

**ARTICLE VII  
CONDITIONAL USE PERMITS**

Section 701 Intent

Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with some of the older, more familiar kinds of uses call for more flexibility and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the community's inhabitants.

In order to accomplish such a dual objective, provision is made in this Ordinance not only for flexibility in individual district regulations, but also for a more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as Conditional Uses and may be authorized by the issuance of a Conditional Use Permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

The following sections (702 through 705), together with previous references in other sections (308 through 317), designate what uses require a Conditional Use Permit. With any exception noted, the procedures for obtaining such a permit apply to all conditional uses indicated.

Section 702 Application Procedure

- (A) Any person having an interest in a property may file an application for a Conditional Use Permit for the zoning district in which the land is situated.
- (B) Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be signed by the property owner and accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.
- (C) Data Required in Application:
  - 1. Conditional use form supplied by the Zoning Administrator filled out by the applicant.
  - 2. Site plan drawn to a readable scale and containing that information specified in Article VI, Section 603 or 604.

## ARTICLE VII – CONDITIONAL USE PERMITS

### **Section 702 Application Procedure: Continued**

3. A statement with supporting evidence regarding the required findings specified in Section 704.
- (D) Approval of a Conditional Use Permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by all subsequent owners.
  - (E) In instances where development authorized by a Conditional Use Permit has essentially changed in nature, extent or character, the Planning Commission shall review the permit in relation to the applicable standards and requirements of the Ordinance. Upon finding that there has been a violation in the conditions of the Conditional Use Permit granted under the provisions of this Ordinance, the Planning Commission may declare the permit null and void.
  - (F) If development of a Conditional Use Permit has not commenced within one year from the date of issuance, said permit shall expire automatically. The Planning Commission can approve an extension for one additional year upon request by the applicant.

### Section 703 Review and Findings

The Planning Commission shall approve, approve with conditions, or reject the application within sixty (60) days of the public hearing based upon materials received and testimony recorded at the public hearing. The Township Board may provide for planning consultant, engineer or other professional consultant assistance to the Zoning Administrator and Planning Commission as needed, at the applicant's expense. The Planning Commission shall set forth the reasons for approval, denial, or modification of the conditional use permit application. All conditions shall be clearly specified in writing and be consistent with Sections 704 and 902 (C). The petitioner has one year from date of hearing to comply with all specified conditions. Compliance shall occur prior to issuance of a zoning compliance permit by the Zoning Administrator pursuant to Section 905 and the commencement of the use, unless a specified time is set or implied in the motion granting the Conditional Use Permit.

### Section 704 General Standards

The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

- (A) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;
- (B) Will not be hazardous or disturbing to existing or future neighboring uses;
- (C) Will not diminish the value of land, buildings, or structures in the District;
- (D) Will be adequately served by essential public facilities and services, such as highways, roads, streets, police and fire protection, drainage structures, refuse disposal, or schools, and that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;



## ARTICLE VII – CONDITIONAL USE PERMITS

### **Section 704 General Standards: Continued**

- (E) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (F) Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare, or odors;
- (G) Will protect the public health, safety and general welfare of the community; and
- (H) Will be consistent with the intent and purpose of the specific zoning district in which it is located.

### Section 705 Conditions and Safeguards

- (A) Prior to granting any Conditional Use Permit, the Planning Commission may impose conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the Conditional Use Permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will utilize the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole; and be consistent with the general standards listed in Section 704 of this Ordinance and therefore be necessary to meet the intent and purpose of the regulations contained therein.
- (B) Conditions and requirements stated as part of Conditional Use Permit authorization shall be a continuing obligation of land holders. The Zoning Administrator shall make periodic investigations of developments authorized by Conditional Use Permit to determine compliance with all requirements.
- (C) Conditional Use Permits may be issued for time periods as determined by the Planning Commission. Conditional Use Permits may be renewed in the same manner as originally applied for.
- (D) In authorizing a Conditional Use Permit, the Planning Commission may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the Township Treasurer at the time of issuance of the permit authorizing the use or activity. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.
- (E) Revocation of a Conditional Use Permit by the Planning Commission shall be made after a public hearing, following the same procedures as original approval to the effect that:
  - 1. Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period; or

ARTICLE VII – CONDITIONAL USE PERMITS

**Section 705 Conditions and Safeguards: Continued**

2. Violations of conditions pertaining to the granting of the permit continue to exist more than thirty (30) days after an order to correct has been issued. Violations of any conditions set by the Planning Commission are violations of this zoning ordinance.
- (F) All plans, specifications and statements submitted with the application for a Conditional Use Permit shall become, along with any changes ordered by the Planning Commission, a part of the conditions of any Conditional Use Permit issued thereto.
- (G) Any person aggrieved by the Planning Commission's granting or failure to grant a conditional use permit must appeal that decision to the Circuit Court. Such an appeal must be filed within 30 days after the decision has been certified in writing, or the minutes that record the decision are approved. The Zoning Board of Appeals shall notify all affected parties and hold a public hearing on the appeal as specified in Section 902, Administrative Standards and Procedures.
- (H) The standards in Section 704 are basic to all conditional uses. The specific requirements accompanying Sections 308 through 318 and Sections 706 through 720 relating to particular uses are in addition to the standards in Section 704 and shall be required in all applicable situations.

Section 706 Group (child) day care home

Group day care home with seven to 12 children (as defined under Public Act of 116 of 1973, as amended, see definition) are permitted in the R, RR-5 and TD districts subject to the requirements of this Article and the following special standards:

- (A) Adequate ingress and egress, parking and circulation shall be provided on the site.
- (B) The lot or parcel on which such use is located shall be located no closer than 1,500 feet to any of the following:
  1. Another group day care home.
  2. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being Sections 400.701 to 400.737 of the Michigan Compiled Laws.
  3. A facility offering substance abuse treatment and rehabilitation service to seven or more persons, licensed by the Michigan Office of Substance Abuse Services.
  4. A community corrections center, resident home, halfway house, or similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- (C) The construction and use shall be licensed by the Michigan Department of Social Services prior to beginning operation which has minimum regulations and requirement regarding play space.



