		
R-1 uses involving single-family dwellings only with no other uses connected except in sections 25, 26, 27, 34, 35, 36	1 acre	150					None
R-1 uses involving 108,900 sq. ft. Single-family dwellings only with no other uses connected in sections, 27, 34	2.5 acres	200	40	25	150		None
R-1 uses involving 217,800 sq. ft. Single-family dwellings only with no other uses connected in sections 25, 26, 35, 36	5 acres	300	50	25	150		None
Other R-1 uses	5 acres	330	100	50	100	30	None
Riding stables	40 acres	1320	200	100	100	None	None
All other permitted principal uses	10 acres	330	100	50	100	30	Driveways and entry roads may be in side yard

(Ord. of 9-18-2006)

**Sec. 5. Space requirements--General.**

When the majority of buildings built on one side of the street between two intersecting streets at the same time of the passage of this ordinance have been built with a minimum setback different from that required by this ordinance, no building hereafter erected or altered shall project beyond the minimum resulting setback

so established; provided, that no single-family dwelling shall be required to maintain a setback more than is required by section 4 of this article. No accessory building shall be located in a side yard, the side yard distance being mandatory and not including accessory buildings.

(Ord. of 9-18-2006)

### **Sec. 6. Height limitations.**

No structure or building shall be erected which exceeds 2 1/2 stories, or 30 feet in height in the agricultural and resort district, except for farm structures, such as barns and silos or special land uses.

## **ARTICLE XIII.**

### **C-1 COMMERCIAL DISTRICT**

#### **Sec. 1. Purpose.**

This district is designed to provide indoor retail sales and commercial service uses catering to the general public as distinguished from industrial, general business or wholesale commercial uses. C-1 commercial uses are primarily needed to serve nearby residential areas. Commercial uses which create offensive and loud noises, vibrations, smoke, glare or heavy traffic are not intended for C-1 commercial districts. C-1 commercial districts are expected to be clustered and strip development of commercial uses in such districts along major thoroughfares or streets is discouraged.

#### **Sec. 2. Principal permitted uses.**

[Following are the principal permitted uses for the C-1 commercial districts:]

- (a.) Indoor retail sales businesses where no assembling, treatment or manufacturing is required, including such uses as food markets, drug stores, clothing stores, shoe stores, jewelry, gift, book, stationery, music, musical instrument, variety, dry goods, notions, appliance stores.
- (b.) Offices, including professional, business, real estate and similar offices.
- (c.) Small retail shops including some which may involve preparation, such as bakeries, candy shops, dry cleaning, laundry, tailoring, dressmaking shop, photographic studios.
- (d.) Restaurants, including take-out, carry-out or drive-in restaurants.
- (e.) Indoor theaters.
- (f.) Barbershops, beauty parlors, shoe repair shops and similar service-oriented establishments.
- (g.) Funeral parlors and mortuaries.
- (h.) Churches, museums, schools, government buildings.

(i.) Wireless communication antenna - with site plan.  
 (Ord. of 7-5-2005)

**Sec. 3. Special land uses.**

[Following are the special land uses for the C-1 commercial districts:]

- (a.) Automobile gas stations.
- (b.) Bowling alleys.
- (c.) Miniature golf.
- (d.) Indoor recreation facilities, such as penny arcades, etc.
- (e.) Hotels, motels.
- (f.) No use involving outdoor displays or sales of merchandise shall be approved in C-1 Districts.

(g.) Wireless communications facilities.  
 (Ord. of 7-18-2005)

**Sec. 4. Space requirements.**

[Following is the table for the space requirements for the C-1 commercial districts:]

Use	Maximum Floor Area Permitted	Minimum Lot Area	Width of Lot (feet)	Setback (feet)	Yards		Percentage of Rear Yard w/Accessory Buildings	Misc. Requirements
					Side (feet)	Rear (feet)		
All C-1 Uses except those listed below	None imposed	13,000 sq. ft.	100	25	8	25	30	
Indoor theaters	None imposed	13,000 sq. ft.	100	25	8	25	30	No parking in setback or side yards
Churches, libraries, museums and gov't bldgs.	None imposed	3 acres	165	50	50	50	None	No parking in setback Special land uses: Determined by planning commission.

