

# YATES TOWNSHIP

# ZONING ORDINANCE

Lake County, Michigan

**Adopted May 10, 2024**

**Yates Township Resolution No. 2024-05-R**

**Effective May 23, 2024**

**YATES TOWNSHIP ZONING ORDINANCE  
LAKE COUNTY, MICHIGAN**

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**YATES TOWNSHIP ZONING ORDINANCE**

**LAKE COUNTY, MICHIGAN**

**PREAMBLE**

An Ordinance to establish zoning districts, provisions and regulations for the unincorporated portions of the Township of Yates in Lake County, Michigan pursuant to the provisions of the Michigan Zoning Enabling Act, being MCL 125.3101 et seq. (Public Act 110 of the 2006, as amended) (the "Zoning Act"); to set forth regulations and minimum standards for the use and protection of lands and structures within each zoning district; to fulfill the purpose of this Ordinance and as described below; to establish provisions for the administration, enforcement and amendment of this Ordinance; to establish a Zoning Board of Appeals; and to prescribe penalties for the violation of the provisions herein.

THE TOWNSHIP BOARD OF YATES TOWNSHIP (the "Township"), LAKE COUNTY MICHIGAN, HEREBY ORDAINS AS FOLLOWS:

# ARTICLE 1

## TITLE AND PURPOSE

### Section 1.01 Short Title

This Ordinance shall be known as the Yates Township Zoning Ordinance and will be referred to herein as "the Ordinance" or the "Zoning Ordinance."

### Section 1.02 Purpose

- A. This Ordinance is based upon the Yates Township Master Plan and provides for the establishment of zoning districts and district uses, standards, and regulations designed to promote the public health, safety and general welfare; to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; to conserve natural resources and energy, to meet the needs of the state's citizens for food, fiber and other natural resources, places of residence, recreation, agriculture, industry, trade, service and other uses of land; to ensure that uses of land shall be situated in appropriate locations and relationships; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and properties.
- B. This Ordinance is adopted with reasonable consideration, among other things, of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

### Section 1.03 Scope

- A. Zoning affects all structures, buildings, and land uses within the Township.
- B. This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Township is a party.
- C. Where this Ordinance imposes greater restrictions, limitations, or requirements upon the use of buildings, structures, or land; the height of buildings or structures; lot coverage; lot area; yards or other open spaces; or any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, then the provisions of this Ordinance shall control.



- D. Any use, activity, structure, or building not expressly authorized by this Ordinance is prohibited.
- E. If a specific structure, building, use or activity is not expressly authorized in the particular zoning district involved (whether listed as a permitted use or with approval as a special land use), then it is not permitted or allowed within that district.

**Section 1.04    Legal Basis**

This Ordinance is enacted pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended (the "Zoning Act").

## ARTICLE 2

### DEFINITIONS AND RULES OF CONSTRUCTION

#### Section 2.00 Construction of Language

The following rules apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference in meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Words used in the present tense shall include the future, words used in the singular shall include the plural, and the plural shall include the singular unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof.
- F. The word “person” includes any individual, corporation, firm, partnership, joint venture, trust, incorporated association, or a combination thereof, or any other similar entity.
- G. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:
  - 1. “And” indicates that all connected items, conditions, provisions, or events shall apply.
  - 2. “Or” indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
  - 3. “Either...or” indicates that the connected items, conditions, provisions, or events shall apply singularly but not in combination.
- H. Terms not herein defined shall have the meaning customarily assigned to them or as defined in a dictionary in widespread use.
- I. Any ambiguity in this Ordinance shall be construed in favor of the Township and the applicability of this Ordinance and the court involved may resort to a dictionary and common usage for construing or interpreting the word, phrase, term or meaning involved.

#### Section 2.01 Accessory Building or Structure

A subordinate building or structure on the same lot with a main building or a portion of a main building and occupied or devoted to an accessory or supplemental use; for example, a private garage used for the housing of automobiles owned by the residents of a dwelling to which the private garage is accessory.

Where an accessory building is attached to a main building, such accessory building shall be considered part of the main building.

### **Section 2.01A Accessory Dwelling Unit**

An ADU, commonly referred to as an accessory apartment or in-law suite, is a smaller additional living space on the same lot as a single-family home. It must include space for living, sleeping, cooking and bathrooms independent of the primary residence. While the ADU may or may not include access to the primary residence, it must be accessible without going through the primary residence and there must be some expectation of privacy from the main home.

### **Section 2.02 Accessory Use**

A customary use naturally, normally, and clearly incidental and subordinate to a principal use of the lot and located on the same lot as the principal use.

### **Section 2.03 Adult Foster Care Homes**

The provision of supervision, personal care, and protection in addition to room and board for 24 hours a day for 5 or more days per week, and for 2 or more consecutive weeks, for aged or handicapped adults.

- A. Adult Foster Care Family Home is a private residence with the approved capacity to receive 6 or fewer adults for 5 or more days per week and for 2 or more consecutive weeks.
- B. Adult Foster Care Small Group Home is an adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.
- C. Adult Foster Care Large Group Home is an adult foster care facility with the capacity to receive at least 13 but no more than 20 adults to receive foster care.
- D. Aged is an adult whose chronological age is 60 years of age, or whose biological age as determined by a physician to be 60 years of age or older.

### **Section 2.04 Adult Uses/Adult Oriented Businesses**

An enclosed building used for an adult bookstore, adult dwelling, adult live entertainment theater, massage parlor, or adult motion picture theater, as hereinafter defined:

- A. ADULT BOOKSTORE – An enclosed building used for the sale of motion picture films, video cassettes, magazines, posters, and other printed material or tapes, or sex objects for other than contraceptive purposes, distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined in this Ordinance, for sale, lease or gift to patrons therein.

- B. ADULT ENTERTAINMENT FACILITY – An enclosed building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see-through clothing which permits the view of “specified anatomical areas”, individuals who are partially clothed and partially unclothed so as to permit the view of “specified anatomical areas”, or individuals conducting “specified sexual activities”.
- C. ADULT MOTION PICTURE THEATER – An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in this Ordinance, for observation by patrons therein.
- D. MASSAGE PARLOR – Any establishment having a fixed place of business where massages are administered for pay, including but not limited to, massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, or athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:
1. Proof of graduation from a school of massage licensed by the State of Michigan;
  2. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or
  3. A current occupational license from another state.
- E. SPECIFIED ANATOMICAL AREAS
1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- F. SPECIFIED SEXUAL ACTIVITIES
1. Human genitals in a state of sexual stimulation or arousal;
  2. Acts of human masturbation, sexual intercourse, or sodomy;
  3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

### **Section 2.05 Agriculture**

The commercial cultivation, raising and storage of crops, animals and animal products, including, but not limited to, nurseries, hatcheries, apiaries, forestry, floriculture, vineyards, pasturing, and dairying.

### **Section 2.06 Agricultural Service Establishments**

Establishments that engage in performing agricultural, animal husbandry or horticultural services for a fee or contractual basis. This includes, but is not limited to, centralized bulk collection, refinement, storage, and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading and packing of fruits and vegetables for the growers; and agricultural produce milling and processing); the sale and storage of seed, feed, fertilizer and other products essential to agricultural production; hay baling and threshing, crop dusting, fruit picking; harvesting and tilling; farm equipment sales, service and repair; veterinary services; and facilities used in the research and testing of farm products and techniques.

### **Section 2.07 Alteration of a Structure**

Any change, addition, or modification in construction, composition or type of use or occupancy, or in the structural members of a building or structure, such as walls or partitions, columns, posts, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building, or the removal, rebuilding, expansion, or relocation of a building.

### **Section 2.08 Automobile Service Station**

A building, structure, or land used for the retail sale of fuel, lubricants, grease, and other operating commodities for motor vehicles; and including the installation of such commodities on or in such vehicles. This includes space for storage, hand washing, minor repair and servicing of vehicles, but not including major automobile repair (as listed below) or bulk fuel distribution. Major automobile repair shall mean the general repair, rebuilding or reconditioning of engines, motor vehicles, or trailers, collision service, including body repair and frame straightening, painting, upholstering, vehicle steam cleaning and undercoating rust proofing.

### **Section 2.09 Automotive Sales Area**

An area used for the display, sale or rental of new or used motor vehicles, boats, trailers, construction equipment or motor homes in operable condition. This does not include the repair of such vehicles.

### **Section 2.10 Basement**

A portion of a building or a portion of a room located wholly or partially below grade.

### **Section 2.11 Bed and Breakfast Operations**

A use that is subordinate to the principal use of a house as a single-family dwelling unit in which transient guests are provided a sleeping room and board in return for payment. Bed and Breakfast Operations are considered a special use. The house must be owner-occupied and inhabited. A bed and breakfast operation is not a short-term rental.

### **Section 2.12 Billboards**

A structure or sign using graphic symbols or written copy specifically designed for the purpose of advertising, promoting or identifying any event, establishment, use, product, service, or display, and which structure or sign is located on a separate lot or at a separate location from the business, product, activity, service, or event that is being promoted, identified, or advertised.

### **Section 2.13 Black Dirt**

A mixture of various organic components such as muck, peat or spoil from excavation of ponds, ditches, etc., and mixed with other materials such as sand, clay, etc. Such making of black dirt is an attempt to create a mixture that may be sold as topsoil.

### **Section 2.14 Board**

Wherever the word "Board" is used it refers to the Yates Township Board.

### **Section 2.15 Boardinghouse, Rooming House**

A dwelling having one kitchen and used to provide room and board for compensation to more than two persons (each of whom has their own bedroom), who are not members of the family.

### **Section 2.16 Building**

A structure, either temporary or permanent, having a roof supported by columns or walls, and designed primarily for the shelter, support, or enclosure of persons, animals, equipment, goods, or materials of any kind. Also, a structure erected or placed on-site, a mobile home or mobile structure, a premanufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support, or enclosure of persons, animals or property of any kind.

**Section 2.17 Building – Height**

The height of a building is measured from the average lot grade around all sides of the building to the highest point of the roof. In no event shall the height (or measurement thereof) exceed what would have occurred from the average lot grade in its natural state.

**Section 2.18 Building Inspector**

The person or persons appointed by the Yates Township Board or Lake County to administer the building code or similar code adopted or administered by Yates Township.

**Section 2.19 Building - Principal Use**

A building in which is conducted the principal or main use of the lot on which it is situated.

**Section 2.20 Building Setback**

The minimum distance from the front lot line (or road right-of-way), side property boundary or rear property boundary (whichever is applicable for a given measurement) to the nearest point of the exterior of the building or structure. For purposes of setbacks or open yard requirements, roof overhangs, decks, soffits, bay windows, pools, hot tubs, ground level porches, and chimneys shall not be located in or encroach into the required building setback or open yard areas.

**Section 2.21 Camp, Campground**

- A. Campground, Private — An improved facility for camping with sites for tents, trailers and/or camping recreational vehicles, which is either open to the general public for a fee or is operated by a bona fide nonprofit organization, church or similar organization. A use shall not be deemed a private campground unless it also meets all requirements of this Ordinance. Hunting camps, camping by or for one family or a group of family or friends shall not be deemed a campground and shall be fully subject to the applicable requirements of this Ordinance.
- B. Campground, Public — A facility for camping operated by a governmental entity.
- C. Campsite, Family - An area of land which is not otherwise developed and not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fireplaces, or tent platforms. A family campsite does not include the use of a tent or recreational vehicle by visitors to the occupants of a dwelling.

**Section 2.22 Communication Tower**

A public or private device used for the transmission and/or receipt of commercial wireless telecommunication services including radio, television, sonar, computer, satellite, or other such communication signals.

A communications tower is characterized by, but is not necessarily limited to, a narrow, spire-type metal structure anchored to a concrete pad that is permanently affixed to the ground. The tower is maintained in place by said anchorage and may include guy wires, expanded base, and/or other means for support of the tower.

A communications tower may or may not be regulated by the Federal Communications Commission or its successor. This definition shall include all appurtenances of a communications tower, including buildings.

**Section 2.23 Concentrated Livestock Operations**

A concentrated livestock or poultry breeding, raising, holding, boarding, or feeding operation or business that meets the following criteria:

- A. 50 or more animal units as defined by Right to Farm /GAAMPs.

**Section 2.24 Construction**

To form, install, construct, fabricate or build by combining materials, build or erect. The business or act of building or constructing.

**Section 2.25 District (also called a Zoning District)**

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

**Section 2.26 Dwelling**

A building designed or used as a permanent residence or sleeping place by one or more persons. Dwellings shall include, but not be limited to one, two, and multiple family dwellings, modular homes, and prefabricated homes. Hotels, motels, or tourist cabins are excluded.

**Section 2.27 Dwelling, Farm**

A dwelling unit located on a farm that is used or intended for use by the farm's owner, operator, or person employed thereon.



**Section 2.28 Dwelling, Single-Family Detached**

A building that is entirely surrounded by open space on its building lot, used, and designed and used for one family.

**Section 2.29 Dwelling, Multiple Family**

A building used and designed as a residence for three or more families living independently of each other, including apartments and condominiums.

**Section 2.30 Dwelling, Two Family or Duplex**

A detached building containing two dwelling units and designed for and used by two families living independently.

**Section 2.31 Essential Services**

The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission, distribution, collection, communication, supply or disposal systems, including towers, poles, street lighting, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm, and police call boxes, street lights, traffic signals, hydrants, and similar equipment, but not including buildings and storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. This definition does not include towers or Wireless Communication Facilities. Landfill operations are specifically excluded, as are buildings, private water systems serving more than three dwellings, and private sewage systems serving more than three dwellings.

**Section 2.32 Excavate**

To make a hole or cavity, to hollow or dig out. To remove by digging or scooping.

**Section 2.33 Family**

An individual or group of two (2) or more persons related by blood, marriage or adoption, including those related as foster children, who are domiciled together as a single, domestic, nonprofit housekeeping unit in a dwelling unit; or, a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, nontransient, distinct domestic character and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include a penal institution, halfway house, correctional facility, society, club, boarding situation, fraternity, sorority, association, lodge,

organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school or college term, jail or prison term, or terms of other similar determinable period.

#### **Section 2.34 Farm**

A commercial agricultural operation on one or more contiguous parcels of land directly farmed or used for commercial agriculture by the owner-operator, manager, or tenant farmer or with assistance of members of the household or hired employees. A farm includes a farm dwelling and accessory buildings necessary for the storage or housing of farm implements, products, or animals, or used for the operation of the farm. Farms may include greenhouses, nurseries, orchards, hatcheries, dairy farms, poultry farms, hog farms, commercial feedlots, apiaries, truck farms, and forestry operations, provided, however, that such farm uses may be subject to specific regulations as provided for by this Ordinance.

#### **Section 2.35 Farm Animals**

Livestock, including beef and dairy cattle, goats, hogs, horses, poultry, sheep and other fur-bearing animals.

#### **Section 2.36 Fence**

A fence is an accessory structure intended for use as a barrier to property ingress or egress; a screen to block views or noise; a screen serving to separate incompatible uses; a screen to provide a barrier or buffer between uses; and/or a screen for decorative use. In addition to artificial material, a fence may include hedges, outdoor walls, shrubs, or other such plant material if so arranged, designed, and of a character suitable to accomplish the intended purpose of a fence. Fence shall also include any associated gate.

#### **Section 2.37 Flood Plain**

All areas adjoining a lake, stream, river, creek, or channel that are subject to inundation at the highest known flood water level.

#### **Section 2.38 Floor Area**

The finished area of all floors inside a building computed by measuring the dimensions of the outside walls of a building. Excluded are porches, patios, decks, terraces, breezeways, carports, verandahs, garages, unfinished attics, attic floor areas with less than five vertical feet from the floor to the finished ceiling, and all basements, including walkout basements.

**Section 2.39 Frontage**

Is the continuous linear distance along which a parcel of land or lot fronts on a public road or private street, measured along the line where the property abuts the public street right-of-way or private road easement or an area measured along the shoreline of a lake, river, or stream.

**Section 2.40 Garage – Private**

An accessory building or portion of a principal building used primarily for the storage of passenger vehicles or trucks.

**Section 2.41 Garage – Public**

A building used for commercial repair or storage of vehicles.

**Section 2.42 Greenhouses**

A building, 2001 square feet or larger in size, used primarily for starting, raising, or growing plants.

**Section 2.43 Green Belt**

A planting or buffer strip at least 25 feet in width composed of deciduous and/or evergreen trees spaced not more than 30 feet apart and not less than one row of dense evergreen shrubs not less than 3 feet in height and spaced not more than 5 feet apart.

**Section 2.44 Inland Lake, River or Stream**

A natural or artificial lake, pond, impoundment, river, stream or creek that may or may not be serving as a drain, or any other body of water that has definite banks, bed, and visible evidence of a continued flow or continued occurrence of water.