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### Section 707 Child care center (day care center)

Child care centers, nursery schools, and day nurseries (see definition) may be permitted in the TD, Town Development district as a permitted use and in the RR-5 district as a conditional use subject to the following special approval requirements:

- (A) The child care center shall be licensed by the Michigan Division of Child Day Care Licensing, which includes minimum outdoor play area requirements.
- (B) Adequate ingress and egress, parking and circulation shall be provided on the site, including a drop-off/pick-up area for children, outside of any public right-of-way.

### Section 708 Private use landing areas

Landing areas for the private use of the property owner may be permitted in the I, Industrial and TP-40, Timber Production Districts; and as a conditional use in the RP-10 and RP-20 Districts subject to the following provisions:

- (A) Said landing area is subject to all rules and regulations of the Federal Aviation Administration and the Michigan Aeronautics Commission which agencies shall approve the preliminary plans submitted to the township.
- (B) No landing area for private use shall be established within five (5) miles of a public use facility certified by the Michigan Aeronautics Commission without approval of said commission. No landing area for private use shall be established within a two (2) mile radius of another landing area.
- (C) All landing areas shall have a minimum runway with an 1,500-foot landing length in each direction from a clear approach slope of 20:1 and a 80-foot usable width with an additional 35-foot minimum width on each side which is free of obstructions. The approach slope with a width of not less than 150 feet shall be based on a clearance of all objects within the approach area, including a roadway clearance of 15 feet or 17 feet over an interstate highway, a railway clearance of 23 feet, and a clearance at the property line of 25 feet. The landing area shall be marked in accordance with Michigan Aeronautical Commission standards.
- (D) No landing area shall be approved that would interfere with the right of nearby and adjacent owners and occupants of property or to peaceful enjoyment of their property. Adjacent property owners shall not be required under any circumstances to accommodate a proposed private use landing area (e.g. trim or remove trees, limit or remove construction, curtail occupancy, limit or reduce height of structures) beyond those limits and regulations which might normally apply to their property(ies) under this ordinance.
- (E) Hazards to navigation. No obstruction of whatever character, object of natural growth, or use of land, upon the premises of the landing area which prevents the safe use of such facilities for the take-off or landing of aircraft shall be permitted.
- (F) Yard and placement regulations.
  - 1. The site shall not abut directly or across a street an R, Residential or TD, Town Development district.
  - 2. Landing areas shall be located on a contiguous parcel of land not less than 20 acres in area. The parcel shall have a width of not less than 350 feet. The parcel shall

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**Section 708 Private use landing areas: Continued**

have a depth of not less than 2,000 feet. It is not required that the necessary clear zones be contained within the site, however, if future development intrudes upon the required clear zones, use of the landing area shall immediately cease, unless adequate and appropriate easements are first obtained and recorded by the private use landing area owner.

- (G) All lights used for landing areas and other lighting facilities shall be arranged so as not to reflect towards adjoining non-landing area uses.
- (H) Prohibited uses.
  - 1. The open storage of junked or wrecked motor vehicles or aircraft shall not be permitted.
  - 2. Use of a private use landing area is limited solely to the single owner. No commercial activity or operations (such as the sale of gasoline or oil, the soliciting or engaging in charter flying or student instruction, the provision of shelter or the tie-down of an aircraft (except owner's), the overhaul or repair of an aircraft or of engines, or otherwise offering aeronautic facilities or services to the public) shall be permitted on the premises.
- (I) Private use helicopter landing areas shall conform to all of the above regulations, except for those regulations intended to clearly apply only to airplane landing areas. Placement and operation of helicopter landing facilities shall otherwise comply with all regulations of the Michigan Aeronautics Commission and the Federal Aeronautics Administration (FAA).

**Section 709 Nursing homes, convalescent or rest homes, and homes for the aged, indigent or handicapped, and Orphanages**

A nursing home, convalescent or rest home, or a home for the aged, indigent or physically handicapped, or an orphanage, is permitted in the RR-5, LS/R and TD districts subject to the requirements of this Article and the following special standards:

- (A) Site requirements.
  - 1. All ingress and egress shall be directly onto a public road having an existing right-of-way of not less than 66 feet.
  - 2. The maximum extent of development shall not exceed 30 children or patients per acre.
- (B) Yard and building placement requirements. No building other than a structure for strictly residential purposes shall be closer than 60 feet to any property line.
- (C) Off-street parking requirements.
  - 1. There shall be one parking space provided for each two beds and every two staff members.
  - 2. All off-street parking shall be paved and constructed to the standards shown in Section 409.



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### Section 710 Churches (and other places of religious activity; synagogues, mosques, temples, etc.).

Churches and other similar facilities are a conditional use in the R, RR-5, LS/R, and TD districts subject to the requirements of this Ordinance and the following conditional requirements:

- (A) Site requirements. The site shall abut a public or private road having an existing right-of-way of not less than 66 feet.
- (B) Yard requirements; maximum lot coverage.
  - 1. Front and rear yard. The front and rear yard requirements shall be the same as those listed for the district in which the conditional land use is requested.
  - 2. Side yard. The side yard requirements shall be the same as those listed in the requested district for permitted nonresidential uses.
  - 3. Maximum lot coverage. The maximum lot coverage shall be the same as for the district in which the conditional land use is requested.
- (C) Off-street parking.
  - 1. A facility without fixed seats or pews shall have one parking space for every 100 square feet of usable floor area.
  - 2. No off-street parking shall be permitted in the front yard space.
  - 3. All off-street parking shall be constructed to the standards of this Ordinance.

### Section 711 Kennels and Veterinarian Clinics

Public, private or commercial kennels and veterinary clinics may be permitted upon conditional approval in the RR-5, RP-10 and RP-20 districts provided:

- (A) Kennels and veterinary clinics with kennels are located on a continuous parcel of land five (5) acres or more in area.
- (B) That no building(s) or runs shall be closer than 50 feet to any abutting property line and all runs or breeding areas shall be enclosed by a chain link fence not less than six feet in height.
- (C) For public or commercial kennels, one parking space shall be provided for every five kennel runs. For veterinary clinics parking requirements shall be in accord with those of professional offices of doctors, dentists or similar professions (Section 408). All off-street parking shall be constructed to the standards of this Ordinance.
- (D) That the Planning Commission may require adequate means of noise control, including, but not limited to buffering, use of berms, inside night time (also potentially day time) housing of animals, and any other reasonable means to insure adequate protection and enjoyment of neighboring properties. Failure by the developer of a proposed kennel to demonstrate within his proposal that adequate means to noise control will be provided, shall be grounds to deny a conditional land use permit.