**Sec. 5. Space requirements--General.**

When the majority of buildings built on one side of the street between two intersecting streets at the time of the passage of this ordinance have been built with a minimum setback different from that required by this ordinance, no building hereafter erected or altered shall project beyond the minimum resulting setback so

established. No accessory building shall be located in a side yard, the side yard distance being mandatory and not including accessory buildings.

**Sec. 6. Height limitations.**

No structure or building shall be erected which exceeds 3 1/2 stories, or 40 feet in height.

**ARTICLE XIV.**

**C-2 COMMERCIAL DISTRICT**

**Sec. 1. Purpose.**

The C-2 commercial district is designed to permit commercial activities involving larger installations and also involving wholesale and other commercial uses which relate to the industrial community as well as retail and consumer sales uses. It is intended that such uses be clustered rather than constructed in strip developments along thoroughfares.

**Sec. 2. Permitted principal uses.**

[Following are the principal permitted uses for the C-2 commercial districts:]

- (a.) Any use permitted in the C-1 commercial district as a principal permitted use.
- (b.) Outdoor theaters.
- (c.) Golf driving ranges and miniature golf courses.
- (d.) Hotels and motels.
- (e.) Gasoline filling stations and public garages.
- (f.) Any large commercial use not involving manufacturing, warehousing or preparation on the premises.
- (g.) Shopping centers and shopping malls.
- (h.) Public carrier, private transportation, railroad or other terminals.
- (i.) Storage facilities for private residential personal property, designed with separated and distinct building units (without access between units), not adaptable for commercial or industrial warehousing.
- (j.) Wireless communication antenna - with site plan.

(Ord. of 7-5-2005)

### **Sec. 3. Site plan submission.**

No permitted principal use shall be commenced, erected, constructed or allowed unless site plan review and approval has occurred. The planning commission shall have the right to approve all setbacks, minimum of floor space requirements, and locations of all buildings and improvements, provided that setbacks shall be at least the same as those required in the C-1 commercial district. No buildings or improvements shall be allowed, except essential services, in any setback, side yard or rear yard in C-2 commercial districts.

### **Sec. 4. Special land uses.**

[Following are the special land uses for the C-1 commercial districts:]

- (a.) Any principal permitted use or any commercial use involving outdoor sales of merchandise is a special land use and must be approved as such by the planning commission. This includes sales lots for vehicles, mobile homes, boats, recreational equipment and similar uses.
- (b.) All special land uses permitted in C-1 commercial districts are, unless designated principal permitted uses herein, also allowed as special land uses in C-2 commercial districts.
- (c.) C-2 commercial zones in this township may also include, as special land uses, light assembly or fabricating businesses which assemble premanufactured parts or materials by processes performed manually or with small hand tools or fixtures and light capacity conveyors. Such uses shall not be performed out of doors. In determining whether to grant a special land use, the planning board shall determine that the proposed use is compatible with commercial uses surrounding the proposed use and with commercial uses intended by this article, and may impose reasonable conditions to accomplish said compatibility.
- (d.) Sexually oriented businesses as allowed by ordinances.
- (e.) Wireless communications facilities.

(Ord. of 6-16-2003; Ord. of 7-18-2005)

### **Sec. 5. Space requirement--General.**

When the majority of buildings built on one side of the street between two intersection streets at the time of the passage of this ordinance have been built with a minimum setback different from that required by this ordinance, no building hereafter erected or altered shall project beyond the minimum resulting setback so established. No accessory building shall be located in a side yard, the side yard distance being mandatory and not including accessory buildings.

### **Sec. 6. Height limitations.**

No structure or building shall be erected which exceeds 3 1/2 stories, or 40 feet in height.