**Section 2.45 Home Occupation**

An occupation or profession that is clearly a customary, incidental, and secondary use of a single-family residential dwelling unit and that does not negatively impact the single-family residential character of the neighborhood in which the home occupation is located and that also meets the Home Occupation requirements of this Ordinance.

**Section 2.46 Hotel**

A building in which lodging, and boarding are offered to the public for compensation. Boardinghouses, motels, motor hotels, and apartments are excluded.

**Section 2.47 Institutional or Public Uses**

Churches, schools teaching academic subjects, hospitals, convalescent or nursing homes, parks, government cemeteries, civic centers, government buildings, libraries, and other public buildings or uses. This definition shall include parks, whether they are public, nonprofit, or private. This definition does not include commercial or for profit items, firms, organizations, or businesses.

**Section 2.48 Junk or Salvage Yard**

An open area used for the collection, storage, dismantling, dumping, display, resale, exchange, baling, cleaning or handling of second hand, salvaged or used waste materials, machinery, vehicles, trailers, equipment, furnishings or parts thereof. The purchase or storage of used furniture and household equipment, used cars, boats, or trailers in operable condition are excluded if such uses are carried on in completely enclosed buildings.

**Section 2.49 Kennel**

Any lot on which four (4) or more dogs or cats six months of age or older are kept for any reason other than a lawful Veterinary Businesses, including boarding, breeding, and sale.

**Section 2.50 Keyhole Development (Funneling)**

The use of a waterfront property, parcel, or a lot for access to or use of a lake, stream, creek, or other body of water by the owners or occupants of other lots or properties.

**Section 2.51 Lodging House**

A temporary dwelling place and living quarters for transient dwellers either daily, weekly or monthly.

**Section 2.52 Lot**

A parcel of vacant or occupied land, land intended to be occupied by a building and accessory buildings, or land utilized for principal accessory uses together with setbacks, yards, and open spaces as required by this Ordinance. A lot shall also mean a portion of a condominium project, as regulated by Public Act 215 under the Michigan Public Acts of 1978, as amended, designed and intended for separate ownership as

use. The definition of “Lot” shall also include any parcel, platted lot, metes and bounds parcel, or site condominium unit. Land separated by a public or private road or street shall be considered separate lots for the purpose of this Ordinance.

**Section 2.53 Lot Corner**

A lot situated at the intersection of two or more streets.

**Section 2.54 Lot Coverage**

The percentage of a lot that is covered by structures and impermeable surfaces including porches, arbors, breezeways, and patio roofs (whether open or closed). Fences, walls, hedges, and swimming pools are excluded.

**Section 2.55 Lot – Front**

That side of a lot other than a corner lot, abutting on a street right of way. The front of a lot abutting lakes and streams (where the stream is a lot boundary) shall be that portion of the lot nearest the water.

**Section 2.56 Lot - Front Setback Line**

The distance from the road right-of-way (or ordinary high-water mark of a lake with a lakefront lot) required to meet the front yard requirements of the respective zoning district.

**Section 2.57 Lot Line**

The lines bounding any lot as herein described.

**Section 2.58 Lot Lawfully Created**

Any lot which, when created, complied with all applicable provisions regarding lot dimensions and frontage in the Yates Township Zoning Ordinance and other laws and ordinances in effect on the date of the creation of the lot.

**Section 2.59 Lot of Record**

Any lot that when created (whether by being part of a recorded plat, recorded site condominium or recorded parcel) was lawful and complied with all applicable state law requirements and provisions

regarding lot dimensions and other requirements of the Yates Township Zoning Ordinance and other laws and ordinances in effect on the date of the creation of the lot. Also called a lawful nonconforming lot.

## **Section 2.60 Mineral Extraction or Mining**

Mining or mineral extraction shall mean the excavation, digging, mining, removal and/or processing of peat, earth, gravel, sand, clay, top soil, stone or other soils or materials, including overburden, or the storage or transporting of such items on, to or from a mining site, or the reclamation of the site after removal or excavation of such items. For the purposes of this Ordinance, the following excavation or other activities are not included within the definition of mineral extraction or mining:

- A. Excavation approved and conducted by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or publicly operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited solely to the public utility or improvement. Notwithstanding the preceding, any excavating, removal and/or processing of minerals which occurs in conjunction with the creation of a new public road or modification of an existing public road where the existing grade is modified or disturbed to more than three (3) feet from its present elevation or where such mining in excess of 500 cubic yards will occur beyond the boundaries of the road right-of-way, shall be considered mineral extraction or mining.
- B. Excavation which by its nature is of limited scope and duration and which is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of constructing or installing buildings, septic tanks, swimming pools, graves, etc., so long as no more than 1000 cubic yards of material are mined or excavated in total.
- C. Excavation in conjunction with bona fide farming operations conducted in accordance with generally accepted agricultural practices, including agricultural drainage work incidental to farming operations and irrigation or stock watering ponds, if no material is removed from the property.
- D. Other excavations not exceeding 5000 cubic yards in total where the Planning Commission determines, in its sole discretion, that the proposed excavation is unlikely to unreasonably interfere with the enjoyment of life or property and will not expose any person or property to the types of dangers inherent in mineral extraction or mining sought to be prevented by this Ordinance. The Planning Commission's determination may be based on a review of the purpose, location, extent or duration of the proposed excavation and other factors which may bear on the potential of any excavation activity to adversely affect the public health, safety, or general welfare of the community.
- E. The transport or storage of mined materials (or materials frequently associated with mining operations) shall not be deemed "mining" or part of a "mineral extraction" if the materials transported or stored are not combined with minerals mined from the site to which the materials are transported or on which the transported materials are stored. The activity of transporting or storing mined materials that are not combined with other materials mined from the site to which

the transporting occurs (or on which the transported materials are stored) shall constitute an industrial use and will not be considered mining or mineral extraction.

### **Section 2.61 Master Plan**

The Master Plan for Yates Township, as amended, including graphic and written proposals, indicating the physical development of the Township, and includes any unit or part of such plan.

### **Section 2.62 Medical Marijuana Dispensary**

Any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marijuana is made available to, sold, grown, processed, delivered, or distributed by or to one or more of the following:

- A. A primary caregiver (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 et seq., as amended).
- B. A qualifying patient (as defined by Initiated Law 1 of 2008, as amended, being MCL 333.26421 et seq., as amended).

A medical marijuana dispensary shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marijuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marijuana, or such medical marijuana smoking or consumption is occurring on the property of a business, association, cooperative, or commercial operation or facility.

A medical marijuana dispensary shall not include the lawful dispensation of medical marijuana by a primary caregiver personally dispensing to not more than five (5) qualified patients (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 et seq., as amended) so long as the primary caregiver personally delivers the lawful amount of medical marijuana to the qualifying patient where the qualifying patient resides and it is done in full compliance with not only this Ordinance and any other applicable Township ordinances, but also all applicable Michigan and federal laws and regulations.

### **Section 2.63 Mobile Home**

A structure, transportable in one or more sections, that is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

### **Section 2.64 Mobile Home Lot**

A designated site within a mobile home park for the exclusive use of occupants of a single mobile home.

**Section 2.65 Mobile Home Park**

A parcel of land in single ownership that has been developed with all the necessary facilities and services in accordance with a site plan meeting all the requirements of this Ordinance as well as state regulations, and that is intended for the express purpose of providing a satisfying living environment for mobile home residents on a long-term basis.

**Section 2.66 Modular Home**

A dwelling consisting of two or more transportable factory fabricated units designed to be assembled as a single residential dwelling on a permanent foundation as required by this Ordinance.

**Section 2.67 Motel, Tourist Cabin, Motor Hotel**

A building or group of buildings that has living or sleeping accommodations used primarily for transient occupancy and which may or may not have individual entrances from the outside of the building to serve each unit.

**Section 2.68 Nonconforming Structure or Building (also called a lawful nonconforming structure or building)**

A structure or building lawfully existing at the time of adoption of this Ordinance and any amendment thereto and that does not thereafter conform to the regulations of this Ordinance or the zoning district in which it is located. A building or structure that is not licensed pursuant to law, or that violates any law or ordinance, is not a lawful structure.

**Section 2.69 Nonconforming Use (also called a lawful nonconforming use)**

A lawful use of a building, structure or lot prior to the adoption of this Ordinance and any amendment thereto and that does not thereafter conform to the regulations of this Ordinance or the zoning district in which it is located. A use that is not licensed pursuant to law, or that violates any law or ordinance, is not a lawful use.

**Section 2.70 Outdoor Heating Unit**

Any device, appliance, equipment, apparatus, or structure designed for heating a structure that:

- A. Is designed, intended and/or used to provide heat and/or hot water to any nearby or associated structure;



- B. Operates by burning wood or any other solid fuel including but not limited to coal, paper, pellets, or agricultural products;
- C. Is not located within the structure to be heated; and
- D. Includes, but is not limited to, devices referred to as outdoor furnaces, outdoor boilers, or outdoor stoves.

**Section 2.71 Person**

Any human being, corporation, partnership, property owner, firm, entity, trust, limited liability company, association, or any combination thereof.

**Section 2.72 Planning Commission**

The Planning Commission of Yates Township, Lake County.

**Section 2.73 Principal or Main Use of Structure**

The primary, main or predominant use of a structure or building pertaining thereto on a lot.

**Section 2.74 Recreational Vehicle**

Vehicles or equipment used primarily for recreational purposes. For the purpose of this Ordinance, 'recreational vehicle' shall mean:

- A. A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper;
- B. Boats and trailers designed to transport boats;
- C. Snowmobiles, jet skis, and trailers designed to transport them;
- D. Off-road vehicles and trailers designed to transport off-road vehicles;
- E. Pop-up tent and trailer campers; or
- F. Other similar vehicles deemed by the Zoning Administrator to be recreational vehicles except that this term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for daily on-street use.

### **Section 2.75 Right-of-Way**

A public road right-of-way or private street easement, shared driveway, or access easement permanently established for passage of persons or vehicles.

### **Section 2.75A Short Term Rental**

A dwelling unit, cabin, cottage or house that is available for rental, leasing, or use for habitation, accommodation or lodging of guests paying a fee, charge or other compensation or consideration, for a period of less than 30 consecutive days and nights at a time.

### **Section 2.76 Sign**

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or other representation, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, commodity or product, and that is located outdoors or is visible outdoors upon any land or on or in any building. Also, a device, painting, fixture, or placard using color, graphics, symbols, and/or written copy designed and/or utilized for advertising or identifying any event, establishment, product, good, service, or displaying or depicting other information.

### **Section 2.77 Single Ownership**

A lot of record on or before the effective date of this Ordinance that is owned by one or more persons having no legal rights in adjacent property.

### **Section 2.78 Site Plan**

A scale drawing that shows the location and dimensions of existing conditions and proposed improvements upon a parcel of land, including buildings, driveways, parking areas, landscaping, lighting, sidewalks, signs, sewage systems, and drainage facilities, and any other items that may be required therein.

### **Section 2.79 Stable – Private**

A stable used only for housing horses owned by a person and used by the owner and family.

### **Section 2.80 Stable – Public**

All stables other than private stables as described in this Ordinance.

### **Section 2.81 Story**

That portion of a building between the surface of any floor at grade level and the surface of the floor next above it, or if there be no floor above, then the space between such floor and the ceiling next above it, A story thus defined, shall not include any portion of a building having more than 50% of its total cubic content below the established grade level.

### **Section 2.82 Street (or Road)**

- A. "Private road" or "private street" means any undedicated path, trail, or road that provides or is intended to provide the primary means of ingress and egress to two (2) or more parcels or lots or two (2) or more principal buildings, dwelling units, structures, or combination thereof, whether created by a private right-of-way agreement, a joint ownership, a license, a lease, or an easement. Any and all extensions, additions, or branches of or to a private road shall be considered part of the private road that abuts the public road. A private road shall also include the following:
  - 1. An access serving one (1) parcel or lot if that parcel or lot does not have the requisite amount of frontage on a public road as required by this Ordinance.
  - 2. Where two (2) or more parcels or lots or dwellings share or utilize a common access drive, even if each parcel or lot has the required frontage on a public road.
  - 3. Any lot accessed by only an easement.
- B. "Public road" or "public street" means a dedicated or undedicated public right-of-way or easement for public road or street purposes.

### **Section 2.83 Structure**

Any constructed, erected, or placed material or combination of materials in or upon the ground having a fixed location (even if the item is moveable), including, but not limited to buildings, dwellings, billboards, light posts, signs, swimming pools, storage bins (or the equivalent), animal enclosures other than fences, garages, sheds, accessory buildings, shipping containers, towers, pools, decks, platforms, patios, solar panels (or the equivalent), portable or movable vehicle carports or similar enclosures, satellite dishes, towers, windmills, wind turbines, gazebos, tennis courts and signs.

The following are excluded from the definition of "structure" (i.e. such items are not structures):

- A. Lawful fences, sidewalks, and paving on streets, driveways, or parking areas.
- B. Decks or patios, no portion of which is located:
  - 1. More than two feet above the ground (natural grade).
  - 2. Closer than five feet to any lot line, or

3. Within 30 feet of the high water mark of any lake.
- C. Retention walls not over five (5) feet in height.

**Section 2.84 Swimming Pool**

A structure used to hold water for swimming and aquatic recreation. Plastic, canvas or rubber portable pools temporarily erected upon the ground holding less than 300 gallons of water are excluded.

**Section 2.85 Topsoil**

The portion of soil, generally the upper most nutrient rich layer, that is capable of being used to grow vegetation.

**Section 2.86 Township**

The Township of Yates in Lake County, Michigan.

**Section 2.87 Township Board**

The Township Board for Yates Township in Lake County, Michigan.

**Section 2.88 Wind Energy Conversion Systems (WECS)**

A surface area, either variable or fixed, for utilizing the wind for electrical power; and a shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and the generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted or any building or accessory equipment.

Wind Energy Conversion System shall also mean any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes, blades, or sails that radiate from a horizontal shaft.
- B. A surface area such as a blade, rotor, or similar device (either variable or fixed) for utilizing the wind for electrical or mechanical power.
- C. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device.

- D. The generator, alternator, or other device used to convert the mechanical energy of the surface area into electrical energy.
- E. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted. A building or equipment accessory thereto.

### **Section 2.89 Yard**

The open spaces on the same lot with a building and that are unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein. Also known as a setback area.

- A. **FRONT YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the main or other building. In the case of a lot having frontage on a body of water (except a creek or stream that is not a lot boundary), the front yard shall be considered that area between the ordinary high-water mark on the shoreline and the building line of the main building. In the case of a corner lot, all lot lines abutting a street (public or private) shall be considered a front lot line with front yards provided for each.
- B. **REAR YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the main or other building. In the case of a corner lot, the rear yard may be opposite either street frontage. In the case of a waterfront lot (except a creek or stream that is not a lot boundary), the rear lot shall be located between the (rear) building line and abutting street (private or public), provided, however, setbacks for the rear yard of a waterfront lot abutting a street shall be no less than those required for the front yard.
- C. **SIDE YARD.** An open space between a building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the building.

### **Section 2.90 Zoning Act**

The Michigan Zoning Enabling Act, public Act 110 of 2006, as amended, being MCL 125.3101 et seq.

### **Section 2.91 Zoning Administrator**

The person or persons appointed by the Yates Township Board to administer the Zoning Ordinance.

### **Section 2.92 Zoning Board of Appeals (also the “Board of Appeals” or “ZBA”)**

The Yates Township Zoning Board of Appeals.

**Section 2.93 Zoning Permit**

A standard form or permit issued by the Zoning Administrator upon application and declaration by the owner or the duly authorized agent regarding proposed construction and use of land, buildings and structures thereon, granting approval or denial for the location of the construction and/or use applied for.

## **ARTICLE 3**

### **GENERAL PROVISIONS**

#### **Section 3.01 Purpose; Conflict**

General regulations apply to all zoning districts and properties except as otherwise expressly noted herein. Where requirements of a general provision and a zoning district regulation differ, the more restrictive requirement shall prevail.

#### **Section 3.02 Accessory Structures and Buildings**

- A. No accessory structure or building may be built on any lot on which there is no principal building.
- B. Accessory buildings are prohibited in front yards except as otherwise provided in this chapter.
- C. Accessory buildings in rear yards must be at least 10 feet from any lot line and 50 feet from the water line.
- D. No accessory building shall be located closer than 10 feet to any other accessory building and 10 feet to the principal building.
- E. No accessory building shall be used for dwelling or habitation purposes. A mobile home cannot be used for an accessory use, for by definition, a mobile home when used as a dwelling would be subject to all regulations in this Ordinance for dwellings.
- F. Where the owner has a lot directly across a street right-of-way from the owner's dwelling, one accessory building may be allowed with special use approval and both lots must always be in common ownership and have a permanent deed restriction enforcing the same.
- G. The use of semi-trailers, mobile homes, campers, buses, box cars, shipping containers and the like for storage is prohibited except as a temporary use for construction projects.