### Section 712 Outdoor Wood Burning Boilers and Appliances (heating units)

- (A) Boilers/Units and outside wood burning are a Conditional Use in the R, RR-5, LS/R, RS-1, RS-5, RP-10, RP-20, TP-40 and I zoned districts.

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**Section 712 Outdoor Wood Burning Boilers and Appliances (heating units): Continued**

1. Conditions for approval:
  - a. Lots of 2.5 acres or larger;
  - b. A setback of 75 feet from any and all lot/property lines, easements and right-of-ways;
  - c. Minimum chimney height of 15 feet, measured from grade to chimney top or 2 feet higher than the nearest neighboring principal dwelling, within 1000 feet, whichever is higher;
  - d. No fuel other than natural wood, without additives, wood pellets without additives and agricultural seeds in their natural state may be burned and no outdoor wood burning boiler or appliance may be used as a waste incinerator;
  - e. Any fuel source other than natural wood without additives, wood pellets without additives and agricultural seeds in their natural state shall require a variance;
  - f. Unit shall not be located in the front yard;
  - g. A grant of Zoning Compliance Permit constitutes an agreement between the land owner and Humboldt Township, that the Zoning Administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with above conditions.

(B) Outdoor Storage of Wood.

1. The storage of wood shall be adequately secured against rolling or falling and may not be stacked or placed higher than eight (8) feet.
2. On corner lots, no wood shall be stored or placed so as to interfere with the clear vision from a road, street or alley to an intersecting road, street or alley. Clear vision shall be maintained at no less than three and one-half (3½') feet in height from the grade of the road, street or alley for a continuous length of twenty-five (25') feet from the curb or shoulder of the intersecting street.

Section 713 Golf courses

Golf courses are permitted in the RR-5, LS/R, RS-1, RS-5, RP-10, RP-20 and TP-40 districts subject to the requirements of this Ordinance and the following conditional requirements:

- (A) Accessory uses. Major accessory uses such as a restaurant and bar shall be housed in a single building with the clubhouse. Minor accessory uses strictly related to the operation of the golf course itself, such as a maintenance garage and pro shop or golf shop, may be located in separate structures. No structure shall be located closer than 75 feet to the lot line of any adjacent residential land or to any existing or proposed public right-of-way.
- (B) Parking areas. All parking areas shall be paved and constructed in accordance with the standards of this Ordinance.
- (C) Access. All ingress to and egress from the site shall be directly onto a major or secondary thoroughfare.



## ARTICLE VII – CONDITIONAL USE PERMITS

### **Section 713 Golf courses: Continued**

- (D) Lighting. All outdoor lighting shall be shielded to reduce glare and arranged so as to reflect the light away from abutting residential areas.
- (E) Swimming pool fencing. Whenever included, swimming pools shall be provided with a protective fence not less than six feet in height, and entry shall be provided by means of a controlled gate or mechanism for controlled access.

### Section 714 Hotels, motels, resorts and lodges

Hotels and motels may be permitted in the LS/R, RP-10, RP-20 and TD district subject to the following requirements:

- (A) Vehicular ingress and egress from the site shall be directly onto a major thoroughfare having an existing right-of-way 66 feet.
- (B) Each unit shall contain no less than 250 square feet of floor area.
- (C) Units shall not be occupied as a place of permanent residence and a guest register shall be maintained.

### Section 715 Private and public recreational facilities, including parks, playgrounds, camps, campgrounds, gun clubs, lodges and similar recreation uses

Recreation uses, including golf courses, driving ranges, gun clubs, lodges (Amendment 4/13/15), rifle, trap, and pistol ranges, archery ranges, camper and/or tent parks, hay rides, picnic grounds, swimming facilities, kiddie-type tracks and rides, and other constructed courses for off-road vehicles whether for personal use or public use, (but not including circuses, outdoor drive-in theatres, motorcycle and auto racetracks, and horse or dog tracks) may be permitted in the various districts (See Sections 309 through 314, 316 and 317 districts) upon conditional use approval subject to the requirements of this Ordinance and the following conditional use requirements:

- (A) Site requirements.
  - 1. All approved uses shall be on a contiguous parcel of 5 acres or more in area.
  - 2. All vehicular ingress and egress from the site shall be directly onto a thoroughfare having an existing right-of-way of not less than 66 feet.
  - 3. Review of the proposed site plan in accordance with Section 605, must show that a proper relationship exists between the major or secondary thoroughfare and all proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety.
- (B) Yard and building placement requirements.
  - 1. All development features, including the principal building, shall be related to minimize the possibility of any adverse effect upon adjacent property. This shall mean a minimum distance of 200 feet to the property line of abutting residentially zoned lands and public rights-of-way; provided that, where topography conditions are such that the building would be screened from view, this requirement may be modified.

ARTICLE VII – CONDITIONAL USE PERMITS

**Section 715 Private and public recreational facilities: Continued**

2. No activity shall take place within 30 feet of the perimeter of the recreation area. All such activities shall be adequately screened from abutting residentially zoned property.
  3. Related accessory commercial uses may be permitted in conjunction with recreation use when they are clearly incidental to the main recreational character of the use. Such related accessory uses shall not include the sale, servicing, or repair of any vehicles or equipment used on the site, except those owned by the proprietor.
  4. Permitted accessory uses which are generally of a commercial nature shall be housed in a single building. Minor accessory uses, which are strictly related to the operation of the recreation use itself, such as a maintenance garage, may be located in a separate building.
- (C) Other requirements.
1. Swimming pool fencing. Whenever a swimming pool is to be provided, the pool shall be provided with a protective fence six feet in height, and entry shall be by means of a controlled gate or mechanism to control access.
  2. Gun clubs. When a gun club is proposed, it shall be clearly established that the activities shall in no way endanger the health, safety or welfare of any persons and will not become a nuisance in any manner whatsoever.
  3. Off-street parking. Off-street parking shall be permitted in accordance with this Ordinance, except that the board of appeals may waive requirements for paved parking areas, maneuvering lanes and drives for campgrounds, parks, riding stables and other recreational uses where, because of their rural or rustic nature, hard-surfaced parking would detract from the nature of the recreational experience.