## **ARTICLE XV.**

## I-1 INDUSTRIAL DISTRICT

### Sec. 1. Purpose.

The regulations of this district are intended to provide land for various types of industrial and manufacturing uses that are compatible with one another. The lands included in this district are those suited for use primarily by industries characterized by low land coverage, the absence of objectionable external effects, the possibility of large setbacks, attractive building architecture, and large, landscaped, park-like areas. The purpose of the district is to provide suitable sites for such uses, while making certain that such uses will be compatible with adjacent or surrounding districts. To these ends, development is limited to a low concentration, external effects being minimized, and permitted uses are limited to those which are adapted to an environment of this nature. The regulations are also designed to stabilize and protect the essential characteristics of the district by excluding uses which would have a detrimental effect upon the orderly development and functioning of the district. nonlisted but allowable manufacturing plants and uses shall have performance characteristics similar to those uses listed in this district in that they emit a minimum of noise, vibration, smoke, dust, dirt, toxic or offensive odors or gases, glare, electromagnetic or atomic radiation. All uses located within this district shall be so designed, constructed and operated that there is no production of sound discernible at the lot lines in excess of the average intensity of street and traffic noise at the lines, nor any production of heat or glare discernible, at the same point.

### Sec. 2. Principal permitted uses.

[Following are the principal permitted uses for the I-1 commercial districts:]

- (a.) Special trade contractors, building materials and wholesalers.
- (b.) Public utilities and communications, including buildings as well as microwave installations, transmitting or receiving towers.
- (c.) Warehousing, both refrigerated and general storage.
- (d.) Industrial plants which manufacture, process or assemble products such as agricultural products, food and kindred products (not including slaughterhouses or rendering plants), furniture and fixtures, converted paper and paperboard products, electrical goods, hardware, plumbing, heating products, biological products, drugs, medical and pharmaceutical preparation, glass products made of purchased glass, electronic components and accessories, professional scientific and controlling instruments and parts, toys, jewelry, athletic goods, musical instruments, photographic and optical products, office computing and accounting machines, jobbing and repair machine shops, monuments or stone products, tool and die shops, machine shops, publishing, printing, and any manufacturing or industrial use similar to those listed herein.
- (e.) Research installations involving industrial, scientific or business research, development, testing laboratories, and offices.
- (f.) Lumberyards.

### **Sec. 3. Site plans.**

Site plans containing all setbacks, side yards and rear yards, as well as height limits, building locations, parking driveways, open spaces and other proposed uses of land in these districts are required to be submitted before any use may be commenced, constructed or used. The planning commission shall determine all of said matters in approving a site plan, provided that no setback shall be less than 50 feet, no rear yard less than 50 feet, and no side yard less than according to the following schedule: one-story building - 15 feet, two-story building - 20 feet, three-story building - 25 feet, and four-story building 30 feet. Provided, however, that where an I-1 district abuts a residential district (R-1 through R-4), agricultural district (R-5), or C-1, or C - 2 district, no setback shall be less than 100 feet. Provided further, however, that where an I - 1 district side yard abuts a R - 1 through R - \$, R - 5, C - 1, or C - 2 district, that side yard setback shall be no less than 50 feet. Provided further, however, that where I - 1 district rear yard abuts a R - 1 through R - 4, R - 5, C - 1, C - 2 district, that rear yard setback shall be no less than 100 feet. The Planning Commission may require a reasonable buffer area. Adverse effects or impacts upon adjoining incompatible land uses shall be minimized by appropriate screening, fencing, and/or landscaping. Maximum height of any building shall be four stories, but no greater than 60 feet.

*Amended February 02, 2015*

### **Sec. 4. Special land uses.**

[Following are the special land uses for the C-1 commercial districts:]

- (a.) Mining operations.
- (b.) Wireless communication towers.

### **Sec. 5. Outdoor storage.**

Outdoor storage is allowed in the rear yard area of a property in this district, but it must be screened from adjoining premises which is in a zoning district other than I-1 or I-2, and from public streets by a solid fence, wall, or natural screening deemed adequate for the purpose by the planning commission in its site plan review.

## **ARTICLE XVI.**

### **I-2 INDUSTRIAL DISTRICT**

#### **Sec. 1. Purpose.**

This district is intended to provide land for the more intense type of industrial and manufacturing uses which are usually located deep within the industrial areas of the Township and downwind from residential and business areas. Regulations to minimize their incompatibility with other districts are the minimum requirement for mutual protection of the industrial areas, and to that end, the district should not be adjacent to any residential or business districts, if such abutment can possibly be avoided.