#### **Section 3.03 Adult Foster Care Home**

The Planning Commission shall review and approve a site development plan prior to the issuance of a Land Use Permit or building permits.

Adult Foster Care Homes must be licensed by the state pursuant to Public Acts 218 of 1979, as amended.

Adult Foster Care Family homes, Adult Foster Care Small Group Homes, and Adult Foster Care Large Group Homes may be allowed in all districts except in Lake Residential

**Section 3.04 Domestic Animals and Nonfarm Animals**

- A. No fenced area, enclosure, or similar arrangement shall be utilized or constructed for deer, elk, wild boar, reindeer, caribou, wild turkey or other normally wild animals unless a special approval is obtained from the Planning Commission. Fences for such uses exceeding 6 feet in height can be utilized only if a special use approval is obtained from the Planning Commission.
- B. No animals or fowl, other than customary household pets, shall be housed in residential districts, within 50 feet of any adjoining property. The animals shall be kept under sanitary conditions and in sanitary enclosures.
- C. No animal or fowl, other than customary household pets, may be kept in any district on parcels of land of less than four (4) acres unless a permit is first obtained from the Zoning Administrator. No permit shall be issued unless the premises upon which the animals are to be kept are found to be sanitary.
- D. The Zoning Administrator may inspect the premises at any reasonable time. The Zoning Administrator may revoke the permit if he or she is not permitted to inspect the premises or if the premises become unsanitary or if objectionable odors emanate from the premises.
- E. The Zoning Administrator may upon application, restore a revoked permit if he or she determines that the premises have been made sanitary.

**Section 3.05 Area or Space Required**

No lot, yard, court, setback, parking area, or other space shall be reduced to less than the minimum required under this Ordinance. No lot or other area shall be further reduced if already less than the minimum required. Property and bottomlands located under a road easement, lake, river, creek, or stream shall be excluded from lot area or dimension calculations for purposes of determining minimum lot area and other dimension requirements pursuant to this Ordinance. Setbacks shall be measured from the nearest line of the public street right-of-way, private road easement or access easement or right-of-way.

**Section 3.06 Basement Dwellings**

Any dwelling without a full floor above grade level shall be considered a basement dwelling and is prohibited. An underground home approved as a special use is not considered a basement dwelling.

**Section 3.07 Camping (retain police power ordinance)**

Please see other applicable Township ordinances.



### **Section 3.08 Channelization**

No channel, canal or similar waterway or device shall be dug, constructed, dredged, enlarged, or created out of or that connects to any lake, river, creek, or stream in the Township. Nor shall the size, location, or surface area of any lake, river, creek, or stream be increased or altered by digging, dredging, or excavation upland from the ordinary high-water mark of the lake, river, creek, or stream; provided, however, that this section shall not apply to the following:

- A. Any lawful dredging occurring on existing lake bottomlands that are lakeward of the ordinary high-water mark of the lake.
- B. The lawful creation or enlargement of a pond that does not abut or connect into an existing lake.
- C. The lawful dredging of an existing canal or channel pursuant to applicable state laws and permit requirements, so long as such existing channel or canal is not enlarged or expanded.

### **Section 3.09 Clear Vision Corners**

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

### **Section 3.10 Corner Lots**

Any yard that abuts a street right-of-way shall meet the front yard requirements of the zoning district in which it is located for each street.

### **Section 3.11 Construction Time Limits**

Once construction or installation has begun regarding a building or structure, such building or structure shall be expeditiously finished, and an occupancy permit shall be issued, in accordance with all other applicable Township ordinances and permit requirements.

### **Section 3.12 Driveways**

An approved driveway permit shall be obtained from the state Highway Department or the Lake County Road Commission and submitted to the Building Inspector prior to the issuance of a building permit.

### **Section 3.13 Dwellings on More Than One Lot**

If a structure or building is located on a property containing two or more lots under single ownership, the entire parcel shall be considered "a lot" for the purposes of this Ordinance and shall be deemed permanently combined as one lot.

### **Section 3.14 Floor Area and Dwelling Size**

- A. There shall be a minimum floor area of 840 square feet of finished floor space for each one-story single family dwelling, whether a seasonal or year around dwelling. Any two levels of bi-level, tri-level or split-level single family dwellings shall be considered as one-story dwellings. The combined levels shall be not less than 1,200 square feet of finished floor space.
  1. Every dwelling's minimum width shall be at least 22 feet wide for at least 75 percent of the dwelling's length, measured between the exterior part of the walls having the greatest length. It shall also comply in all respects with the 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 more restrictive than those imposed by the Building Code, then, and in that event, such federal or state standards or regulations shall apply. Any exterior addition shall be of the same construction and materials as the original structure.
  2. Every dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the 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. In the event that the dwelling is a mobile home, such dwelling shall 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/Manufactured Home Commission and shall have a perimeter wall as required above.
  3. In the event that a dwelling is a mobile home, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- B. For multiple family buildings, in no case shall a dwelling unit contain less than 840 square feet of finished floor area
- C. All dwellings shall be kept in good and reasonable condition and repair at all times.

### **Section 3.15 Flood Plain Areas**

No dwelling shall be erected, or hereafter occupied if vacant, in flood plain areas. The flood plain areas of lakes, rivers and streams shall be determined by an engineer or agency designated by the Lake County Board of Commissioners and information kept at the Lake County Drain Commissioner's office.

### **Section 3.16 Essential Public Services**

It shall be lawful for public utilities, departments or commissions to erect, construct, utilize, alter or maintain underground or overhead gas, electrical, water distribution, transmission systems or collection, communication supply or disposal systems, including poles, towers, drains, sewers, pipes, conduits, wire cables and accessories for the furnishing of adequate services by public or municipal departments for health, safety and general welfare, in any zoning district in Yates Township. Related buildings shall be subject to the approval of the Planning Commission as listed below.

The Planning Commission is hereby granted the power to approve as a special use the erection of any building for a private or public utility. This is provided that the Planning Commission shall find that such use, height, area, buildings or structure is designed, erected and landscaped to conform to the zoning district in which it is located; and that the advantage of the proposed location to the utility is not outweighed by the detriment to the locality, and that a different location is not readily available. A zoning permit also shall be required before installation.

### **Section 3.17 Front Yard**

The front yard of a lot must abut a lawful street right-of-way, private road, shared driveway, or easement. However, on waterfront lots (excluding creeks or streams that are not lot boundaries), the rear yard must abut on a lawful street right-of-way, private road, shared driveway, or easement.

### **Section 3.18 Front Yards - Basis for Determining**

Front yards shall be measured from the edge of the road right-of-way, private road, shared driveway, or easement to the nearest portion of the structure.

### **Section 3.19 Greenbelts**

A greenbelt shall be required in the side and/or rear yards of any commercial or industrial use that abuts a residential district. Greenbelts shall always be maintained. The greenbelt may be part of the side or rear yard. Adjacent residential property owners may waive the greenbelt requirement or request a solid fence in place of the greenbelt. Such waivers or requests shall be in writing and be presented to the Planning Commission prior to issuing permits.

### **Section 3.20 Height Exceptions**

- A. All Zoning Districts: Height requirements may be exceeded by chimney, silos, farm barns and storages, TV towers and radio antennas (where otherwise regulated by this Ordinance), cupolas, spires, ornamental projections, or water towers provided they are located not less than the same distance as their height from any adjoining property line.
- B. Industrial Uses: Chimneys, cooling and fire towers, elevator building and bulkheads, roof storage tanks and other necessary accessory structures are permitted provided they are located not less than the same distance of their height from any adjoining property line.

### **Section 3.21 Home Occupations**

Any use customarily conducted entirely within a single-family residential dwelling, incidental to the single family use and carried on by the inhabitants thereof without being evident in any way from the street or from neighboring premises. In order to preserve the residential character of the neighborhood and/or the residential uses of existing homes, and to maintain a segregation between the areas that are characterized as residential and those characterized as commercial and industrial, the following is applicable:

- A. **Home Occupation** – All home occupations shall meet all of the following restrictions and regulations:
  - 1. The home occupation shall be subject to site plan review and approval by the Zoning Administrator.
  - 2. The home occupation shall be conducted entirely within the dwelling and only by two (2) persons who are residents of that dwelling; except that not more than one (1) person may be employed who is not a resident of the dwelling.
  - 3. All motors and equipment used in the conduct of any home occupation shall be shielded so as not to cause radio or television interference or to be audible from off-site.
  - 4. There shall be no exterior alteration in the residential character of the premises in connection with such home occupation and no more than twenty-five percent (25%) of the living area of the dwelling shall be devoted to such home occupation. The home occupation shall be conducted entirely within the dwelling and no portion of the use shall occur outdoors or within an accessory building.
  - 5. No merchandise or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the dwelling and no sign or device relative to the sale of such merchandise shall be displayed on the premises.
  - 6. All articles and materials used in connection with such home occupation shall be kept and stored in the dwelling. No outside storage is permitted.
  - 7. The use shall not generate more than eight (8) client trips per day to the home during the hours of 8:00 AM to 8:00 PM. Clients shall not be received during other hours. The parking

needs generated by the conduct of such home occupation shall be provided off the street and not within the required front yard.

8. There shall be no sale of products or services except as are produced in the home by such home occupation, except that products not produced in the home that are incidental to services being performed as a part of the home occupation may be sold in limited quantities.
9. The home occupation shall comply with all applicable Building Code requirements.
10. The home occupation shall be permitted one (1) unlighted wall sign, not to exceed two (2) square feet in size. Such signs shall be attached to the dwelling.
11. The use shall not include deliveries by trucks greater than normal U.S. Postal or United Parcel Service step type vans or other delivery services.
12. Instruction in craft or fine art within a dwelling by a resident member of the family residing in the dwelling shall be considered a home occupation and shall be subject to the requirements for a home occupation.

The allowance of a home occupation by the Township, subject to the regulations of this Ordinance, shall not in any way or manner constitute an acceptance of, or give validity to, the introduction of nonresidential uses into any residential district.

B. **Cottage Industry** - An occupation that does not meet the standards or requirements for a home occupation, may be considered by the Township as a Cottage Industry subject to all of the following:

1. Each Cottage Industry shall require a special use approval.
2. Included with the special use application shall be detail on the nature of the proposed home Industry including:
  - a) Type of business.
  - b) Hours of operation.
  - c) Number of employees.
  - d) Amount and type of waste (material and effluent) to be generated and the method of handling and disposing of all wastes.
  - e) Anticipated levels of noise, odor, glare, dust, fumes, and related impacts.
  - f) Anticipated traffic levels (customer, delivery vehicles, etc.).
3. No more than two (2) persons who are not residents of the dwelling involved and two (2) persons who are residents of the dwelling shall be employed on the lot at which the Cottage Industry is conducted.

4. Any need for parking generated by the conduct of such Cottage Industry shall be provided off the street and not within the required front yard.
5. The Cottage Industry shall be conducted entirely within the dwelling or one approved accessory building. The Cottage Industry shall not occupy more than twenty-five (25) percent of the gross floor area of the dwelling. An accessory building used for the Cottage Industry shall not exceed one thousand (1,000) square feet in size.
6. The Cottage Industry shall not result in the alteration of the dwelling, nor the construction of an accessory building, that is not customary, incidental and subordinate to dwellings and residential accessory buildings. Special building code requirements such as automatic fire suppression systems, explosion proof construction, paint booths, hazardous waste containment systems (except for the containment of small quantities of motor oil, lubricants, and anti-freeze), and other such systems shall not be permitted.
7. In addition to meeting the standards of this section and the special use standards for approval, it shall be demonstrated that the Cottage Industry will not be detrimental to the commercial viability of the Township's (or adjoining municipalities') commercially zoned districts.
8. No part of the Cottage Industry shall occur outdoors.
9. The Cottage Industry shall not change the residential or noncommercial character of the area.

### **Section 3.22 Institutional and Public Uses**

Noncommercial institutional and public (government) uses may be allowed in any zoning district if approved as a special use by the Planning Commission as provided in this Ordinance.

### **Section 3.23 Lake Access and Frontage (Keyhole / Funnel)**

The following restrictions are intended to limit the number of users of lake or stream frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within the Township.

- A. In all zoning districts, there shall be at least 75 feet of lake or stream frontage as measured along the normal high water mark of the lake or stream for each single family home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit utilizing or accessing the lake or stream frontage.
- B. Any multiple-unit residential development in any zoning district that shares a joint or common lake or stream front area or frontage may not permit lake or stream use or access to more than one single family home, dwelling unit, cottage, condominium unit, site condominium unit, or

apartment unit for each 75 feet of lake or stream frontage in such joint or common lake or stream front area, as measured along the normal high water mark line of the lake or stream.

- C. Any multiple-unit residential development shall have not more than one dock for each 75 feet of lake or stream frontage, as measured along the normal high water mark of the lake or stream, in any zoning district in the Township. All such docks and docking or mooring shall also comply with all other applicable Township ordinances.
- D. The above restrictions shall apply to all lots and parcels on or abutting any lake or stream in all zoning districts, regardless of whether access to or use of the lake or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease.
- E. In all zoning districts, no lake access, boat ramp, shore station, dock, boat launch, or shoreline abutting a lake shall be utilized for commercial, business, outdoor recreational (or entertainment) facilities, institutional or nonresidential or nonagricultural uses or purposes unless such use is authorized pursuant to a special use approval (and meets the requirements of the zoning district involved) or a planned unit development (PUD) approval.
- F. The lake access and use regulations contained in this section shall be fully applicable to all planned unit development (PUD) and special land use projects or developments.
- G. Refer to other applicable Township ordinances for other lake access or keyhole development regulations.
- H. In addition to the above limitations, no easement, private park, common area, lot or access property abutting or adjoining a lake or stream shall be created or used to permit access to the lake or stream for more than one single family home, dwelling unit, condominium unit, site condominium unit, apartment unit or any other use unless such additional access use is approved as a special land use (and meets the requirements of the zoning district involved) or as a planned unit development (PUD).
- I. The minimum water frontage requirements of this section shall be doubled if the property involved is not served with public sewer or if more than 50 percent of the water frontage of the property involved is comprised of or adjoins a wetland as defined by Michigan law.
- J. If a property is located within a zoning district where the minimum lot width requirement is greater than 75 feet, the minimum water frontage requirements of subsections A, B, and C hereof shall be increased so as to equal the minimum lot width requirement of the zoning district in which the property is located.
- K. No easement, license, lease or similar arrangement for access to or use of a lake or stream shall be created on or access a lake or stream front parcel or lot with a dwelling thereon.

### **Section 3.24 Lot Accessibility**

No lot shall be created, and no dwelling shall be built or used on a lot unless the lot has frontage (equal to or greater than the minimum width required for the lot involved) upon an improved public street or a lawful private road that complies with all requirements of this Ordinance.

### **Section 3.25 Lot Splits and Land Divisions**

- A. No lot, parcel, or access easement shall be created that does not fully comply with the minimum area, width, frontage, and other requirements of the Yates Township Zoning Ordinance, as amended. All land divisions, splits, or boundary reconfigurations of platted lots and unplatted parcels shall meet the requirements of the Yates Township Zoning Ordinance, as amended, and the requirements of the Michigan Land Division Act (MCL 560.101 et seq.\ MSA 26.430(101) et seq.). No land division, lot split, creation of an access easement, or change or reconfiguration of boundary lines shall occur until and unless a land division permit has been obtained from the Township Zoning Administrator or such other person as may be designated from time to time by resolution of the Township Board. No permit for land division shall be issued until and unless the Township determines that the land division, lot split, access easement, or boundary reconfiguration, as well as the resulting lots, access easements or parcels, fully complies with the requirements of the Township Zoning Ordinance, as amended, and all other applicable Township ordinances. Fees for a land division permit shall be set as determined from time to time by resolution of the Township Board. No land division permit shall be approved or issued unless the application is accompanied by a survey done by a registered land surveyor or engineer showing all resulting lots or parcels, easements (if any), and full legal descriptions. The Township can waive the requirement of a survey in a given case for good cause shown by the applicant. No permit for division of a platted lot or lots, or reconfiguration of boundary lines for a platted lot or lots, shall be issued until and unless such land division is also approved by the Township Board.
- B. The Zoning Administrator may deny a requested land division or boundary line adjustment if it would result in one or more parcels that would be irregularly shaped, cause some portions of any resulting parcel to be effectively inaccessible or result in an inefficient or unreasonable use of land. When deciding whether a proposed land division should be denied on such basis, the Zoning Administrator shall consider the following standards:
1. Whether one or more resulting parcels would be unreasonable or irregularly sloped.
  2. Whether one or more resulting parcels would be inconsistent with the intent and goals of this Ordinance or the Township's Master Plan.
  3. Whether the shape of one or more resulting parcels would make it difficult to site a new building on the parcel, make it difficult for a new building to meet all setback requirements or otherwise make the proposed uses of the parcel more difficult or inefficient.
  4. Whether an inefficient land configuration will occur.