Section 716 Mini-warehouses

Mini-warehouses shall be permitted as a conditional land use in the TD, Town Development district, and as a permitted use in the I, Industrial district, in all cases subject to the requirements of this Ordinance and the following conditional requirements:

- (A) Site area and location; access. The site shall be at least two (2) acres in size and shall be located on a road having an existing right-of-way of 66 feet and shall not directly abut a residential district. The only access to the site shall be from the access road(s).
- (B) Parking and vehicular circulation areas. All driveways and parking, loading, and vehicular circulation areas shall be improved and maintained with gravel. All one-way driveways shall provide for one ten-foot parking lane and one 15-foot travel lane. All two-way driveways shall provide for one ten-foot parking lane and two 12-foot travel lanes.
- (C) Business activities, manufacturing, flea markets and garage sales prohibited. No business activities, manufacturing, flea markets or garage sales shall be conducted on the premises. The operation of such a facility shall in no way be deemed to include a transfer and storage business where the use of vehicles is part of the business.



## ARTICLE VII – CONDITIONAL USE PERMITS

### **Section 716 Mini-warehouses: Continued**

- (D) Servicing or repair of equipment prohibited. The servicing or repair of motor vehicles, boats, trailers, lawn mowers, and other similar equipment shall not be conducted on the premises.
- (E) Supervision. The area shall be properly policed by the owner or operator for removal of trash and debris and for compliance with public and private restrictions.
- (F) Signs. Signs shall be limited to one per arterial street frontage and shall comply with the requirements of Article V.
- (G) Caretaker's residence. A residence for a resident caretaker or manager may be constructed on the premises. The residence shall comply with all provisions of this Ordinance and the Michigan building code.
- (H) Storage of explosive or radioactive materials. No explosive or radioactive materials shall be stored on the premises.
- (I) Fencing. The complex shall be entirely surrounded by a rustproof security fence.

### Section 717 Wireless Communication Facilities and Structures

- (A) Location Requirements. Communications towers are permitted by conditional use permit in the TD, Town Development, RP-10, Resource Production Ten, RP-20, Resource Production Twenty, TP-40, Timber Production and I, Industrial districts.
- (B) Site Requirement: A minimum site of three (3) acres.
- (C) Buffering Requirements: The communication tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse would be completely contained on the property, or in accordance with Section 1107, Height Requirement Exceptions. The base of the tower and wire/cable supports shall be fenced with a minimum six (6') foot woven fence with 3 top strands of barbed wire.
- (D) Performance Standards.
  1. The tower must be setback from all property lines and from the edge of the road right-of-way a distance equal to its height for reasons of safety and aesthetics and at least two hundred (200') feet from any single family dwelling. Except that the setback may be reduced by the Planning Commission with due consideration of aesthetic circumstances, if the developer submits evidence that the tower is designed in the event of failure, to collapse within a more confined distance. Land included within such minimum required setbacks shall remain undivided and undeveloped with other structures not accessory to the tower.
  2. All towers shall be equipped with an anti-climbing device and fence to prevent unauthorized access.
  3. A building permit is required for the tower. The tower drawing shall be prepared and stamped by a professional engineer (State of Michigan) to certify that all the support structures meet the wind speeds and icing conditions under the worst conditions for this area.
  4. The communication tower shall meet all the requirements of the FCC and FAA and provide documentation to the staff.

**Section 717 Wireless Communication Facilities and Structures: Continued**

5. Whenever possible the structure shall be of monopole construction.
6. Accessory structures are limited to uses associated with operation of the tower.
7. Free-standing towers in excess of one hundred (100') feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport.
8. All the on-site accessory buildings shall meet all the zoning requirements for building, including height and setback requirements.
9. Metal towers shall be constructed of, or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.
10. Antennae 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 local statutes, regulations and standards.
11. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
12. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8') feet above the ground at all points, unless buried underground.
13. The tower shall be located, operated and maintained in a manner which does not interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.
14. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property.
15. The base of the tower shall occupy not more than five hundred (500) square feet and the top of the tower shall be no larger than the base.
16. Minimum spacing between tower locations shall be one (1) mile measured by a straight line to encourage co-location.
17. Height of the tower shall be the minimum height demonstrated to be necessary by the radio frequency engineer of the applicant, but shall not exceed six hundred (600') feet from grade.
18. Towers shall not be artificially lighted unless required by the Federal Aviation Administration and, if so required, lighting shall be the minimum provided for under the regulations, subject to the Township's approval and orientated inward so as not to project onto surrounding property. Strobe lights shall not be used.
19. Existing on-site vegetation shall be preserved to the maximum extent practicable. Landscaping is required to provide screening and aesthetic enhancement to the base of the structure and accessory buildings.
20. There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.
21. The color of the tower shall blend in with the surrounding environment.
22. Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards



**Section 717 Wireless Communication Facilities and Structures: Continued**

- are adopted in the future, the antenna shall be made to conform to such standards, or the conditional use permit will be subject to revocation by the Township Planning Commission. Cost for testing and verification of compliance shall be borne by the operator of the antenna, as needed.
23. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
  24. The tower shall be designed to allow for the co-location of additional providers in the future; also, space for police, emergency warning system and fire service antennas at a minimal cost to the community.
  25. Whenever possible, proposed wireless communication facilities shall co-locate on existing buildings, structures and existing wireless communication structures. If a provider fails to or refuses to permit co-location, such a structure shall become a nonconforming structure and shall not be altered or expanded in any way in the future.
  26. In the event the tower's use is discontinued for 12 months, the tower and all accessories shall be removed within six months. After the complete demolition and removal, the premises shall be restored with six inches of topsoil, seeded and mulched. The applicant will post a bond to the Township in the amount of 50% of the construction cost to ensure removal of the tower.
  27. The site shall have legal documented access to a public road.
  28. Dust control shall be maintained on the gravel access road using a non-petroleum based product.
  29. The applicant shall provide a maintenance plan for the tower or a maintenance agreement with a third party, which details a maintenance schedule to ensure the tower and site will be maintained in a neat and orderly fashion.
  30. The operator shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