#### **Sec. 2. Principal permitted uses.**

[Following are the principal permitted uses for the I-2 commercial districts:]



- (a.) The primary principal permitted use in I-2 industrial areas is industrial and manufacturing uses in large installations or in forms which involve significant emanation of noise, glare and other environmentally adverse effects. Such uses will include, for example, chemical plants, steel plants, foundries, manufacturers of automobile parts, industrial machinery or equipment, and other heavy industrial uses.
- (b.) Bulk storage of refined petroleum products.
- (c.) General construction contractors involved in heavy construction and general building.
- (d.) Airports.

### **Sec. 3. Site plans.**

All uses in I-2 require site plan approval before use commencement or construction, and the planning commission shall impose reasonable regulations regarding setbacks, side yard, rear yard, screening and other requirements to avoid adverse effects on surrounding property. Maximum height of any building shall be four stories, but no greater than 60 feet. No setback shall be less than 100 feet, no rear yard less than 100 feet, and no side yard less than according to the following schedule: one-story building - 25 feet, two-story building - 30 feet, three-story building - 35 feet, and four-story building - 40 feet. Provided, however, that where an I-2 district abuts a R-1 through R-4, R-5, C-1, C-2 district no setback shall be less than 200 feet. Provided further, however, that where an I-2 district side yard abuts a R-1 through R-4, R-5, C-1, C-2 district, that side yard setback shall be no less than 100 feet. Provided further, however, that where an I-2 district rear yard abuts a R-1 through R-4, R-5, C-1, or C-2 district, that rear yard setback shall be no less than 100 feet. The planning commission may require a reasonable buffer area. Adverse effects or impacts upon adjoining incompatible land uses shall be minimized by appropriate screening, fencing, and/or landscaping. All setbacks, side yards and rear yards shall be clear of any above ground improvements. **Amended February 02, 2015**

### **Sec. 4. Special land uses.**

[Following are the special land uses for the I-2 commercial districts:]

- (a.) Any installation which requires a single building containing more than 20,000 square feet shall be considered a special land use and shall require such a permit. Any installation requiring a building in excess of the height requirements shall be considered a special land use.
- (b.) Salvage yards.
- (c.) Wireless communication towers.

## **ARTICLE XVII.**

### **ENFORCEMENT**

#### **Sec. 1. Zoning administrator--Functions.**

The zoning administrator of the Township of Egelston is the official primarily charged with the enforcement of this ordinance. He is the official to whom all site plans, special land use and planned unit development applications are submitted, and because no building permit may be issued for any construction until zoning requirements are met, the zoning administrator must pass on the building permit and approve same. The zoning administrator shall be consulted, therefore, in the event any land use activity is contemplated by any person.

## **Sec. 2. Zoning administrator's decision--Appeals.**

Decisions by the zoning administrator vis-a-vis zoning issues (as opposed to building code compliance), shall be referred to the zoning board of appeals for review or interpretation. Since the zoning administrator often administers matters which are planning commission concerns, especially as they involve site plans, special land uses or planned unit developments, informal but not binding review of zoning administrator decisions may be sought at regular or special meetings of the planning commission and considered on its agenda. However, the planning commission is not an adjudicatory body, and if actual decisions of the zoning administrator are contested, they shall be finally determined by the zoning board of appeals.

## **Sec. 3. Building inspector.**

The building inspector's duties are set forth elsewhere in the township ordinances and particularly in the building and other codes which have been adopted. The building inspector is primarily responsible for the review and issuance of building permits. If the building inspector is not the same person as the zoning administrator, both such officials must be consulted before the issuance of a building permit.

## **Sec. 4. Building permits required.**

It shall be unlawful for any person to commence excavations for, or construction of any building or structure, or structural change in any existing building or structure without first obtaining a building permit from the appropriate township officer. No permit shall be issued for the construction, alteration or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this ordinance, showing that the construction proposed is in compliance with the provisions of this ordinance as well as the building code.

- (a.) No plumbing or electrical permits shall be issued until the building inspector has determined that the plans and designated use indicates that the structure and the premises, if constructed as planned, will conform with the provisions of this ordinance.