5. Whether some of the land would be practically unusable.
6. Whether some of the land would be effectively inaccessible or wasted.
7. Whether difficult new legal descriptions would result.

### **Section 3.26 Lot Width**

- A. The minimum lot width required in each zoning district shall be maintained across the entire length of the lot or parcel, except as provided in subsection B, below.
- B. All lots shall have frontage on a public street or on a private road approved pursuant to Section 3.36 for a distance equal to or greater than the minimum lot width specified for the district in which the lot or parcel of land is located. Lots abutting, a cul-de-sac shall be permitted to have less street or road frontage (but in no case less than 33 feet of such frontage), provided however, that a special use is obtained pursuant to Article 19, and further provided that the lot width at the front setback line, (or the rear setback line in the case of waterfront lots) and beyond shall satisfy the minimum lot width requirement of the zoning district in which the lot or parcel of land is located
- C. For all lots or parcels abutting or having frontage on a lake, river, creek or stream, each lot or parcel shall have frontage on the lake, river creek or stream as measured at the normal high-water mark, equal to or greater than the minimum lot width requirement of the zoning district within which the property is located.

### **Section 3.27 Lot Width-to-Depth Ratio**

In all zoning districts and unless expressly otherwise provided elsewhere in this Ordinance, the depth of all lots created after the adoption of this Ordinance shall not exceed four (4) times the width of the lot. For purposes of this section, the measurement for lot width shall be taken along the frontage on the public street or other approved road. The measurement for depth, for purposes of this section, shall be taken from the street or road frontage to the point of the lot located farthest from the street or road frontage.

### **Section 3.28 Lots of Record – Nonconforming**

- A. Lots of record located in zoning districts permitting single-family dwellings must meet current set back provisions for the zoning district in which they are located. Off-street parking requirements shall be met. Lot coverage shall not exceed 30%.
- B. The Zoning Administrator may permit a lawful lot of record not meeting the above requirements to have a single-family dwelling built thereon upon the making of the following determinations:
  1. The lot is of or in single ownership.
  2. There is no practical way of obtaining more land.

3. The proposed use cannot be located on the lot such that the minimum requirements are met.
  4. The proposed use will not adversely affect adjacent property values or the character of the neighborhood.
  5. Side yards of at least 10 feet each will be provided.
  6. The front yard shall be at least 30 feet and the rear yard at least 15 feet.
  7. The lot is at least 10,000 square feet in area.
- C. If two (2) or more adjoining lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width, dimension, or lot area, the lots involved shall be deemed automatically combined and shall be considered to be an undivided single lot for the purposes of this Ordinance, and no portion of such lot shall be used, detached or divided in a manner which diminishes compliance with lot width, dimension, and area requirements established by this Ordinance.

### **Section 3.29 Mobile Homes and Prefabricated Housing**

- A. Mobile home as new construction, or replacement of an existing Mobile home, shall comply with current federal regulations.
- B. They will be considered a dwelling unit when connected to required utilities and that is or is intended to be attached to the ground.

### **Section 3.30 Mobile Home Storage and Recreational Vehicle Storage/Use**

- A. It shall be unlawful for any person to park, or cause to be parked, any motor home or recreational vehicle on any street, highway or public place for storage, use as a dwelling or for overnight stops.
- B. No mobile home shall be stored on any land within the Township for a period of longer than 30 days.
- C. Recreational vehicles owned by residents or property owners within the Township shall not be connected to water or sanitary facilities, nor shall they be occupied.
- D. Temporary Dwellings. A single wide mobile home or recreational vehicle may be used as a temporary dwelling during the construction of a new dwelling if certain requirements are met. The Zoning Administrator may approve such a use for a period not to exceed 12 months, and the Planning Commission may approve such use for an additional period not to exceed 6 months, provided that all of the following conditions are met:
  1. A building permit has been issued for the construction of a permanent single-family dwelling on the same lot that conforms to the requirements of this Ordinance.

2. The temporary structure must contain at least 75 square feet for each occupant.
  3. The temporary structure must be properly connected to water and sanitary facilities approved by the Lake County Health Department.
  4. The temporary structure must be removed within 30 days of the date of issuance of occupancy permit for the permanent dwelling.
  5. The Township may require sufficient monetary security in the form of a cash deposit, bond, letter of credit, or other monetary security to ensure that the temporary structure is removed by the required date.
  6. The Township may require that a written agreement be entered into between the Township and the landowner with language approved by the Township.
- E. Temporary Use Permit. To protect and promote the public health, safety and general welfare of Township residents, travel trailers, motor homes and fifth wheelers capable of being duly licensed, will require a Temporary Use Permit, except those in total storage.
1. A permit from the Lake County Health Department will be required prior to a temporary use permit being issued.
  2. Temporary use permits will be granted by the Township Zoning Administrator.
  3. Temporary use permits are issued for 28 days total, per calendar year. Any extensions must be authorized by the Zoning Administrator, who may authorize no more than two 28-day extensions per calendar year.
  4. Each unit shall display their permit in plain view. A completed informational card shall be on file with the Zoning Administrator containing the following information.
  5. The name and address of the owner of the unit and/or adult representative plus the telephone number(s) wherein he/she can be reached at all times.
  6. All units shall be self-contained as to potable water supply and storage of waste water the unit must be removed at the end of the permit period.
  7. Travel trailers, camper trailers, motor homes, fifth wheelers, boats and boat trailers may be in total storage on the same property as the principal residence, or on lots of record that are adjacent to or in reasonable proximity to the principal residence.
  8. The Zoning Administrator may revoke a permit or extension thereof upon finding excessive noise, unsanitary conditions or other nuisances are occurring on the premises subject to the permit.

### **Section 3.31 Moving of Structures**

The moving of a structure shall be considered the same as the erection of a new structure. All regulations relative to the erection of new structures shall be met. No building shall be moved without a prior written permit from the Zoning Administrator who may attach reasonable conditions to such permits.

### **Section 3.32 Multiple Use of Buildings**

Where any part of any building is used for residential purposes and the remainder thereof is to be used for any nonresidential purposes, the part used as a dwelling shall conform to all requirements for dwellings in that residential district. Land or buildings used for nonresidential purposes shall be excluded in determining whether the requirements for the residential zoning district are met.

### **Section 3.33 Parking Vehicles**

Parking or storage of commercial vehicles exceeding a rated capacity of 1 ½ tons is prohibited within 150 feet of all lakes, rivers, creeks, streams, and the Lake Residential and other residential zoning districts.

### **Section 3.34 Principal Use - One Dwelling Per Lot**

One principal use shall be made of a lot, except as otherwise expressly permitted by this Ordinance. A single-family dwelling shall constitute a principal use.

### **Section 3.35 Private Roads and Shared Driveways**

No private road or shared driveway shall be constructed or used prior to approval by the Township. No construction shall commence prior to the granting of a preliminary road permit by the county and/or state road commission. A Township permit may be granted upon the approval of a site plan by the Planning Commission. No building permit will be issued until a final road permit is issued by the Township, until the road is fully installed, and a final inspection by the Township shows that the road meets all stated requirements.

- A. Construction Plans. Construction plans shall include location, adjacent properties, proposed street grades, drainage, and proposed improvements, shall be submitted as part of the site plan.
- B. Maintenance and Repair. Maintenance, repair, and liability for private roads shall be the responsibility of the property owners adjacent to the private road and not the responsibility of the Township. The developer or homeowners shall establish by a recorded private road maintenance agreement (as approved by the Township) that shall be responsible for road maintenance and repair through an Association or partnership, and that shall have the authority to apportion and collect the cost of maintenance and repair from benefiting property owners. All

deeds or provisions for maintenance and repair of private roads shall be reviewed and are subject to the approval of the Planning Commission prior to the recording thereof.

C. Design Standards for Roads Serving One or More Dwellings.

1. All private roads shall have a 66-foot-wide right-of-way or easement.
2. Have a road bed of not less than 16 feet in width.
3. The layout of such roads in respect to their location, intersection, cul-de-sacs, and curb openings at intersecting streets shall conform to the Lake County Road Commission standards for platted streets.
4. Have a sand and gravel base of not less than 10 inches in depth of which 6 inches in depth shall be gravel, crushed rock, or pavement.

D. Design Standards for a Private Road Serving One or Two Lots. A private road servicing one or two lots shall:

1. Be constructed in a good and workmanlike manner and parallel to the centerline of an easement that is established by duly recorded conveyance and is not less than 12 feet in width. Maintenance and repair shall be the responsibility of the property owners.
2. Be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage, such as by means of ditches constructed parallel to, and either side of the drive, or by other effective means.
3. Be constructed over adequate culverts where necessary.

### **Section 3.36 Razing of Buildings**

No building shall be demolished or razed until a permit has been issued by the Zoning Administrator and a separate permit has also been issued by the Lake County Building Inspector. A cash bond or irrevocable letter of credit in the amount established by the Township may be required. The applicant must complete the demolition or razing within 6 months. The applicant shall comply with such reasonable conditions as to health and safety as the Building Inspector may require. Such conditions shall include but may not be limited to, the filling of holes and the proper disconnection of utilities.

### **Section 3.37 Recreational Vehicle**

No campers, tents, travel trailers or vehicles designed primarily for temporary living or sleeping shall be placed in Yates Township other than in approved parks or campgrounds without first obtaining a permit from the Zoning Administrator and must comply with Lake County Health Department standards. Provided, however, recreational vehicles owned by the owner of record on parcels containing a permanent dwelling is permitted and does not require an annual permit. For purposes of this provision, the term "storage" means placement of a portable dwelling upon a parcel for an indefinite period of time

for purposes of safe keeping or preservation. During such time, said unit is not to be utilized for recreational or sleeping purposes. Storage shall not occur in the required front yard or required side yard areas. Please also see other applicable Township ordinances.

### **Section 3.38 Required Yards and Lots**

- A. Minimum Requirements - All lots, yards, parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the zoning district in which they are located and all other applicable provisions of this Ordinance.
- B. Exclusion of Private Street Easements, Public Right-of-Way, and Bottomlands in Computing Lot Area and Width - Computations for minimum lot area, dimension and width shall not include lands or areas used for private easements granted to other properties for purposes of establishing or maintaining a private street, land located under or comprising a public road right-of-way, or land or bottomlands located under a lake, stream, or river.
- C. Dwellings on More Than One (1) Lot - If a building or structure is to be located on two (2) or more lots under single ownership, the entire parcel (all lots) shall be considered one lot for purposes of this Ordinance and the lots or parcels shall be legally and automatically combined into one (1) individual lot.

### **Section 3.39 Residential Uses in Commercial Districts**

Residential uses shall not be permitted in the commercial district; provided, however, that a residential use or a combined residential-commercial use may be permitted in the commercial district if a special use is approved by the Planning Commission under the terms of Article 19. If such a special use is approved, all use (other than the residential use prohibition), dimension, sign and other applicable requirements of the commercial district shall apply to the residential use or the combined residential-commercial use.

### **Section 3.40 Swimming Pools**

Swimming pools having a depth of 18 inches or more of water may be installed in any zoning district as an accessory use. All pools must meet all of the following conditions:

- A. Pools may be installed in the side or rear yards of a lot. Motels and hotels may install pools in the front yard.
- B. Pools shall not be erected closer than 5 feet from the rear and side property lines of the lot. In the case of a corner lot, the pool shall not be located closer than 10 feet from any property line abutting a street.
- C. Pools shall not occupy more than 40% of the area of the yard. In computing such area, all other accessory structures shall be excluded.

- D. A fence not less than 6 feet in height shall be required around all pools, which shall be constructed so as to not have openings, holes, or gaps larger than four inches in any dimension, except for doors and gates. The support posts thereof shall be constructed in a permanent manner and in such a way as to last as long as the pool. Such posts shall be spaced at intervals of not more than 8 feet. The fence shall entirely enclose the pool. A dwelling house or accessory building may be used as part of the enclosure. All gates or doors opening through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door or any dwelling which forms part of the enclosure need not be so equipped. The fence and every gate or other opening in the fence shall be designed and maintained to prevent entry of persons except as permitted by the owner.
- E. The inlet of the water supply system shall be above the overflow level of the pool and be fitted with an anti-siphon device.
- F. If a public water supply system is available, only public water shall be used to supply water for the pool.
- G. The pool shall be chemically treated in a manner sufficient to maintain bacterial standards established by the provisions of the Department of Health relating to public swimming pools.

#### **Section 3.41 Temporary Buildings**

Temporary accessory structures for uses incidental to construction work may be allowed via a permit by the Zoning Administrator after issuance of a building permit for the proposed structure. The Zoning Administrator may attach reasonable conditions to a permit. The temporary permit shall specify the location of the temporary accessory structures and shall terminate 6 months after the date of its issuance. The permit may be renewed if the Zoning Administrator finds that construction of the principal structure has been progressing in a reasonable manner. In any event, the temporary structure and all debris shall be removed within 15 days after the completion or abandonment of work. Reasonable conditions may be attached to any such permit.

#### **Section 3.42 Topsoil**

Topsoil shall not be removed from the lot on which it originated except when it is in surplus amounts in connection with construction operations.

#### **Section 3.43 Unwholesome Substances**

- A. No unwholesome substance, as hereinafter defined, shall be deposited, buried, stored, dumped or accumulated by any person in any body of water or on or under any land, private or public, in the Township, unless such place has been designated as a public dumping ground by the Township, or unless such substance is housed in a completely enclosed building and in a safe and sanitary manner. For purposes of this Section only, the term "unwholesome substance" shall be

defined to mean any trash, garbage, tin can, automobile body, junk vehicle, trailer body, junk, hazardous compounds, waste, offal, refuse, rubbish, food containers, bottles, crockery or utensils, stoves, oil, hazardous or harmful substances, industrial byproducts or waste, flammable matter or substances, debris, or any other material that constitutes a threat or menace to the health, safety or general welfare of the public. For the purposes of this Section only, the term "automobile body" shall be defined to mean any vehicle that (1) is unable to be driven upon a street under its own power and/or (2) that lacks all of the necessary component parts to make it operable and serviceable as a vehicle. For purposes of this Section only, the term "trailer body" shall be defined to mean any boat trailer, utility trailer, horse or animal trailer, truck trailer, travel trailer or any type of trailer or device used for hauling or moving things that lacks all of the necessary component parts to make it operative and serviceable as a trailer to be pulled as such on a street. The provisions of this Section shall not be deemed to prohibit the storing or spreading of manure, fertilizers, or other soil conditioners as part of a farm operation.

- B. No sewage, waste water or water containing foreign substances shall be deposited or drained onto any land or deposited or drained into any open ditch, creek, stream, lake, pond or other body of water unless the same has been first approved by the Michigan Department of Health and the Lake County Health Department.
- C. No boxes, barrels, waste wood, scrap metal, automobile body, or other materials shall be accumulated by any person so as to provide insect, rat, or rodent harborage.

#### **Section 3.44 Use and Construction of Accessory Buildings**

Accessory buildings shall be stick-built or the equivalent of new building construction. No mobile home, tank, junk object, or salvage materials, trailer, tank, shipping container, vehicle or similar item shall be utilized as an accessory building or storage structure; provided, however, that such requirement shall not be applicable to bona fide agricultural storage or activities, or to tool sheds or similar temporary storage structures utilized pursuant to the construction of a building, so long as the period of construction does not exceed one (1) year.

#### **Section 3.45 Vehicles - Storage Of**

Storage or parking of inoperable or unlicensed vehicles (except operable farm equipment) in any zoning district is prohibited unless contained within a lawful junkyard or a lawful fully enclosed structure.

#### **Section 3.46 Working and Storage Surfaces for Certain Operations**

For any junkyard, scrap yard, salvage operation, automobile or vehicle repair or overhaul operation or similar business that utilizes an area exceeding one-fourth (1/4) acre, all areas (indoors or outdoors) used for junk, scrap or materials storage and/or for repair, salvage or overhauling operations shall be paved with a layer of concrete at least four (4) inches thick or asphalt at least one and one-half (1-1/2) inches



thick. No chemicals or potentially hazardous substances from such operations shall be disposed of on-site or leaked or deposited onto or into the soil or ground. Such hard surface shall be required and maintained such that leakage into the soil below shall not occur.