**Section 718 Sexually Oriented Businesses**

- (A) Intent and Purpose: The Board of the Township of Humboldt acknowledges that there are some uses of land which because of their sexually oriented nature are recognized as having serious unique objectionable characteristics and deleterious and adverse effects and consequences on surrounding properties. Conditional regulation of these sexually oriented businesses is needed to fulfill the goals of the Township's Comprehensive Plan to prevent the adverse effects, i.e. blight and urban deterioration, reductions in value of surrounding property, social disorder and crime, the negative effects on community standards for aesthetic values and the Township's tax base associated with the location and operation of sexually oriented businesses. The Township Board believes that the purpose and intent of this section will best be accomplished by requiring that sexually oriented businesses may be located only in those areas of the Township which are zoned

**Section 718 Sexually Oriented Businesses: Continued**

I, Industrial and then only upon the Planning Commission holding a public hearing and issuing a conditional use permit after having determined that the proposed use meets the requirements of Article VII, and specifically the requirements of Section 718 of this Ordinance.

(B) Definitions:

1. Sexually Oriented Business Use – Any use of land, whether vacant or combined with structures or vehicles thereon, by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter, actions depicting, describing or presenting “Specified Sexual Activities” or “Specified Anatomical Areas”. Sexually Oriented Business uses shall include, but not be limited to the following:
  - a. An Adult Motion Picture Theater is an enclosed building with a capacity of fifty (50) or more persons used for presenting material which has a significant portion of any motion picture or other display, depicting, describing or presenting “Specified Sexual Activities” or Specified Anatomical Areas” for observation by patrons therein.
  - b. An Adult Mini-Motion Picture Theater is an enclosed building with a capacity for less than fifty (50) persons used for presenting material which has as a significant portion of any motion picture or other display depicting, describing or presenting “Specified Sexual Activities” or “Specified Anatomical Areas.”
  - c. An Adult Motion Picture Arcade is any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where a significant portion of images so displayed depict, describe or relate to “Specified Sexual Activities” or “Specified Anatomical Areas.”
  - d. An Adult Book or Supply Store, Adult Novelty Store or Adult Video Store is defined as a commercial establishment having ten percent (10%) or more of all usable interior, retail, wholesale or warehouse space devoted to the distribution, display, storage, sale, or rental of any form of sexually explicit materials or adult novelty items. Also, an establishment with a significant portion devoted to the sale or display of sexually explicit materials or adult novelty items.
  - e. An Adult Cabaret is a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, “go-go” dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict or describe “Specified Sexual Activities” or “Specified Anatomical Areas.”
  - f. Adult Smoking or Sexual Paraphernalia Store is an establishment having, as a substantial portion of its stock in trade and offers for sale, for any form



**Section 718 Sexually Oriented Businesses: Continued**

- of consideration, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances.
- g. Massage Parlor is an establishment having a substantial portion of its space devoted to massages of the human body or parts thereof by means or pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient. The following uses shall not be included in the definitions of a massage parlor:
    - i. Establishments which routinely provide such services by a licensed physician, a licensed physician’s assistant, a licensed chiropractor, a licensed osteopathy, a licensed physical therapist, a licensed nurse practitioner, a therapeutic massage practitioner as defined in this Ordinance or any other similarly licensed medical professional;
    - ii. Fitness center;
    - iii. Electrolysis treatment by a licensed operator of electrolysis equipment; and
    - iv. Hospitals, nursing homes, medical clinics or medical offices.
  - h. An Adult Model Studio is any place where, for any form of consideration or gratuity, figure models who display “Specified Anatomical Areas” are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona-fide art school or similar educational institution.
  - i. An Adult Personal Service Business is a business having as its principal activity a person, while nude or while displaying “Specified Anatomical Areas”, providing personal services for another person. Such businesses include, but are not limited to modeling studios, body painting studios, wrestling studios, and conversational parlors.
  - j. An Adult Sexual Encounter Center is any business, agency, or person who, for any form of consideration or gratuity, provides a place where three (3) or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in “Specified Sexual Activities” or exposing “Specified Anatomical Areas”.
2. Significant Portion – as used in the above definitions, the phrase “Significant Portion” shall mean and include:
- a. Any one or more portions of the display having continuous duration in excess of five (5) minutes; and/or

**Section 718 Sexually Oriented Businesses: Continued**

- b. The aggregate of portions of the display having a duration equal to ten percent (10%) or more of the display; and/or
  - c. The aggregate of portions of the collection of any materials or exhibits composing the display equal to ten percent (10%) or more of the display.
- 3. Display – As used in the above definitions, the word display shall mean any single motion or still picture, presentation, dance or exhibition, live act or placing of materials or engaging in activities on or in a newsstand, display rack, window, showcase, display case or similar place so that the material or activity is easily visible to the general population whether for free or otherwise.
- 4. Specified Sexual Activities – as used in the above definitions, the phrase “Specified Sexual Activities” shall mean and include:
  - a. Human genitals in a state of sexual stimulation or arousal;
  - b. Acts of human masturbation, sexual intercourse or sodomy;
  - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast; and
  - d. Appearing in a state of nudity.
- 5. Specified Anatomical Areas – as used in the above definitions, the phrase “Specified Anatomical Areas” shall mean and include:
  - a. Less than completely and opaquely covered: (a) human genitals, pubic region (b) buttocks, and (c) female breast below a point immediately above the top of the areola; and
  - b. Human genitals in a discernibly turgid state, even if completely and opaquely covered.
- 6. Regulated Uses – Those uses and activities which require licenses, approval or permits by Township regulations.
- 7. Sexually Oriented Business Merchandise/Products – Sexually oriented business merchandise/products means any book, magazine, periodical, slide, picture, photograph, drawing, sculpture, software, video cassettes or discs, video reproductions, or motion picture film, activity or other printed, electronic recorded or visual representation or image or novelty item which has as a significant portion of its content or exhibit matter of actions depicting, describing, or relating to “Specified Sexual Activities” or “Special Anatomical Areas”, such as but not limited to, depiction of uncovered or less than opaquely covered human or animal genitals or pubic areas, human sexual intercourse, human or animal masturbation, oral or anal intercourse, human-animal intercourse, excretory functions, physical stimulation or touching of genitals or pubic areas, or flagellation or torture by or upon a person who is nude or clad in revealing costumes in the context of sexual stimulation. The merchandise/products shall be judged without regard to any covering which may be affixed or printed over the merchandise/products or activity in order to obscure genital areas in a depiction which otherwise would fall within the definitions of this section. Works of artistic, anthropological, scientific, library or medical significance, which taken as a whole have serious literary, artistic, political



**Section 718 Sexually Oriented Businesses: Continued**

or scientific value, are not intended to be included within the definitions of this subsection. This definition is intended to include any merchandise/products which result from any technology, whether that technology is available on the effective date of this amendment or becomes available after that date.