## **Sec. 5. Building permits--Contents.**

Every application for a building permit shall be sworn to by the applicant as required by the building code and shall designate the existing and intended use of the structure or premises or part thereof which it is proposed to alter, erect, or extend. The number of housekeeping units existing and/or intended shall also be indicated. The application shall contain other required information and shall be accomplished by such drawings and plans as are requested by the building inspector.

- (a.) All dimensions shown on the before mentioned drawings or plans relating to the location and size of the lot or parcel involved in the permit, other than those lots which are part of a record subdivision, shall be based on a survey, which must be signed by a licensed professional engineer or land surveyor.
- (b.) All building permits which call for application of yard requirements (contained in this ordinance) shall have said yard dimensions indicated on the permit.
- (c.) The building inspector may waive portions of the foregoing requirements which fall under his administration and obviously are not necessary for determination of compliance with this ordinance.

**Sec. 6. Certificates of occupancy.**

It shall be unlawful to use or permit the use of any structure, or premises hereafter altered, extended or erected, until the building inspector shall have issued a certificate of occupancy stating that the provisions of this ordinance have been complied with. It shall be unlawful to use or permit the use of any structure or premises, hereafter changed to different use, until the building inspector shall have issued a certificate of occupancy showing conformity with the provisions of this ordinance. Until such certificate has been issued, no township official shall grant a required license for the use proposed.

**Sec. 7. Plat violations.**

Where it appears that an area has been subdivided in violation of the Plat Act in effect at the time by statute of the State of Michigan, no additional building permits shall be issued until such area is brought into compliance.

**ARTICLE XVIII.**

**PLANNING COMMISSION**

**Sec. 1. Authority.**

Under the laws of the state of Michigan, together with Egelston Township Board Resolution of December 20, 1965, the duties, functions and authority of the Egelston Township zoning board and planning commission were combined and placed under the direction of the Egelston Township planning commission.

**Sec. 2. Duties.**

It shall be the duty of the planning commission to study the township from its commercial, industrial, social, economic and agricultural phases. From its study and continued concern with such matters, the commission periodically and continually reviews the basic plan of the township known as the Egelston Township general development guide, reviews the zoning ordinance and map of the community, recommends on a continuing basis to the township board any changes or revisions in the same that should be accomplished, and holds statutory hearings on requested changes in zoning and submits recommendations regarding same to the township board. In addition, the planning commission, by this ordinance, and in accordance with state law,

has sole responsibility for decisions regarding site plans, special land uses and planned unit developments which may be submitted for the development of land in accordance with this ordinance.

### **Sec. 3. Scope of planning commission activity.**

The planning commission may for purposes enumerated in this zoning ordinance engage such employees, including technical assistance as it may require, with the concurrence of the township board. In making determinations or creating conditions for site plan, special land use or planned unit development approval or permits, the planning commission may use and apply nationally and statewide recognized standards, performance standards, codes, model regulations and ordinances, and shall maintain a record and library of such standards and material for continual use. The said records shall be available for public inspection at any and all times. Copies of said materials shall be supplied to any persons requesting the same at cost.

## **ARTICLE XIX.**

### **ZONING BOARD OF APPEALS\***

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\* **State Law References:** Zoning board of appeals, MCL 125.3601 et seq.

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### **Sec. 1. Functions and authority.**

The zoning board of appeals shall hear all appeals under this ordinance, and further shall have a co-function of interpreting this ordinance, making decisions on matters coming within its jurisdiction and instructing the building inspector as to enforcement of its decisions. It shall further act on controversial questions as they may arise in the administration of this ordinance, including the final interpretation of zoning maps. It may fix rules and regulations to govern its own procedures sitting as a board of appeals. It shall hear and decide appeals from and review any order, requirements, decisions, or determination made by an administrative or other township official charged with the enforcement of this ordinance. It shall also hear and decide all matters referred to it, or upon which it is required to pass, under this ordinance. The concurring vote of a majority of the members of the board of appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass, under this ordinance, or to effect any variation in the ordinance. Such appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the township, County of Muskegon or State of Michigan. The grounds of every such determination shall be stated in writing.