### **Section 3.47 Walls and Fences**

Retaining walls and fences not more than 3 feet in height and not more than 60% in density are permitted in all districts; height restrictions may be exceeded for farm operations. Solid walls and fences not more than 6 feet in height are permitted only in the side or rear yards in any district, provided that the yard does not abut a street right-of-way (see Clear Vision Corners). Solid walls and fences greater than 6 feet in height or in a side or rear yard that do not meet the minimum regulations of the district in which they are located, may be permitted as a special use. A well-maintained wire protective fence is permitted in the front yard in the C-H and I districts.

### **Section 3.48 Governmental Improvements**

Unless preempted by statute, the provisions of this Ordinance shall be applicable to and enforceable against the Township itself and all other governmental agencies and units, federal, state, county, and local.

### **Section 3.49 Site Condominiums**

Pursuant to the authority of Section 141 of the Condominium Act, Public Act 59 of 1978, as amended, all site condominium subdivisions shall meet the following requirements and procedures:

- A. All site condominium subdivisions shall require site plan review and approval by the Planning Commission. In addition to the information required along with a site plan review, the following information shall also be included:
  1. A condominium subdivision plan as required in Section 66 of the Condominium Act.
  2. If in effect, all information required by the Yates Township Subdivision Regulations.
  3. Documented proof of review by the Lake County Road Commission, Drain Commissioner, Health Department, Michigan Department of Transportation and Michigan Department of Natural/Environmental Quality.
- B. All site condominium subdivisions shall meet the requirements of the district in which it is located, including minimum lot size, minimum setbacks and minimum floor area.
- C. Private roads meeting the requirements of this Ordinance shall be permitted, provided, however, the review and approval of private roads shall require a special use permit.
- D. The Yates Township Clerk and Zoning Administrator shall be furnished with a copy of the recorded master deed, as defined in Section 8 of the Condominium Act. The master deed must ensure that

Yates Township will not be responsible for maintenance or liability of the nondedicated portions of the subdivision and that all private roads will be properly maintained by the landowners. Snow removal will be provided by the landowners and there is adequate access and turnaround for emergency vehicles. Responsibility for maintenance of storm water retention areas, drainage easements, drainage structures, lawn cutting and other general maintenance of common areas must be clearly stated.

- E. The Zoning Administrator shall be furnished with one paper copy and one digital copy of all proposed "as-built" drawings for review for compliance.

### **Section 3.50 Division of Parcels or Lots**

No lot or parcel (platted or unplatted) shall be divided, split, have boundary lines changed, combined, or subdivided unless said action meets all requirements of this Ordinance and all other applicable Township ordinances.

### **Section 3.51 Grade and Grade Modifications**

A grade modification shall not result in significant negative impacts on surrounding property, local streets and roads, sidewalks, and other public infrastructure. Such impacts include, but are not limited to, increase in the off-site discharge of surface water unless said increase is based on an approved site plan in which the discharge of surface water has been permitted based on appropriate engineering studies, elimination of natural views through a site, traffic and other safety hazards, and the like.

### **Section 3.52 Representations and Promises of Developers and Property Owners**

If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a rezoning, special use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable condition of any such zoning approval in writing, and whether or not it is reflected in the zoning approval motion, resolution, permit, or other Township approval document) if the Township deems such promise, representation, or condition to have been a consideration by the official or Township body which granted the zoning approval and the Township also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

### **Section 3.53 Grade Limits**

Sand, dirt and similar materials shall not be used to build up or add to the natural grade of the land in connection with the installation, building, or expansion of a building or structure if such alteration would, in the opinion of the Zoning Administrator, do any of the following:

- A. Unreasonably increase water runoff or drainage onto one or more adjoining properties due to the amount, concentration, or flowage rate of runoff waters; or
- B. Increase the height of a building or structure so as to unreasonably decrease the view on one or more adjoining properties of a lake, stream or natural vista or create a situation which is incompatible with the surrounding uses. Any party aggrieved by the decision of the Zoning Administrator under this section may appeal that determination to the Zoning Board of Appeals within the time limits and procedures specified in this Ordinance.

### **Section 3.54 Lots Partially Outside Township Boundaries**

In cases where a lot lies partially outside of the Township's boundaries, if a proposed lot, building, structure, or use would not satisfy the minimum area, dimensional, and street frontage provisions of this Ordinance with respect to that part of the lot located within the Township, then the minimum provisions of this Ordinance shall be applied with respect to the lot, building, structure, or use as if the entire lot were located within the Township, provided, however, that the entire lot shall comply with the minimum area, width, and frontage requirements of this Ordinance, and provided further that if access to the lot is provided at a location outside the Township boundaries, then such access shall be subject to the approval of the Planning Commission prior to the issuance of a zoning permit or Building Permit by the Township. For purposes of this section, the Township boundaries shall not be deemed to be a lot line.

### **Section 3.55 Construction Time Limits**

Once construction or installation has begun regarding a building or structure, such building or structure shall be finished, and an occupancy permit shall be issued in accordance with all other applicable Township ordinances. If a permit has no time limit specified therein, a time limit of one (1) year shall apply unless the Zoning Administrator grants time extensions.

### **Section 3.56 Nonwaiver; Rule of Nonestoppel**

If any provision of this Ordinance is not enforced against a particular lot, parcel, or property or throughout the Township in general, that shall not be deemed to be a waiver (or constitute laches) regarding the ability of the Township to enforce that provision (or any other provision) of this Ordinance against a particular lot, parcel, or property involved or throughout the Township in general. Furthermore, should any Township official, body, board, or commission render any zoning approval or opinion, or undertake (or not undertake) any other action pursuant to this Ordinance, and it is determined that any such opinion, interpretation, approval, action or inaction was done in error or in an ultra vires or other mistaken fashion,

that shall not preclude the Township from reversing, revoking, or revising any such zoning approval, interpretation, opinion, action, or inaction which was done in error and to thereafter enforce the provision or provisions of this Ordinance involved. The Michigan common law "rule of municipal nonestoppel" shall benefit the Township, as well as its officials, officers, bodies and commissions.

### **Section 3.57 Adult Uses/Adult-Oriented Businesses**

**A. Location and Approval.** An adult use or adult-oriented business shall be allowed only as a special use and only if all of the following standards are satisfied:

1. Adult-oriented businesses shall be allowed only within the CH-Highway Commercial zoning district and if approved as a special use.
2. No adult-oriented business shall be located within five hundred (500) feet of another adult-oriented business.

For purposes of this subsection 2, and subsections 3 and 4 below, the distance between a proposed adult-oriented business and (A) another adult-oriented business, (B) the boundary of any land in the agricultural or any residential zoning district or approved as a planned unit development for residential purposes, or (C) land used for any single-family, two-family or multiple-family dwelling; Township, county or state park; school; library; licensed childcare facility; playground; church or place of worship, shall be measured in a straight line from the nearest property line of the parcel of land upon which the proposed adult-oriented business is to be located to (i) the nearest property line of the parcel of land used for the other adult-oriented business, (ii) the nearest boundary of the land in the agricultural or any residential zoning district or approved as a planned unit development or a plat for residential purposes, or (iii) the nearest property line of the parcel of land used for a single-family, two-family or multiple-family dwelling; Township, county or state park; school; library; licensed childcare facility; playground; church or place of worship.

3. No adult-oriented business shall be located on a parcel or lot that is within five hundred (500) feet of the boundary of any land in the agricultural or any residential zoning district or approved as a planned unit development for residential purposes.
4. No adult-oriented business shall be located on a parcel or lot within five hundred (500) feet of any single-family, two-family or multiple-family dwelling; any Township, county or state park; school; library; licensed child care facility; playground; church or place of worship.
5. No adult-oriented business shall be located within any principal or accessory building or structure already containing another adult-oriented business.
6. The proposed use shall conform to all requirements of the zoning district in which it is located.

7. The proposed use shall be in compliance with all other ordinances of the Township and with all statutes, laws, rules and regulations of the county, state and federal government and, to the extent required, all governmental approvals must be obtained.
8. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent right-of-way of a public street or private street.
9. Any sign or signs proposed for the adult-oriented business shall comply with the provisions of this Ordinance; may not otherwise include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas, specified sexual activities or obscene representations of the human form; and may not include animated or flashing illumination.
10. Entrances to the proposed adult-oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using clearly marked lettering no less than two (2) inches in height stating that: (a) "Persons under the age of 18 are not permitted to enter the premises," and (b) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
11. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining right-of-way of a public street or private street or a neighboring property.
12. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., Monday through Saturday. All adult-oriented businesses shall remain closed on Sundays and legal holidays.
13. All off-street parking areas shall comply with this Ordinance and shall be illuminated after sunset during all hours of operation of the adult-oriented business, and until one (1) hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one (1) foot candle, with a 3:1 uniformity ratio. The illumination shall not reflect-on and shall be screened from adjoining properties.
14. Any booth, room or cubicle available in any adult-oriented business, except an adult motel, that is used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities shall:
  - a) Be handicap accessible to the extent required by law;
  - b) Be unobstructed by any floor, lock or other entrance and exit control device;
  - c) Have at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;

- d) Be illuminated such that a person of normal visual acuity can, by looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and
  - e) Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code authority.
- B. **Special Use Process.** Any special use application for an adult-oriented business shall be processed under the provisions of Article 19 of this Ordinance.
- C. **Definitions.** For purposes of this Section and Ordinance, the following words, phrases, and terms shall have the following meanings:
- 1. *Adult cabaret* means a nightclub, restaurant, or other establishment that regularly features or displays:
    - a. Live performances, displays, or dancing predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity; or
    - b. Films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or other visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area.
  - 2. *Adult merchandise store* means an establishment that emphasizes merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area. An establishment emphasizes merchandise that is predominantly distinguished by its 'emphasis on matter depicting, describing, or relating to any specified sexual activity or any specified anatomical area' if any one or more of the following applies to the establishment:
    - a. 25% or more of the establishment's retail display space (excluding bathrooms, office areas, fitting rooms, eating areas, storage areas, closets, and other nonpublic areas) is used for the sale of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
    - b. 25% or more of the establishment's visible inventory is comprised of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing, or relating to any specified sexual activity or any specified anatomical area.
    - c. 25% or more of the establishment's gross revenues are generated by the sale or rental of merchandise that is predominantly distinguished or characterized by its

emphasis on matter depicting, describing, or relating to any specified sexual activity or any specified anatomical area.

- d. The establishment is operated consistently with its being an adult-oriented business (e.g., advertising is directed to an "adults only" market; the establishment self-imposes, or imposes consistent with state or federal law, prohibitions on minors being present in the establishment, etc.).
3. *Adult motel* means a hotel, motel, or similar establishment that:
    - a. Offers accommodation to the public for any form of consideration and provides patrons with close-circuit television (as distinguished from commercial cable services), transmissions, films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or visual media that are characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area; or
    - b. Offers a sleeping room for rent or allows a tenant or occupant of a sleeping room to sub-rent the room, for a period of time that is less than ten (10) hours, if the rental of such rooms accounts for more than ten percent (10%) of the establishment's gross revenues.
  4. *Adult-oriented business* means a business or commercial establishment engaging in one or more of the following enterprises, uses, or activities: (a) adult cabaret; (b) adult merchandise store; (c) adult motel; (d) adult theater; (e) escort agency; (f) nude or semi-nude model studio; or (g) sexual encounter center.
  5. *Adult theater* means a theater, concert hall, auditorium, or similar establishment that regularly features live performances predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity or that regularly or primarily shows films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area. This definition includes, without limitation, establishments that offer individual viewing booths.
  6. *Employee* means a person who performs any service for any consideration on the premises of an adult-oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated as an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said adult-oriented business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.
  7. *Escort* means a person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another

person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

8. *Escort agency* means a person or entity that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An escort agency is deemed to be operated in the location where (a) a request for an escort is received, or (b) the escort and the person requesting the escort are together.
9. *Material* means anything tangible, whether through the medium of reading, observation, viewing, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, DVD, film, computer display, transparency, slide, audiotape, audio disk, computer tape, holographic images, or any other medium used to electronically produce or reproduce images, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material that is the product of any technology, whether that technology is available on the effective date of the ordinance that added this definition or becomes available after that date.
10. *Merchandise* means material, products, and novelties.
11. *Novelty* means any instrument, device, or paraphernalia that depicts or describes any specific anatomical area or any specific sexual act, or that is designed for use, or commonly used, in connection with specific sexual activities, excluding condoms and other birth control and disease prevention products.
12. *Nudity, Nude, or State of Nudity* means the knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this Section does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
13. *Nude or semi-nude model studio* means any place where a person who displays any specified anatomical area is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by any other person who pays money or any form of consideration, but does not include the following:
  - a. An educational institution funded, chartered, or recognized by the state of Michigan; or
  - b. Any modeling session for a local, non-profit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two-dimensional or three-



dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.

14. *Operate or Cause to Operate* shall mean to cause to function or to put or keep in a state of doing business. Operator means any person on the premises of an adult-oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be operating or causing to be operated an adult-oriented business regardless of whether that person is an owner or part owner of the business.
15. *Patron* means a customer of the adult-oriented business or a person from the general public, not an "employee" of the business, who is on the premises to obtain, receive, or view the products, services, or performances offered by the business.
16. *Regularly* means recurring, attending, or functioning at fixed or uniform intervals.
17. *Semi-Nudity or Semi-Nude or in a Semi-Nude Condition* means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast but shall not include any portion of the cleavage of the human female breasts exhibited in a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
18. *Sexual encounter center* means an establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist, or psychiatrist licensed to practice in Michigan, that offers:
  - a. Activities between male and female persons and/or persons of the same sex when one or more of the persons exposes or displays any specified anatomical area; or
  - b. The matching and/or exchanging of persons for any specified sexual activities.
19. *Specified anatomical area* means any or more of the following:
  - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola; or
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
20. *Specified sexual activity* means any of the following:
  - a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or

- b. A sex act, actual or simulated, including intercourse, oral copulation, or sodomy; or
  - c. Masturbation, actual or simulated; or
  - d. Excretory functions as part of or in connection with any of activities set forth in (a), (b) or (c) above.
- D. Each adult-oriented business shall comply with all applicable Township ordinances and codes.

**Section 3.58 Wind Energy Conversion System ("WECS")**

- A. Intent. It is the intent of this section to regulate the safe, effective, and efficient use of small wind energy conversion systems (WECS) installed to reduce or replace the on-site consumption of electricity supplied by utility companies for the property on which they are located to suit the needs of the home, farm or small business.
- B. Definitions:
- 1. Fall Zone. The potential fall area for the WECS. It shall be measured by using 110% of the total height as the radius around the center point of the base of the tower.
  - 2. Tower. The monopole or guyed monopole structure that supports a wind turbine.
  - 3. Total Height. The vertical distance from ground level to the tip of the wind turbine blade when it is at its highest point.
  - 4. Tower Height. The height above grade of the fixed portion of the tower, excluding the wind turbine.
  - 5. Wind Turbine. The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate energy.
- C. Permitted Locations. WECS shall be permitted as an accessory structure in every zoning district provided that they comply with the standards and requirements of this section. Where two or more abutting lots are held under single ownership, the owner may install a WECS on the abutting but separate lot from that on which the principal building is located.
- D. Procedure for Review:
- 1. Approval. No WECS shall be erected, constructed, installed or modified without first receiving a standard building permit.
  - 2. Prior to the issuance of a building permit, a site plan for a WECS shall be submitted to the Planning Commission for review. The site plan shall include at a minimum:
    - a) Property lines and physical dimensions of the applicant's property.
    - b) Location, dimensions, and types of existing major structures on the property.

- c) Location of the proposed WECS, foundations, guy anchors and associated equipment.
  - d) Setback as required by this Ordinance.
  - e) The right-of-way of any public road that is contiguous with the property.
  - f) Any overhead utility lines.
  - g) WECS specifications, including manufacturer, model, rotor diameter, tower height, tower type (freestanding or guyed).
  - h) If the WECS will be connected to the power grid, documentation shall be provided regarding the notification of the intent with the utility regarding the applicant's installation of a WECS.
  - i) Tower foundation blueprints or drawings.
  - j) Tower blueprints or drawings.
  - k) Sound level analysis prepared by the manufacturer or qualified engineer.
3. Additional Turbines. A WECS may include more than one turbine and/or tower on any non-residentially zoned property provided that all other requirements of this Ordinance are met, and provided that the total of all turbines on any one parcel or site does not exceed 10 kilowatts (kW) rating.