8. Adult Novelty Items – Adult novelty items means any object, substance, instrument, paraphernalia, item or devise offered for sale which is distinguished, designed, or characterized by an emphasis on matters relating to “Specified Sexual Activities”, or sexual stimulation or arousal of “Specified Anatomical Areas”.

(C) Dispersal Regulations:

1. No sexually oriented business shall be located within one thousand (1000) feet of any other sexually oriented business or within one thousand (1000) feet of any of the following uses:
  - a. Any Class “C” establishment licensed by the Michigan Liquor Control Commission;
  - b. Pool or billiard halls;
  - c. Coin operated amusement centers;
  - d. Teenage discos or dance halls;
  - e. Ice or roller skating rinks;
  - f. Pawn shops;
  - g. Indoor or drive-in movie theaters;
  - h. Any public park;
  - i. Any church (or other religious site or structure where a person or persons worship or gather);
  - j. Any public or private school having a curriculum including kindergarten or any one or more of the grades one through twelve (1-12);
  - k. Any child care center or nursery;
  - l. Any adult foster care facility;
  - m. Any senior citizen’s center; and
  - n. Any other regulated uses as defined herein.
2. Such distance shall be measured along the center line of the street or streets or address between two (2) fixed points on the center lines determined by projecting straight lines from the part of the above listed uses nearest to the contemplated location of the structure containing the sexually oriented business and from the contemplated location of the structure containing the sexually oriented business nearest to a use listed above.
3. Prohibited Zone – No sexually oriented business shall be located within one thousand (1000) feet of any area zoned residential. Such required distances shall be measured by a straight line between a point on the boundary line of a zoned residential area nearest to the contemplated structure or contemplated location of the structure containing the sexually oriented business to a point on the contemplated structure or contemplated location of the structure containing the sexually oriented business nearest to the boundary line of a zoned residential area.

**Section 718 Sexually Oriented Businesses: Continued**

(D) Age/Visibility Restrictions:

1. No person under eighteen (18) years of age shall be permitted to enter any portion of the premises of a sexually oriented business where sexually oriented business products are displayed.
2. A sexually oriented business which sells or displays videotapes, discs or cassettes of general interest but also has a section or segment of the establishment devoted to the sale or display of sexually oriented business merchandise/products which distinguished or characterized by their emphasis on matter depicting, describing or relating to “Specified Anatomical Areas” or “Specified Sexual Activities”: as both are defined herein, shall provide for the display of such materials in a fully enclosed room with solid walls and doors separate from the common area of the premises and which totally obstructs viewing from the outside. The door shall have self-closing mechanism and shall be clearly marked “Adults Only”.
3. All entries, windows and other building openings for a sexually oriented business shall be located, covered, screened in such a manner as to prevent anyone from being able to view or otherwise observe the interior of the sexually oriented business from any vantage point outside of the business.

(E) Advertising/Signage Limitations:

1. Signs advertising sexually oriented businesses and sexually oriented business merchandise/products shall be permitted, subject to the following limitations and restrictions:
  - a. Any signs advertising the existence of any sexually oriented business shall not exceed a total aggregate area of twenty (20) square feet;
  - b. Any signs, advertisements, displays or any other material promoting sexually oriented business merchandise/products shall not be displayed, shown or exhibited in any manner that allows them to be viewed by the public from any vantage point outside of the business;
  - c. Any signs advertising the existence of any sexually oriented business shall not be illuminated by any type of flashing, blinking or strobe lights;
  - d. Any signs advertising the existence of any sexually oriented business shall not be located within the public right of way;
  - e. Any signs advertising the existence of any sexually oriented business shall not be illuminated or located in any manner which causes it to be a traffic hazard or have a negative or detrimental effect on any surrounding land use; and
  - f. Any signs advertising the existence of a sexually oriented business shall only be located on the property for which a conditional use permit to operate a sexually oriented business has been granted.



ARTICLE VII – CONDITIONAL USE PERMITS

Section 719 Utility grid wind energy systems (wind farms)

Intent: A utility grid wind energy system (wind farm) is a wind energy system that is designed and built to provide electricity to the electric utility grid. These wind farms are intended to be so constructed and located to be compatible with other land uses such as timber production, farms and heavy industrial uses, while protecting and being distant from residential developments. An anemometer tower shall abide by the same regulations below for a utility grid wind energy system and shall be removed before a utility grid wind energy system is installed. Utility grid wind energy systems may be permitted as a conditional use in the RP-10, RP-20, TP-40 and I, Industrial districts subject to the following conditions:

- (A) **Setbacks.** Any towers shall be setback a minimum of one-thousand three-hundred and twenty (1,320') feet from the R, Residential, RR-5, Rural Residential, LS/R, Lake Shore/River and TD, Town Development districts, and one-thousand (1,000') feet from any existing off-site residence. Furthermore, the base of any tower shall be setback from the nearest property line, a distance of not less than 1½ times the height of the tower. In addition, no part of the wind energy system, including any guy wire anchors, may extend closer than forty (40') feet to any property line or existing right-of-way line, unless a plan for location(s) of accessory structures and equipment is presented (including screening) and is approved as part of the site plan. Land included within such minimum setback areas from a property line shall remain undivided and undeveloped with other structures not accessory to the tower.
- (B) **Noise.** Sound pressure levels shall not exceed 55 dB(A)<sup>1</sup> at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55 dB(A)<sup>1</sup>, the standard shall be ambient dB(A)<sup>1</sup> plus 5 dB(A)<sup>1</sup>.
- (C) **Shadow flicker.** Prior to a zoning compliance permit and prior to a building permit being issued, the applicant must demonstrate to the Zoning Administrator that no adverse shadow flicker impact will occur from sunrise to sunset throughout the year on any occupied buildings and lands of adjacent properties. The Zoning Administrator, if in doubt, may refer the matter to the Planning Commission. The Planning Commission may require that the potential of an adverse shadow flicker impact be studied by an independent consultant, knowledgeable on the subject. The study shall recommend one or more means by which the impact(s) (if any) can be avoided (including whether or not to construct) or mitigated. The applicant must deposit in advance sufficient funds with the Township to pay for the study.
- (D) **Safety.**
  - 1. **Clearances.** The minimum vertical blade tip clearance from grade shall be thirty (30') feet for a wind energy system employing a horizontal axis rotor. Blade or rotor arc must be demonstrated to be a safe and reasonable distance (at least twenty (20') feet) from any separate building, structure, utility wire, or tree.

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<sup>1</sup> A-weighted decibels, abbreviated dB(A) is an expression of the relative loudness of sounds in air as perceived by the human ear. In the A-weighted system, the decibel values of sounds at low frequencies are reduced, compared with unweighted decibels, in which no correction is made for audio frequency. This correction is made because the human ear is less sensitive at low audio frequencies, especially below 1000 Hz, than at high audio frequencies.

ARTICLE VII – CONDITIONAL USE PERMITS

**Section 719 Wind Farms: Continued**

2. Guy Wire Visibility. If a wind energy system tower is supported by guy wires, the wires shall be clearly visible to a height of a least six (6') feet above the guy wire anchors.
  3. Rotor or Blade Integrity Protection. A wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding.
  4. Lightning. All wind energy system towers shall have lightning protection.
- (E) Construction Codes, Towers and Interconnection Standards. Wind energy systems, including towers, shall comply with all applicable state construction and electrical codes and local building permit requirements. Wind energy systems, including towers, shall comply with Federal Aviation Administration requirements, the regulations of the Michigan Aeronautics Commission, and the Michigan Tall Structures Act. If a utility grid wind energy system is attached to a building(s) or structure(s), it must be approved by the County building inspector and must be found to be in accordance with all applicable state construction and electrical codes.
- (F) A utility grid wind energy system (wind farm) may exceed district height limits. Multiple towers are permitted.
- (G) Miscellaneous Requirements.
1. Electromagnetic Interference. No wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless telephone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. The applicant shall submit documentation from the manufacturer which demonstrates that the wind energy systems' generation of electromagnetic energy falls within a range that minimizes or eliminates any off-site interference.
  2. Vibration/Enhanced wind currents. No wind energy system generated vibrations or enhanced wind currents shall be humanly perceptible beyond the property boundaries of the lot or parcel on which the wind energy system is located.
  3. The Manufacturer's Material Safety Data Sheet(s) shall be provided to the Township with the application. Documentation shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
  4. The applicant shall provide documentation that the Marquette County Road Commission has been contacted, and if required, that a performance bond has been posted (or other measures have been taken) for the protection and/or restoration of all roads over which heavy equipment or materials will be transported.
- (H) Decommissioning. The utility grid wind energy system (wind farm) and all appurtenances thereto shall be removed from the site within one (1) year after the wind energy system is no longer in use (not generating any electricity for over 12 continuous months). The



ARTICLE VII – CONDITIONAL USE PERMITS

**Section 719 Wind Farms: Continued**

owner of the land upon which the system is located shall be responsible for such removal. A wind energy system which is not so removed shall constitute a public nuisance per se. The applicant shall post a bond (cash or irrevocable bank letter of credit) with the Township in an amount sufficient for the removal of the utility grid wind energy system (wind farm) including all accessory buildings and structures, clean-up of site including removal of the foundations and restoration of the site to a condition equal to or better than that which existed prior to the installation of the system.

- (I) A developer may seek planning commission approval of a utility grid wind energy system (wind farm) incorporating a block of or group of properties under multiple, separate ownerships provided;
  - 1. that all of the above regulations [subsections (A) – (H) still apply], but to the whole rather than individual properties,
  - 2. that a written agreement among the participating property owners has been signed and recorded at the County Register of Deeds, and
  - 3. that the proposal does not leave one or more non-participating properties surrounded or otherwise isolated.

Section 720 Mineral extraction

All uses in the RP-10, Resource Production Ten, RP-20, Resource Production Twenty, TP-40, Timber Production and I, Industrial are districts are on notice that earth removal, quarrying, gravel processing, and mining, as regulated in this Ordinance, may be permitted anywhere within these districts with a Conditional Use Permit.

Specific performance standards for earth removal, quarrying, gravel processing, and mining operations are as follows:

- (A) Maximum depth of excavation shall not be below existing groundwater table.
- (B) Where necessary the Commission may require the applicant to construct or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the deterioration of existing roads which are not "all weather" roads. All access roads shall be considered part of the mining operation.
- (C) Setbacks.
  - 1. All mining operations shall be a minimum of ninety (90') feet from any public right-of-way, not including ingress and egress roads.
  - 2. All mining operations shall be a minimum of five hundred fifty (550') feet from any body of water, as defined in Act No. 346 of the Public Acts of 1972, including but not limited to, inland lakes, rivers, streams, and impoundments.
  - 3. All mining operations and all ingress and egress roads shall be a minimum of ninety (90') feet from any other property line.
  - 4. All mining operations shall be a minimum of five hundred (500') feet from any church or public park.