### **Sec. 2. Purpose.**

The zoning board of appeals is intended to relieve hardship cases and perform specific duties given them by the township board through the zoning ordinance.  
(Ord. of 3-2-2009)

### **Sec. 3. Membership and meetings.**

The zoning board of appeals shall consist of five members. The first member of the zoning board of appeals shall be a member of the township planning commission. A second member shall be a member of the

township board, who may not serve as chairperson of the board of appeals. The remaining three members shall be selected by the township board from the electors of the township residing outside of any incorporated city or village. The members other than the planning commission members shall be representative of the population distribution and of the various interests present in the township. No employee or contractor of the township board may be a member or serve as an employee of the township board of appeals. Members shall be appointed by the township board and may be removable by the township board for nonperformance of duty or misconduct in office upon written charges and after public hearing. The zoning board of appeals shall hold meetings, perform their functions and hold terms and be compensated as set forth in section 18 of Act 184 of the Public Acts of 1943 [Repealed--See now MCL 125.3601], as amended.

#### **Sec. 4. Functions and effects of decisions.**

The Egelston Township zoning board of appeals is organized in accordance with the requirements of Act 184 of the Public Acts of 1943, and its functions are set forth in that Act, specifically sections 20 through 23a [Repealed--See now MCL 125.3601 et seq.]. The Board of Appeals shall function, therefore, in accordance with those sections of the state law as they may be amended from time to time, and the standards set forth in the statute shall be the standards of the zoning board of appeals.

#### **Sec. 5. Fees.**

Application for any appeal or hearing requiring zoning board of appeals action shall be in writing and accompanied with a fee as determined by resolution of the township board.  
(Ord of 12-3-2007)

### **ARTICLE XX.**

#### **ORDINANCE CHANGES AND AMENDMENTS\***

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\* **State Law References:** Zoning ordinance amendments, MCL 125.3403.

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#### **Sec. 1. Changes.**

Initiation of map or district changes and ordinance amendments may be made by the township board on its own motion and by its discretion; also by report of the township planning commission; a proposed amendment, supplement, or change shall first be submitted to the township planning commission for its recommendation and report.

#### **Sec. 2. Hearing and notice.**

All procedures, notice requirements and hearing requirements shall conform with the Michigan Township Rural Zoning Act, being Act 184 of 1943 of the Public Acts of the State of Michigan [Repealed--See now MCL 125.3101 et seq.], as amended, and the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976 [MCL 15.261 et seq.], as amended.

#### **Sec. 3. Official township zoning forms.**

The township clerk after consultation with the planning commission and the township supervisor shall prescribe forms to be used and filing procedures which are uniform for the filing of applications for zone changes, appeals and decisions of township officers, applications for special land uses and planned unit developments, allowance and all other procedures before the authorized officers and bodies set forth in this zoning ordinance. Such applications and forms shall be freely available at the township office.

**Sec. 4. Fee.**

Application for amendment of the ordinance shall be in writing and accompanied with a fee as determined by resolution of the township board.

(Ord of 12-3-2007)

**ARTICLE XXI.**

**CONFLICTING ORDINANCES REPEALED**

**Sec. 1. Conflicts.**

All existing ordinances or parts of ordinances pertaining to the Township of Egelston in conflict with the provisions of this ordinance are hereby repealed. The Egelston Township zoning ordinance adopted April 6, 1949, and all amendments thereto, the zoning ordinance of 1975 and the interim zoning ordinance of 1979, are specifically repealed.

**ARTICLE XXII.**

**VALIDITY AND SEPARABILITY**

**Sec. 1. Validity.**

If any clause, sentence, subdivision, paragraph, section or part of this ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

**ARTICLE XXIII.**

**VIOLATIONS AND PENALTIES**

**Sec. 1. Violations.**

Violation of this ordinance shall constitute a civil infraction.  
(Ord. eff. 11-26-1982; Ord. No. 302, 5-20-1996)

**ARTICLE XXIV.**

## **EFFECTIVE DATE**

### **Sec. 1. Effective.**

This ordinance is hereby declared to be immediately necessary for the preservation of the public peace, health and safety and shall take effect upon publication in accordance with statute.

Hearing: October 5, 1982

Adopted: November 15, 1982

Published and Effective: November 26, 1982.