E. Height/ Towers:

- 1. The height of any WECS shall not exceed 50 feet.
- 2. The height of a WECS shall be measured from the ground level to the rotor (the center point of the blades), or the top of the tower, whichever is higher. Ground level shall be the average grade measured within 25 feet of the base of the tower or supporting structure.
- 3. The minimum required ground clearance between the lowest point of the blades and the average grade shall be a minimum of 20 feet.
- 4. The applicant shall provide written proof to the Township that the proposed tower height does not exceed the height recommended by the wind turbine manufacturer.
- 5. Towers and supporting structures shall either maintain a galvanized steel finish, or, subject to any applicable standards of the FAA, be painted and maintain a neutral color intended to reduce visual obtrusiveness to the greatest extent feasible.
- 6. A tower must have a fall zone contained entirely on the lot where it is located or an abutting lot if under same ownership.

F. Setbacks:

- 1. The base of the tower shall be setback from all property at least 110% of the total height.

2. No component of a WECS, including tower, guy wires and/or anchors etc., may be located in the required front setback area for the zoning district in which the WECS is located.
  3. No component of a WECS, including guy wires and anchors, may extend over or beyond the property lines on which the WECS is located.
  4. The setback shall be measured to the center of the tower's base.
- G. Noise. When in operation, the noise from a WECS shall not exceed 55 decibels using the A scale (DBA), as measured at the property line, except during short-term events such as severe wind storms and utility outages.
- H. Certification Required. In order to be constructed, erected, used, or installed in Yates Township, a WECS must be approved by a certification program recognized by the U. S. Department of Energy or the American Wind Energy Association (AWEA).
- I. Compliance with Michigan Building Code and Michigan Electric Code. Building and electrical permits are required for each WECS.
- J. FAA Compliance. Each WECS shall comply with all applicable Federal Aviation Administration (FAA) regulations.
- K. Lighting. The towers and other structures associated with a WECS shall not be artificially lighted by any means or in any fashion unless required by the Federal Aviation Administration (FAA).
- L. Utility Interconnection. No WECS shall be installed until written evidence is provided to the Township proving that the utility company has approved the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- M. Abandonment. Any WECS that remains non-functional or inoperative for a period of at least 365 continuous days shall be deemed abandoned, and the Zoning Administrator may order the removal of the turbine, tower and any associated equipment (and such removal shall occur).
- N. Any WECS not expressly permitted by this section is prohibited within the Township.

### **Section 3.59 Prohibition on Exotic and Dangerous Animals**

No person shall keep, house, breed, or possess any exotic, poisonous or dangerous animal within the Township. Such prohibition includes, but is not limited to, lions, tigers, wolves, bears, coyotes, elephants, alligators, crocodiles, primates, snakes over three (3) feet in length, wild or exotic cats (such as, but not limited to, bobcat, cheetah, cougar, lynx, panther, mountain lion, or puma), wild pigs or boar, and venomous snakes, spiders, scorpions or reptiles.

### **Section 3.60 Categories or Businesses or Uses not Expressly Designated; Unlawful Uses**

Any use, use of land, activity, building, structure, or development activity not expressly allowed by this Ordinance is prohibited, unless the Zoning Administrator finds that the proposed use is identical in character to a use or item listed in this Ordinance. Uses, activities, enterprises, or purposes that are contrary to, or violate federal, state, or county laws or regulations, this Ordinance, or other Township ordinances are prohibited. An individual may apply to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include a proposed use in one (1) or more of the zoning districts of this Ordinance, either as a Permitted Use or a Special Use. At their option and discretion, the Planning Commission and Township Board may consider an appropriate amendment to the Zoning Ordinance but are not required to do so.

### **Section 3.61 Outdoor Heating Units**

The following shall be applicable to all outdoor heating units within the Township:

- A. No outdoor heating unit shall be installed, modified, maintained or utilized within Yates Township unless a zoning permit has been issued for the same.
- B. No outdoor heating unit shall be located within a front yard and every outdoor heating unit must comply with all setback requirements applicable to structures or buildings.
- C. Any outdoor heating unit installed or located within 1,320 feet of a dwelling (other than a dwelling on the lot or parcel where the outdoor heating unit is located) must have a certification from the Federal Environmental Protection Agency (or successor agency) and must be presented to the Township before a zoning permit will be issued.
- D. Every owner of an outdoor heating unit shall be responsible for complying with all applicable fire code and other code requirements, as well as any and all insurance standards and requirements. Every owner of an outdoor heating unit must also comply with all applicable mechanical and electrical codes.
- E. The height of the smokestack or chimney for each outdoor heating unit shall be at least fifteen (15) feet tall. Each outdoor heating unit shall have a working smokestack or chimney.
- F. Any building or structure built around an outdoor heating unit shall have at least three open sides and shall comply with all applicable fire code, mechanical code and other codes or ordinance requirements.
- G. None of the following items or materials shall not be burned or incinerated in an outdoor heating unit:
  - animal carcasses, paint, asphalt product, paint thinner, chemicals, particle board, coal, construction materials, petroleum, demolition debris, plastic, feces, plywood, garbage, rubber, manure, tires

### **Section 3.62 Accessory Dwelling Units (ADU)**

Accessory Dwelling Units (ADUs) are intended to provide flexible housing options in the Township by allowing homeowners to establish a second dwelling unit on their property. ADUs are subject to all of the following standards:

- A. ADUs shall be limited to zoning districts and properties where single-family dwelling units are the principal use.
- B. ADUs shall be subordinate to the single-family dwelling unit.
- C. ADUs shall have their own separate entrances, kitchens, sleeping areas, and full bathroom facilities.
- D. ADUs shall be attached to the single-family dwelling unit and may occupy a basement, first floor or second floor of the principal dwelling, or may occupy a separate, detached accessory building in the rear or side of the principal dwelling unit.
- E. All ADUs shall meet applicable building and fire codes.
- F. Building materials and designs used on detached ADUs or additions to the principal dwelling for an attached ADU, shall be of similar style as that of the principal dwelling.
- G. The minimum size living shall be three hundred (300) square feet.
- H. The maximum size shall not exceed nine hundred (900) square feet, or the size of the principal dwelling unit, whichever is less.
- I. The incremental lot size to support a detached ADU is equal to the minimum lot size for single family homes in the zoning district.
- J. Manufactured homes or mobile homes shall not be used as an ADU.
- K. An ADU shall not be used as a Short-Term Rental unless all of the following conditions are met
  - 1. minimum lot size (including for nonconforming structures),
  - 2. the general Short Term Rental requirements in Section 18.05, including the licensing and inspection requirements.
- L. An ADU built on a property which requires a septic sanitation system shall have the property inspected and approved by the District Health Department to ensure that the septic system has the capacity and functionality to accommodate the ADU.
- M. An ADU built on property served by public water and/or public sanitary shall be separately metered.
- N. An ADU shall conform to the dimensional requirements specified for the zoning district.
- O. An ADU requires special use approval by the Planning Commission.

### **Section 3.63 Short Term Rentals**

See Article 18 of this Ordinance.

### **Section 3.64 Temporary Storage Units**

Definition - A portable or movable storage container, box, shipping container, storage unit or similar container kept or located outdoors. Such containers are typically designed or used for the storage of personal property or other items, either for protection, the eventual delivery to someplace else, or for general storage or safekeeping purposes.

- A. Temporary storage units may be located only within a driveway, parking area, or in a side or rear yard, provided that adequate access is provided.
- B. No temporary storage unit shall be placed on public property such as on a street, sidewalk, or parkway between a public street and sidewalk. Temporary storage units located in a driveway or parking area shall be set back at least 20 feet from the front lot line.
- C. Not more than one (1) temporary storage unit may be located upon or within a lot for a maximum of thirty (30) consecutive days, including the day of delivery and removal, within any six-month period.
- D. A temporary storage unit may not exceed eight (8) feet in height, nine (9) feet in width, or sixteen (16) feet in length.
- E. A temporary storage unit shall be secured in a manner that does not endanger the safety of persons or property.
- F. A temporary storage unit shall at all times, be maintained in good condition, free from evidence of deterioration, graffiti, rust, ripping, tearing, holes or breaks.
- G. No temporary storage unit shall be used for human occupancy or to store solid waste, construction debris, demolition debris, business inventory, commercial goods, goods for property other than the property where the temporary storage unit is located, or any illegal or hazardous material. Upon reasonable notice, the Township may inspect the contents of a temporary storage unit at any reasonable time to confirm compliance with this standard.
- H. A temporary storage unit that is not removed at the end of the time for which it may lawfully remain in place, may be removed by the Township, without notice, and the cost of such removal shall be assessed to the property owner.

### **Section 3.65 Withholding of Approval**

The Zoning Administrator, Planning Commission, or Township Board may withhold the granting of any approval required by this Ordinance pending approvals which may be required by county, state, or federal agencies or departments.

### **Section 3.66 Prohibition of Certain Marijuana Establishments and Facilities**

- A. Pursuant to Section 6 of the Michigan Regulation and Taxation of Marijuana Act (the "Act"), marijuana establishments are prohibited in the boundaries of Yates Township and shall not be permitted as a home-based business under Chapter 28 of this Ordinance.
- B. Pursuant to the Medical Marijuana Facilities Licensing Act, PA 281 of 2016, as amended, marijuana facilities are prohibited in the boundaries of Yates Township.
- C. No medical marijuana dispensary, grower operation (as defined by Michigan law), provisioning center (as defined by Michigan law), secure transporter (as defined by Michigan law), safety compliance center (as defined by Michigan law), processing facility or similar facility, use or business shall occur, be established, be conducted, or be present within Yates Township.
- D. No medical marijuana dispensary, grower operation (as defined by Michigan law), provisioning center (as defined by Michigan law), secure transporter (as defined by Michigan law), safety compliance center (as defined by Michigan law), processing facility or similar facility, use or business, that was engaged in prior to the enactment of this section, shall be deemed to have been a legally established use; that use shall not be entitled to claim legal nonconforming status.
- E. This section does not supersede rights and privileges of any individual or other person under Section 5 of the Michigan Regulation and Taxation of Marijuana Act, as amended, and does not supersede rights and the regulations under Chapter 28 with respect to medical marijuana facilities established pursuant to the Michigan Medical Marijuana Act.
- F. This section does not supersede rights and privileges of any individual or other person, or the resulting activities of a marijuana facility outside of the Township, under the Medical Marijuana Facilities Licensing Act, 2016 PA 281, the Michigan Medical Marijuana Act, 2008 IL 1, or the Industrial Hemp Research Act, 2014 PA 547, as amended.
- G. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this section, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be subject to the violations and penalties pursuant to Section 23.08 of this Ordinance and shall be declared to be a nuisance per se and offensive to the public health, safety, and welfare.

### **Section 3.67 Certain Large Scale Residential Developments**

Certain large scale residential developments (being those which include 11 or more lots, parcels or site condominium units in the A Agricultural, RR Rural Residential, R-L Lake Residential or R-C Community Residential zoning districts shall be developed, platted or divided only as planned unit developments ("PUD"). The regulating of such development on a PUD basis will enable the Township to control and moderate the size, scope and impact of such development, in accordance with the Township Master Plan and the purposes of the Ordinance. The requirements of this section shall apply whether such development involves simple land divisions, platted subdivisions, site condominium units, or any other



type of land division, conveyance or development resulting in a number of lots, parcels, site condominium units or other land divisions greater than ten (10).

### **Section 3.68 No Zoning Applications, Approvals or Permits for a Property That Is in Violation of This Ordinance or a Court Order or Judgment**

Should a parcel or lot be in material or substantial violation of any provision of this Ordinance (or a court order or judgment regarding this Ordinance or the use of the land), then the Township shall not accept, process or approve any request or application by the landowner(s) of the lot or parcel in violation (or anyone else with an interest in the property in violation) unless and until the existing violation or violations of this Ordinance (or the violation or violations of a court order or judgment regarding this Ordinance or the use of the land) have been fully corrected and the parcel or lot complies fully with this Ordinance (and any applicable court order or judgment). The prohibition contained in this Section shall also apply to any zoning request, application or petition, including requests for a zoning approval, rezoning, variance, special land use, temporary use, site plan, permit or other approval that is unrelated to the violation or violations of this Ordinance (or of any applicable court order or judgment) on the lot or parcel involved. The prohibition contained in this Section shall be in addition to (and not exclusive of) any other remedies available to the Township for the enforcement or administration of this Ordinance (or any court order or judgment) and shall be in addition to any other penalties, sanctions or proceedings available at law or equity against the landowner(s) or any other person, firm or entity in violation of this Ordinance (or any court order or judgment).

### **Section 3.69 Moratoria**

- A. *Purpose.* From time to time, the Township undertakes extensive study in order to develop regulations for new types of uses or to address other complex issues. During these periods, there is a risk that some may seek to establish “vested rights” in an unregulated or under-regulated use before the Township completes its study and adopts a regulatory scheme. The ability to impose temporary moratoria is helpful to protect the interests of the Township in these situations.
- B. *Procedure.* The Township Board may, by resolution or ordinance, impose temporary moratoria directing township staff not to accept or process certain applications for zoning-related approvals and to halt certain uses while the Township undertakes the study of possible regulations. Such moratoria shall be for an initial term of no more than 6 months, which may be extended by the Township Board only for good cause.

### **Section 3.70 Default Lot Size and Dimension**

If no provision of this Ordinance specifies all of the dimensions that a newly created lot must meet within a particular zoning district or for a particular use, then the following shall be applicable (i.e. the “default” provisions):

- A. Minimum lot size of 30,000 square feet.

- B. Minimum lot width of 150 feet
- C. Minimum building height of 30 feet.
- D. Front yard setback of 40 feet.
- E. Minimum side yard setback of 10 feet.
- F. Minimum rear yard setback of 20 feet.
- G. Maximum lot coverage of 30%.

## **Article 4**

### **NONCONFORMITIES**

#### **Section 4.01 Intent**

It is recognized that there exist certain buildings, structures, uses, and lots that were lawful before this Ordinance was adopted (or amended), and which were legally established, but would be prohibited, unlawful, regulated, or restricted under the current regulations of this Ordinance. It is the intent of this Ordinance to allow nonconforming lots, buildings and structures, and uses to continue until they are removed or abandoned, but not to encourage their survival, expansion or extension.

Nonconforming lots, buildings, structures, and uses are hereby declared by this Ordinance to be incompatible with this Ordinance and the zoning districts in which they are located. It is the intent of this Ordinance that, unless otherwise expressly permitted, nonconformities shall not be enlarged upon, intensified, expanded, or extended without proper approvals, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the zoning district or this Ordinance.

#### **Section 4.02 Idlewild Historic Sites**

- A. For purposes of this Section 4.02, the phrase “Idlewild Historic Site” shall mean and include all of the following (as well as the parcels or lots upon which they are located):
1. Dotson’s Station/Dinkins Gas Station/Road Runner  
12 E. Baldwin Rd, 15-768-020-00
  2. Community Tabernacle AME Church  
6466 S. Idlewild Blvd, 15-396-001-01, 15-420-001-01
  3. Morton’s Motel  
6389 S Tacoma, 15-684-001-01
  4. Rosana’s Tea Room/Tavern/B & S Bar/Red Rooster/Peyton’s Place  
15655 Lake Dr, 15-421-018-01, 15-421-018-01
  5. Detroit Idlewilders Club  
13174 Lake Dr, 15-176-008-01, 15-175-001-02
  6. Idlewild Lot Owners Association/Robert Riffe Youth Center  
11330 Lake Dr, 15-223-001-00
  7. First Baptist of Idlewild Church  
7552 S. Forman Rd, 15-491-001-00

- 8. Idlewild Seventh Day Adventist  
6766 S. Forman Rd, 15-765-016-00, 15-765-020-00, 15-765-014-00
- 9. Mt. Olive Church of God in Christ  
6868 S Tacoma, 15-720-029-00
- 10. New Life Church of God in Christ  
7107 S Forman Rd, 14-217-001-01
- 11. Prince Hall Masonic Temple/Mid Michigan Idlewilders  
19 E. Joy Blvd, 15-763-016-00, 15-763-008-01, 15-763-001-01
- 12. LeeJons Novelty Shop/Idlewild Party Store  
880 E. M L King Dr, 15-422-011-00
- 13. U.S. Post Office  
812 E. Essex, 15-421-025-00
- 14. Murphy's Store  
100 W Baldwin Rd, 14-652-001-00
- 15. Paradise Lake Motel  
6534 S Tampa, 15-732-003-00, 15-732-001-00
- 16. Birch Haven Zeta Phi Beta  
16766 Lake Dr, 15-372-006-00
- 17. Vogue Motel  
761 E Fremont, 15-424-001-00

- B. Any building, structure, fixture, use or facility that existed as an Idlewild Historic Site prior to May 2, 1972, may be rebuilt, reconstructed, repaired, expanded and/or the use recommenced, continued or expanded with special land use approval pursuant to Article 19 of this Ordinance.
- C. With special land use or approval, additional adjoining parcels, lots and/or land may be added to an Idlewild Historic Site and new uses may be commenced so long as they are consistent with the historical nature of the particular Idlewild Historic Site and the special land use approval includes such expanded, altered or different uses.
- D. In considering a special land use request for an Idlewild Historic Site, the Planning Commission shall carefully consider the cultural, historical and economic aspects, impacts and benefits of the proposed special land use.