ARTICLE VII – CONDITIONAL USE PERMITS

**Section 720 Mineral extraction: Continued**

5. All mining operations shall be a minimum of one thousand (1000') feet from any school, hospital or nursing home.
  6. All mining operations and all ingress and egress roads shall be a minimum of three hundred (300') feet from an existing house on an adjacent property.
  7. All ingress and egress roads shall be by the most direct route to a public right-of-way.
  8. All ingress and egress roads will require a legal driveway permit.
- (D) A permanent processing plant at the mine site shall not be located closer than three hundred (300') feet from any property line and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impacts.
- (E) Sight barriers shall be provided along all boundaries of the site where quarrying, gravel processing and mining is proposed which lack natural screening conditions through existing vegetative growth. The following minimum standards shall apply:
1. A continuous screen at least six (6') feet in height is required to provide maximum screening of the site.
    - a. This landscape buffer may consist of earthen berms, and/or living materials.
    - b. Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface being a minimum of two (2') feet in width at the highest point of the berm, and extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other forms of natural ground cover.
- (F) Nuisance Abatement.
1. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
  2. Air pollution in the form of dust and dirt shall be kept to a minimum by the use of equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution. Interior roads used in the operation shall have their surfaces treated to minimize any such nuisance.
  3. A noise barrier shall be provided along all boundaries of the site where quarrying, gravel processing and mining is proposed, which lack sufficient existing vegetation to meet the minimum standards, as follows:
    - a. There shall be two (2) rows of mixed evergreen trees of species recommended by the District Forester, staggered six (6) feet apart and no less than three (3) years of age planted parallel to the boundaries of the property.
    - b. The spacing between rows shall not exceed six (6) feet.
    - c. The spacing between trees within a row shall not exceed six (6) feet.
    - d. The Planning Commission may allow the preservation of existing trees within the setback areas to qualify toward satisfying (a.) above.



ARTICLE VII – CONDITIONAL USE PERMITS

**Section 720 Mineral extraction: Continued**

- e. A "Performance Guarantee" concerning the trees will be required.
  - f. The screening shall be maintained in a healthy condition, free from refuse and debris. All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.
- (G) Reclamation of mined or excavated areas.
- 1. Earth removal, quarrying, gravel processing and mining, shall be considered temporary uses. Mined or excavated sites shall be reclaimed properly and in a timely fashion.
  - 2. A "Performance Guarantee" shall be posted by the land owner with the Humboldt Township Board to cover the estimated costs of reclamation. This "Performance Guarantee" shall be received by the Township Clerk within 30 days of the approved site plan. "Performance Guarantee" as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit, acceptable to the Township, in the amount of the estimated cost of reclamation. It shall be subject to review and adjustment by the Commission at the end of twelve (12) months, and thereafter at two (2) year intervals.
  - 3. Reclamation shall be completed as agreed upon by the Commission and applicant in an approved development site plan.
  - 4. Inactivity at a site for a continuous twenty-four (24) month period shall constitute termination of mining activity and require that site reclamation commence and be completed.
  - 5. Upon the failure of any operator to perform reclamation of the mining site in a proper and timely manner as agreed to in the approved site plan the "Performance Guarantee" will be forfeited. The Humboldt Township Board shall use the funds to cover the cost of restoring the site and administrative cost incurred in so doing. Any cost in addition of those covered by the "Performance Guarantee" shall be billed to the operator and a lien placed against the subject property. If unpaid, the cost shall be collected in the same manner as delinquent taxes or as allowed by law.
  - 6. Standards controlling reclamation
    - a. Excavated areas shall not collect stagnant water.
    - b. Surface of such area which is not intended to be permanently submerged shall be graded or back-filled with non-toxic, non-flammable and non-combustible solids as necessary to produce a surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
    - c. The banks of all excavation shall be sloped to the waterline in a water producing excavation and to the pit floor in a dry operation at a slope which shall not be steeper than one foot vertical to three feet horizontal.

ARTICLE VII – CONDITIONAL USE PERMITS

**Section 720 Mineral extraction: Continued**

- d. Vegetation shall be restored within one year by the appropriate planting of indigenous grasses, trees, or shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
  - e. Maintenance
    - (i.) Slopes and surfaces shall be maintained as agreed in the development site plan.
    - (ii.) Erosion areas shall be filled and the surface restored.
    - (iii.) All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.
  - f. Reclamation plans shall follow the standards detailed for the most appropriate uses(s) allowed by this ordinance.
  - g. Future uses shall conform with uses indicated in the Township Master Plan or as approved in the Development Site Plan.
- (H) Additional requirements for earth removal, quarrying, gravel processing or mining.
- 1. On the development site plan:
    - a. North point, scale and date;
    - b. Extent of the area to be excavated;
    - c. Location, width and grade of all easements or rights-of-way on or abutting the property;
    - d. Location of all existing and proposed structures on the property;
    - e. Site drainage features and flow directions indicated;
    - f. Bench marks;
    - g. Location of any bodies of water and wetlands on the proposed site or within one-thousand five-hundred (1,500) feet;
    - h. Areas to be used for ponding;
    - i. Depth to groundwater;
    - j. Processing, loading and storage areas;
    - k. Proposed fencing, gates, parking and signs;
    - l. Existing and proposed ingress-egress roads, on-site roads and proposed surface treatment and means to limit dust; and
    - m. Setback lines for all activities of the site.
  - 2. An operational statement, which shall include at a minimum:
    - a. The approximate date of commencement of the excavation and the duration of the operation;
    - b. Amount and type of material or resources to be removed;
    - c. Method of extracting and processing, including the disposition of overburden;
    - d. Equipment proposed to be used in the operation of the excavation;
    - e. Location and type of processing plants, temporary and permanent;
    - f. Proposed hours and days of operation;



ARTICLE VII – CONDITIONAL USE PERMITS

**Section 720 Mineral extraction: Continued**

- g. Operating practices proposed to be used to minimize noise, dust, air contaminants and vibrations;
  - h. Amount and source of water to be utilized in processing; and
  - i. Methods to prevent:
    - (i.) Pollution of surface water or groundwater;
    - (ii.) Adverse effects on the quantity and quality of surface water and groundwater runoff from the property; and
    - (iii.) Adverse effects on wetlands both on and near the property.
3. A rehabilitation or reclamation plan that shall include as a minimum:
- a. A reclamation statement and plan, including identification of post-mining land use, methods of accomplishment, phasing and timing;
  - b. A plan indicating any proposed structures to be built on the site, the final grade, i.e., post-mining topography of the excavation, any water bodies included in the reclamation, and methods planned to prevent stagnation and pollution, landscaping and areas of cut and fill;
  - c. The methods of disposing of any equipment or structures used in the operation of excavation upon completion of the excavation.

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