**Section 4.03 General Requirements**

- A. No building, structure, or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in full conformity with the regulations herein specified for the zoning district in which it is located and this Ordinance.

- B. No use shall be established on any lot, land or premises except in full conformity with the use and other regulations of the zoning district in which it is located and the requirements of this Ordinance.
- C. No building or structure shall be established, constructed, or used on any lot, land, or premises except in full conformity with the regulations of the zoning district in which it is located and the requirements of this Ordinance.
- D. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building for which a building permit was issued or on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted. A building permit shall be valid only in the event that the construction that is the subject of the permit commences within sixty (60) days after the date of issuance and shall be completed within one (1) year of the issuance date.
- E. The Township may acquire, through purchase or condemnation, nonconforming lots, uses, buildings and structures. The Township Board may take these actions in the manner as provided by law.
- F. Should any lot, use, structure, building or activity violate any Yates Township ordinance, code or regulation or any state or federal law at the time of enactment of this Ordinance (or any amendment thereto) that makes such lot, use, building or structure nonconforming or noncomplying with this Ordinance (or any amendment thereto), then thereafter such lot, use, building or structure shall not constitute a lawful nonconforming lot, use, building or structure and shall be illegal.

#### **Section 4.04 Nonconforming Uses**

- A. If a nonconforming use is abandoned or does not occur for any reason for a period of twelve (12) consecutive months or longer, all nonconforming use rights automatically end, and any subsequent use shall fully conform to all of the requirements of this Ordinance.
- B. A nonconforming use shall be considered abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
  - 1. Utilities, such as water, gas and electricity to the property, have been disconnected;
  - 2. The property, buildings, or grounds have fallen into disrepair;
  - 3. Signs, structures, or other indications of the existence of the nonconforming use have been removed;
  - 4. Removal of equipment or fixtures that are necessary for the operation of the nonconforming use; or

5. Other actions, which in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner, tenant, or lessee to abandon the nonconforming use.
- C. Uses that are nonconforming solely because of height, area, parking or loading provisions may be expanded provided that the Zoning Administrator determines that all of the following are applicable:
1. For the purposes of this subsection, expansion shall include extension or enlargement of the use;
  2. All zoning district requirements (and other Ordinance requirements) are satisfied with respect to the expansion;
  3. The expansion shall not substantially extend the life of any nonconforming use by reason of parking and loading provisions; and
  4. The nonconforming use is made more conforming or less nonconforming by the addition of parking and/or loading space. Thereafter any subsequent expansion of the nonconforming use or change in use will not be allowed if it requires even greater parking and/or loading space.
- D. A nonconforming use not addressed in subparagraph C, above, may be enlarged when authorized by the Zoning Board of Appeals, subject to all of the following provisions:
1. The enlargement, when allowed, shall not exceed twenty-five percent (25%) of the area devoted to a nonconforming use at the effective date of this Ordinance or relevant amendment thereto.
  2. Any building used for the nonconforming use shall not be nonconforming or require a variance to effectuate the enlargement of the nonconforming use.
  3. That the expansion does not create, or make worse, any adverse effect on surrounding properties or the neighborhood.
  4. That the expansion does not intensify the use or unreasonably extend its probable duration.
- E. An existing nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the Zoning Board of Appeals:
1. The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous nonconforming use.
  2. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous nonconforming use, except as may otherwise allowed by this section.
  3. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.

4. Once returned to a conforming use, the previous nonconforming use shall be considered abandoned and may not be reestablished. Subsequent uses shall all conform to the requirements of the zoning district.

#### **Section 4.05 Nonconforming Buildings and Structures**

- A. Any building or structure existing and lawful at the time of enactment of this Ordinance, or amendments thereto, may be continued although the structure does not conform to the current provisions of this Ordinance.
- B. Such repairs and maintenance work may be done as are required to keep a nonconforming building or structure in a sound condition.
- C. In the event fire, wind or an act of God or the public enemy damages any nonconforming building(s) or structure(s), it may be rebuilt or restored provided it meets the zoning district requirements and the total costs of repair or restoration shall not exceed fifty percent (50%) of the taxable value of the building or structure before the building was damaged. The Building Inspector shall determine the cost of reconstruction.
- D. A nonconforming building shall not be expanded in any manner that increases its nonconforming condition. However, it may be expanded in other dimensions, provided that it is otherwise in full conformance with this Ordinance.

#### **Section 4.06 Nonconforming Lots**

- A. If a nonconforming lot has less than the minimum required area, frontage, or width required for the zoning district in which it is located, the area, frontage, or width may be maintained, unless regulated by subsection C, below, but shall not be made more nonconforming or less conforming.
- B. Where a nonconforming commercial or industrial lot can provide the side and front yard requirements of its zoning district, the permitted uses of the zoning district shall be allowed.
- C. Where a residential lot of record in lawful existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width, dimension, or lot area, such lot of record may be used for any purposes permitted by the zoning district in which the lot is located, provided that the lot meets at least eighty (80) percent of the required lot area, lot width, dimension, and side yard required by that zoning district and further provided that any building or structure constructed on the lot complies with all other yard setback requirements.
- D. If two (2) or more adjoining lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width, dimension, or lot area, the lands involved shall be considered to be an undivided single lot for the purposes of this Ordinance, and no portion of such lot shall be used or divided in a manner which

diminishes compliance with lot width, dimension, and area requirements established by this Ordinance.

- E. Where two (2) or more nonconforming adjacent lots are in the same or similar ownership and each contain less than minimum required area, dimension, or width of the zoning district in which it is located, the lots shall be considered a single lot for zoning purposes. These lots may not be used individually but shall be deemed automatically combined to create a lot that conforms as closely as possible to the zoning district regulations.
- F. A nonconforming lot may only be expanded if it is brought into closer conformity with the regulations specified for the zoning district in which it is located.

#### **Section 4.07 Nonconforming Signs**

- A. Every permanent sign in lawful existence at the time of adoption of this Ordinance which does not conform to the height, size, area, location, or other requirements of this Ordinance is deemed nonconforming.
- B. Nonconforming signs may not be expanded, moved, structurally altered, rebuilt, enlarged, or extended, but they may be maintained and repaired as allowed by this Ordinance so as to continue their useful life.
- C. A nonconforming sign may be diminished in size or dimension, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a nonconforming sign. However, no nonconforming or other sign may be converted into a digital, tri-vision, LED, or similar sign.
- D. Any nonconforming sign in existence in any zoning district at the date of enactment of this Ordinance shall, at the expiration often (10) years from such date, become a prohibited and unlawful use and shall be discontinued and removed.
- E. Abandonment or destruction: If a sign loses its lawful nonconforming designation or status, the sign (and all portions thereof) shall be removed immediately and shall not be repaired, replaced or rebuilt unless it fully complies with all requirements of this Ordinance. A nonconforming sign shall lose its lawful nonconforming designation and status if the Zoning Administrator determines that any of the following is applicable:
  - 1. The sign is relocated, moved, rebuilt or replaced.
  - 2. The sign is destroyed. A sign shall be deemed destroyed if any of the following occurs:
    - a) The sign is torn down or demolished;
    - b) The sign is wrecked or ruined;
    - c) Such damage has been done to the sign that it cannot be returned to its prior state by routine repair, but only by replacement or material rebuilding; or



- d) More than 50% of the face of the sign has been shattered, or a portion of the sign face touches the ground.

If a sign is destroyed, subsection F hereof (which applies only to repairs and maintenance) shall not be applicable.

3. Even if a sign has not been destroyed, but damage or deterioration has occurred to the point of 50% or more as defined in subsection F, below, the sign shall be deemed to have lost its legal nonconforming status and it shall be removed.
  4. The structure or size of the sign is altered in any material way other than a change of copy or normal maintenance which does not physically alter the sign.
  5. There is a material change in the use of the premises where the sign is located.
  6. A building permit is issued for any construction on the premises where the sign is located which increases the total building square footage by more than 5% or 5,000 square feet, whichever is less.
  7. The sign is abandoned.
- F. Repair. This subsection F shall not apply if a lawful nonconforming sign has been destroyed, since a destroyed sign automatically loses its legal nonconforming designation and status. If a lawful nonconforming sign suffers 50% or more damage, destruction, or deterioration, it must be brought into full compliance with this Ordinance or be removed. In order to determine whether or not a sign has been damaged or has deteriorated by 50% or more, the costs of physically repairing the sign shall be compared to the costs of physically replacing the sign. If less than 50% damage or deterioration has occurred pursuant to such comparison, the sign may be repaired to its exact original state.

#### **Section 4.08 Burden of Proof**

The burden of proof for establishing or proving the existence or any aspect of a lawful nonconforming structure, lot or use (as well as the size, scope, intensity, and extent thereof) is on the owner of the property involved.

## ARTICLE 5

### SIGNS

#### Section 5.01 Signs – Intent

This Article is intended to regulate the type, number, physical dimensions, erection, placement, and maintenance of signs in the Township. Its purpose and intent are to:

- A. Protect, promote, and further the public peace, health, and safety of residents, property owners, and visitors;
- B. Prevent, eliminate, or minimize traffic hazards and pedestrian accidents caused by signage that obstructs vision or views, distracts or confuses motorists, or is improperly secured or constructed;
- C. Protect the public's ability to identify establishments and premises;
- D. Protect the natural beauty and distinctive character of the Township;
- E. Protect commercial, business, office and industrial districts and areas from visual chaos and clutter;
- F. Provide an environment that fosters the reasonable growth and development of business and commerce;
- G. Protect and enhance property values; and
- H. Balance the individual rights of property owners to communicate their message with the public's right to be free of unreasonable distractions and aesthetic intrusions.

#### Section 5.02 Signs – Definitions

- A. Awning: A retractable or fixed shelter constructed of nonrigid materials on a supporting framework that projects from the exterior wall of a building.
- B. Awning sign: A sign affixed flat against the surface of an awning.
- C. Balloon sign: A sign composed of a nonporous bag of material and inflated.
- D. Banner sign: A fabric, plastic, or other sign made of nonrigid material without an enclosing structural framework.
- E. Billboard: A sign that advertises an establishment, product, service, or activity not available on the lot on which the sign is located. Also, a sign that advertises or designates an establishment, service, merchandise, use, entertainment, activity, produce, or message that is not conducted,

sold, produced, manufactured, or furnished upon the parcel or lot where the sign is located (e.g., billboard, off-premise direction signs).

- F. Construction Sign: A sign that identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
- G. Directional Sign: A sign that gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
- H. Freestanding Sign: A sign supported on poles, posts, or structures not attached to a building or wall.
- I. Government Sign: A temporary or permanent sign erected by Yates Township, Lake County, or the state or federal government.
- J. Marquee: A permanent structure constructed of rigid materials that projects from the exterior wall of a building.
- K. Marquee Sign: A sign affixed flat against the surface of a marquee.
- L. Mural: A design or representation painted or drawn on a wall that does not advertise an establishment, product, service, or activity.
- M. Placard: A sign not exceeding two (2) square feet that provides notices of a public nature, such as "No Trespassing" or "No Hunting" signs.
- N. Political Sign: A temporary sign used in connection with an official Yates Township, school district, county, state, or federal election or referendum.
- O. Portable Sign: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
- P. Projecting Sign: A double-faced sign attached to a building or wall that extends more than twelve (12) inches but not more than thirty-six (36) inches from the face of the building or wall.
- Q. Reader Board: A portion of a sign on which copy is changed manually.
- R. Real Estate Sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- S. Roof Line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- T. Roof Sign: A sign erected above the roof line of a building.
- U. Sign: A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity. Also, a device, structure, painting, fixture, or placard using color, graphics, symbols, and/or written copy designed and/or utilized for the purpose of advertising or identifying an event, establishment, product, good, service, or displaying or depicting other information.

### **Section 5.03 General Sign Provisions**

- A. No person shall erect, alter, move, expand, place, or permit to be placed, or replace any sign without first obtaining a sign permit from the Township, provided that the following signs shall not require a sign permit:
  - 1. Directional signs of six (6) square feet in size or less.
  - 2. Government signs.
  - 3. Placards.
  - 4. Temporary sale signs of four (4) square feet in size or less.
  - 5. Window signs.
  - 6. Political signs.
- B. Signs shall be kept in good condition and repair at all times and shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition that impairs legibility or intelligibility.
- C. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
- D. Signs may be internally illuminated. If externally illuminated, except for home occupation signs that shall not be illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.
- E. No sign shall be placed in, upon or over any public right-of-way, alley, or other public place, except as may be otherwise permitted by this Article.
- F. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
- G. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
- H. No commercial vehicle which, in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
- I. No sign shall employ any flashing, moving, oscillating, strobe, blinking, or variable intensity light, provided variable time-temperature signs may be permitted.
- J. No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.

- K. Balloons, strings of light bulbs, pennants, streamers, or flags (other than those of a governmental nature not used for the purpose of commercial advertisement) hung overhead to draw attention to a business or its merchandise on display are prohibited.
- L. No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
- M. No sign attached to a building shall be erected above the roof line of that building.
- N. All signs shall pertain only to the business or activity conducted on the premises, with the exception of lawful billboards, political signs, and special event signs.
- O. Any sign not expressly allowed by this Article is prohibited.
- P. Billboards are prohibited.
- Q. Digital, LED, and tri-vision billboards and signs are prohibited.

#### **Section 5.04 Exempted Signs**

The following signs shall be exempt from the provisions of this Ordinance, except as otherwise provided in this Ordinance.

1. Government signs.
2. Historical markers.
3. Window signs.
4. Memorial signs or tablets.
5. Murals.
6. Signs not visible from any street or adjoining property.
7. Signs for essential services.
8. No trespassing signs of less than two (2) square feet.
9. Signs with address, owner, or occupant name, of up to two (2) square feet in area attached to a mailbox, light fixture, or exterior wall.
10. Flags or insignia of any nation, state, Yates Township, community organization, or educational institution.

### **Section 5.05 Nonconforming Signs, Illegal Signs, and Signs Accessory to Nonconforming Uses**

- A. Every permanent sign that does not conform to the height, size, area, or location requirements of this Article but was fully lawful as of the date of the adoption of this Ordinance, is hereby deemed to be lawfully nonconforming.
- B. Lawfully nonconforming signs may not be altered, expanded, moved, enlarged, or extended; however, lawfully nonconforming signs may be maintained and repaired so as to continue the useful life of the sign. Any lawfully nonconforming sign that is altered, expanded, moved, enlarged, or extended automatically loses its lawful nonconforming status and must be removed immediately.
- C. For the purposes of this Article, a lawfully nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of lawfully nonconforming use.
- D. Any sign that for a period of one (1) year or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator.
- E. A sign accessory to a lawful nonconforming use may be erected in the Township in accordance with the sign regulations for the zoning district in which the property is located.

### **Section 5.06 Signs - Units of Measurement**

- A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure that encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other 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. The area of a freestanding, ground, or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back and are of equal size, the area of the two (2) back-to-back faces shall be counted as one face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
- C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.
- D. For buildings with multiple tenants, the sign areas for wall signs, projecting signs and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

**Section 5.07 Sign Regulations Applicable to All Zoning Districts [except as otherwise noted]**

- A. The following sign regulations are applicable to all zoning districts, except as noted:
1. Billboards shall be permitted along an interstate or federal aid primary highway as defined in M.C.L.A. §§ 252.301 et seq.
  2. Any sign, including awnings to which signs are affixed or displayed, not resting directly on the ground shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground.
  3. Political signs shall be removed within ten (10) days after the official election or referendum to which such sign pertains.
  4. Real estate signs shall be removed within thirty (30) days after completion of the sale or lease of the property.
- B. Construction signs are permitted within any zoning district, subject to the following restrictions:
1. Construction signs shall be no larger than thirty-two (32) square feet and not exceed eight (8) feet in height.
  2. Construction signs will not be erected until a Building Permit has been issued for the project that is the subject of the proposed sign and construction activity has begun.
  3. Construction signs shall be removed immediately upon the issuance of any Occupancy Permit for the building or structure that is the subject of the construction sign.
- C. Special event signs, including banner signs, are permitted in any zoning district, subject to the following restrictions:
1. No more than five (5) such signs shall be displayed for each special event. Such signs may be located either on or off the lot on which the special event is held.
  2. The display of such signs shall be limited to the twenty-one (21) days immediately preceding the special event that is being advertised.
  3. Such signs shall have a maximum size of thirty-two (32) square feet in area, and a maximum height of five (5) feet and shall be set back from any side or rear property line a minimum of fifteen (15) feet.
  4. Such signs shall be removed within forty-eight (48) hours of the conclusion of the special event that is being advertised.
- D. Directional signs are permitted subject to the following restrictions:
1. A directional sign may contain a logo of an on-premise establishment, but no advertising copy.
  2. No such sign shall exceed six (6) square feet in area or four (4) feet in height.

3. Directional signs shall be limited to traffic control functions only. Garage, estate sale, and roadside stand signs are permitted subject to the following restrictions:
  - a) One (1) sign per premises is permitted, located on the premises on which such sale is being conducted, and set back a minimum of fifteen (15) feet from any side or rear property line.
  - b) Such sign shall not exceed six (6) square feet in area.
  - c) Such sign shall be erected no more than ten (10) days prior to the day(s) of the sale and shall be removed within one (1) day after the completion of the sale.
- E. Portable, temporary, balloon, and other such signs are permitted for a period not to exceed 70 consecutive days per sign and a total of no more than 140 days per year. A permit shall be secured from the Zoning Administrator prior to erection of the sign. Portable, temporary, balloon, and other such signs shall meet applicable building codes. No such sign shall be placed or erected in such a manner that it constitutes a safety hazard.

#### **Section 5.08 Signs in Commercial and Industrial Districts**

- A. No sign shall be permitted that is not accessory to the business conducted on the same lot.
- B. No business establishment shall have a total of more than 1 sign (of which not more than 1 freestanding sign is allowed) facing upon any one street, provided the total sign area for all signs permitted shall not exceed 15% of the area of the face of the building to which they are attached or stand in front of.
- C. All signs attached to a building shall be flat signs, parallel to the face of the building wall. No sign shall extend farther than 15 inches from the face of the building upon which it is attached, provided however, that where a sign extends more than 3 inches from the face of the wall, the bottom of said sign shall not be closer than 8 feet from the ground level below said sign. The maximum width of any single sign shall not exceed 90% of the width of the wall to which the sign is attached or related.
- D. No sign shall be lighted by flashing or intermittent illumination. All light sources, except for diffused lighting with translucent signs, used for the illumination of signs, business building, or areas surrounding them shall be completely shielded from the view of vehicular traffic using any road abutting such business properties.
- E. Each lot with a business or resort is allowed one (1) freestanding sign and no portion of the sign can exceed 5 feet above the natural ground grade. Such free standing sign shall be a ground sign. That portion of a free standing sign used for advertisements shall be at least eight feet above ground level.
- F. Pennants and Banners. Temporary pennants or banners may be permitted for a period of not more than 30 days without a permit, provided that they are kept in a state of good repair.



### **Section 5.09 Signs in Residential Districts**

- A. One free standing sign identifying each residential area and listing the names of its residents. All those signs must be approved by the Board of Appeals upon recommendation of the Planning Commission.
- B. House number, name plaques and “for rent” or “for sale”.
- C. Newly-platted areas.
- D. One sign advertising a new plat may be erected thereon. The sign shall not exceed 70 square feet. It shall be removed when 75% of the lots in the plat are sold.
- E. In addition, two signs advertising a new plat, may be erected where two or more streets within the plat enter a public street. The signs shall be removed when 75% of the lots in the plat are sold.
- F. No more than three signs advertising a pat shall be erected. All signs shall be maintained in good condition.
- G. No electrical signs are permitted. All signs must be located at least 20 feet from any front line.
- H. Billboards shall be permitted along an interstate or federal aid primary highway as defined in M.C.L.A. §§ 252.301 et seq.

### **Section 5.10 Billboards**

- A. Billboards are allowed only in zoning districts in which they are listed as a permitted use.
- B. All billboards shall have a minimum size of 54 square feet and a maximum size of 300 feet (square). Border, trim and uprights are excluded in computing the size.
- C. No billboard shall be lighted by flashing or intermittent illumination. Lighting sources shall be shielded from vehicular traffic.
- D. No billboard shall be located within 1,320 feet of another billboard or sign on the same side of a highway.
- E. Billboards shall meet all height and area requirements of the district in which they are located.
- F. No billboard shall be within 30 feet of the boundary line of property on which dwelling is located unless written approval of the owner of the property is obtained.
- G. Billboards shall not be stacked or placed one above the other. Only one billboard shall be permitted on a single location. Double-faced billboards are also permitted.
- H. Billboards are only allowed on lots without a building thereon and as a principal use.

**Section 5.11 Application requirements pertaining to all billboards and signs.**

- A. Sign and billboard erected or relocated any sign or billboard without first obtaining a sign erection permit. No person shall repair, alter or cause to be repaired or altered any sign or billboard without obtaining a sign erection permit if two-thirds of the replacement value of the sign or billboard will be exceeded.
- B. Procedure to obtain a permit.
  - 1. Application for a sign erection permit shall be made upon forms provided by the Building Inspector and shall contain at least the following.
    - a. Name, address and telephone number of the applicant and that of the owner of the premises upon which the sign or billboard is to be erected.
    - b. Location of the building, structure or lot to which or upon which the sign or billboard is to be attached or erected.
    - c. Position of the sign or billboard in relation to nearby buildings, structures, signs or billboards. A scale drawing containing that information shall be submitted.
    - d. Two blueprints or ink drawings of the plan and specification and the method of construction and attachment to a structure or ground.
    - e. A copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction of not less than 30 pounds per square foot.
    - f. Name of the person, firm, corporation erecting the sign or billboard.
    - g. The written consent of the owner of the structure or land upon which the sign or billboard is to be erected.
    - h. Any required electrical permit.
    - i. A certificate of insurance as required in division (B)(7) of this section.
    - j. Payment of the appropriate fee.
  - 2. *Illuminated signs and billboards.* Prior to submission of the application to the Building Inspector, the application for a sign erection permit shall be submitted to the Electrical Inspector if the sign is to be illuminated. The Electrical Inspector shall examine the plans and specifications respecting all wiring and connections to determine whether the same complies with any Township Building Code and the customary safe practices followed by the electrical profession. He or she shall approve the permit if the plans and specifications comply with any such code and practices.
  - 3. *Issuance of permit.* The Building Inspector shall, upon the filing of an application for a sign erection permit, examine the plans, specifications, other data and the premises upon which it is proposed to erect the sign or billboard. If the proposed structure complies with the requirements of this chapter, the provisions of any Township Building Code and state law, he or she shall then issue a sign erection permit. The permit shall be void if the work authorized under a sign erection permit has not been

completed within six months from the date of issuance.

4. *Permit fees.* Each applicant shall pay permit fees established by the Township Board.
5. *Information to be included on signs.* Every sign or billboard hereafter erected shall have painted in a conspicuous place thereon in letters not less than one inch in height the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.
6. *Paint.* The owner of any sign or billboard shall paint all parts of the sign at least once every two years unless the same are galvanized or otherwise treated to prevent rust or deterioration.
7. *Insurance requirement.*
  - a. Every applicant for a sign erection permit shall file with the application for permit a certificate of insurance, certifying that the applicant is insured against casualties to person or property arising out of the erection, maintenance, repair and replacement of the sign.
  - b. The insurance shall be in the following amounts:
    - i. Bodily injury: \$100,000 each person, \$300,000 each accident; and
    - ii. Property damage: \$50,000.
8. *Certificate of insurance.* A current certificate of insurance meeting the above requirements shall be filed with the Township Board as long as the sign or signs are in existence. The certificate shall provide that the Township shall receive ten days written notice in case of cancellation of the policy.

## ARTICLE 6

### PARKING AND LOADING SPACES

#### Section 6.01 Off-Street Parking

Residential off-street parking shall be on the same lot with the principal building. Off-street parking for commercial and industrial uses shall be on the same lot or within 300 feet thereof.

#### Section 6.02 Requirements

The Planning Commission shall determine that there is adequate parking area before any building permit is issued or before any premises are used for commercial or industrial purposes. Parking area shall conform to the approved plan before any premises are used. The Board of Appeals may include reasonable conditions to safeguard the public health, safety or general welfare.

<i>District</i>	<i>Required Parking</i>
A	1 space for each dwelling unit
RR	1 space for each dwelling unit
RL	1 space for each dwelling unit
RC	1 space for each dwelling unit
CN	1 square foot per square foot of floor area
CH	3 square feet per square foot of floor area
I	3 square feet per square foot of floor area

#### Section 6.03 Mixed Occupancies, Joint Usage and Uses Not Specified

In the case of mixed uses the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately. Collective provisions for off-street parking spaces shall not be less than the sum of the requirements for the various uses computed separately. Before a building permit is issued for the use, the Board of Appeals shall approve agreements between the parties involved to ensure that adequate parking will be available for both uses.

**Section 6.04 Size and Access**

The following provisions shall apply.

- A. Except for one- and two-family dwellings each off-street parking area shall be connected to a driveway at least 20 feet in width.
- B. Each off-street parking space shall be at least nine feet in width and 18 feet in length.
- C. All paved parking spaces shall be legibly marked.
- D. In non-residential districts, driveways shall connect adjacent properties in the same district to provide safe and harmonious traffic circulation and to limit the number of driveways onto streets.
- E. Driveways opening into major streets shall not be closer than 60 feet to an intersection. No driveway shall be closer than 25 feet to any minor street corner. No driveway shall be wider than 24 feet.
- F. No parking or loading space shall be directly accessible to a street except by an approved driveway.

**Section 6.05 Units of Measurement**

For the purpose of the section "floor area shall mean the gross floor area of all floors of a building or an addition to an existing building, excluding basements and those areas used exclusively for storage of goods or supplies. The total parking area excludes access drives within the parking area.

**Section 6.06 Location**

Required off-street parking facilities shall be located on the same lot as the principal use in residential and agricultural districts. In commercial districts additional off-street parking is permitted as a principal use on a separate lot.

**Section 6.07 Community Parking**

The provisions of this Article may be met by financial participation in a municipal or community parking program designed to serve a larger area and approved by the County Planning Commission and Township Board.

**Section 6.08 Parking Areas in Nonresidential Districts**

Every parking area in a C or I district shall meet the following requirements.

- A. Parking areas shall be effectively screened on any side which adjoins a residential district by a

greenbelt. No parking area shall be closer than 25 feet to any residential property in a residential district or closer than ten feet to any street.

- B. Every driveway and parking area shall be surfaced with asphalt or similar durable material. It shall be graded and drained so that all surface water flows to the nearest drain or drainage ditch. No lighting shall shine toward dwellings or streets. All drainage plans shall be approved by the County Road Commission or Drain Commissioner.
- C. A site development plan of the parking area, driveways, signs, lighting and landscaping shall be approved by the Planning Commission as provided in Article 15.
- D. At least 5% of all parking areas shall be landscaped. A part thereof shall be located at the intersections of all internal driveways.

### **Section 6.09 Parking Areas in Residential and Agriculture Districts**

Parking areas for more than four automobiles in residential and agricultural districts shall be permitted if the following conditions are met.

- A. All parking areas shall be landscaped, screened, surfaced and drained as provided in 6.08B above. No parking area shall be closer than five feet to an adjacent property or extend into the front yard. All areas not occupied by parking areas or driveways shall be landscaped.
- B. All parking areas shall be used solely for the parking of automobiles.
- C. An approved site development plan shall be submitted.
- D. Each entrance and exit shall be 20 feet in width.

### **Section 6.10 Required Off-Street Loading and Unloading Space**

In C and I districts, paved off-street loading spaces shall be provided to accommodate the needs of the use. The spaces shall be part of an off-street parking area and shall meet the requirements thereof. The Planning Commission may approve a site development plan with a lesser area if the following are shown:

- A. The parking requirement is shown to be excessive.
- B. The use does not attract or provide services for the general public.
- C. The maximum number of employees is shown on the site development plan.
- D. The signed agreement to provide additional parking when necessary is presented.
- E. The paved or improved parking area will be sufficient to accommodate one automobile for each employee or visitor plus 10% more parking than the number.
- F. An open landscaped area encompassing the additional required area is reserved for future parking use.

### **Section 6.11 Parking Variation**

Where it can be demonstrated that the parking requirements of this article would provide an excessive amount of parking area for the needs of a particular use, a plan with lesser area may be approved and permitted provided all the following conditions are met.

- A. The maximum number of employees and visitors during any one eight-hour period can be demonstrated to be less than the parking space requirements of this Ordinance.
- B. A written agreement to provide additional parking if an increase in employees or visitors shall occur at a future time shall be made part of the Site Plan.
- C. An open landscaped area meeting the requirements of this section is shown reserved for future parking.
- D. Plan approval shall be valid, for the stated use only. Any expansion or redesigning of said lot must go through the original site plan review process.

### **Section 6.12 Building Additions**

Whenever an addition is made to an existing building, the parking area shall be increased sufficiently to meet the requirements of this article.

### **Section 6.13 Permits**

The following permits are required for all parking areas.

- A. A building permit shall be obtained before a parking area may be constructed or enlarged. A site development plan approved by the Planning Commission in accordance with the provisions of Article 15 shall be submitted to the Building Inspector before issuance of a building permit.
- B. A certificate of occupancy shall be obtained before any parking area is used or upon revocation of the permit. The Building Inspector may revoke a certificate of occupancy whenever the conditions of this chapter are violated. The use shall cease within 60 days following the revocation.
- C. The Building Inspector may issue a temporary occupancy permit when the full development of a parking area would not be warranted due to adverse weather, settling ground or for other reasonable grounds.

**ARTICLE 7**  
**ZONING DISTRICTS**

**Section 7.01 Zoning Districts**

A	Agriculture	Article 8
RR	Rural Residential	Article 9
RL	Lake Residential	Article 10
RC	Community Residential	Article 11
CN	Neighborhood Commercial	Article 12
CH	Highway Commercial	Article 13
I	Industrial	Article 14
OW	Wilderness Overlay	Article 15
ORL	River/Lake Overlay	Article 16
PUD	Planned Unit Development	Article 17

**Section 7.02 Erection, Alteration and Use of Buildings**

Except as otherwise expressly provided herein, no structure or building shall be erected or altered, nor shall any building, structure, or lot be used for any purpose or activity other than is expressly allowed in the use, dimension, area, or height sections in the zoning district within which it is located.

**Section 7.03 Provision for Official Zoning Map**

For the purpose of this Ordinance, the zoning districts as provided herein are bound and defined as shown on a map entitled "Official Zoning Map of Yates Township." The Official Zoning Map, with all explanatory matter thereon, is hereby made a part of this Ordinance.

**Section 7.04 Identification of the Official Zoning Map**

The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested to by the Township Clerk and bear the following words: "This is to certify that this is the Official Zoning Map referred to in the Yates Township Zoning Ordinance," together with the effective date of this Ordinance.



### **Section 7.05 Authority of the Official Zoning Map**

Regardless of the existence of purported copies of the Official Zoning Map that may from time to time be made or published, the Official Zoning Map, which shall be located in the offices of the Township and open to public inspection, shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the Township.

### **Section 7.06 Interpretation**

- A. The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled "The Official Zoning Map of Yates Township, Lake County, Michigan," that accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply.
1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
  2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  3. Boundaries indicated as approximately following Township boundaries shall be construed as following Township boundaries.
  4. Boundaries indicated as approximately following shorelines or lake or stream beds shall be construed as following such shorelines or lake or stream beds, and in the event of change in the location of shorelines or lake or stream beds, shall be construed as moving with the shoreline and lake or stream bed.
  5. Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.
- B. Whenever all or part of a street or other public way is vacated, it shall automatically become a part of the zoning district to which it attaches. If a vacated area is bordered by two different zoning districts, the area shall be divided along a line half-way between them according to the adjacent zoning district, unless the Township Board shall otherwise designate.

## **ARTICLE 8**

### **“A” AGRICULTURE ZONING DISTRICT**

#### **Section 8.01 Purpose**

This zoning district is intended for agriculture uses, low-density single-family residential uses and specialized rural uses requiring large areas of land.

#### **Section 8.02 Permitted Uses**

Only the following structures and uses are permitted:

- A. Single family dwelling for residential use.
- B. General and specialized farming, together with dwellings and structures accessory thereto.
- C. Fisheries and hatcheries.
- D. Roadside stands for the sale of produce grown on the premises.
- E. Country clubs, golf courses and riding stables.

#### **Section 8.03 Special Uses**

Mobile home courts as a special land use.

#### **Section 8.04 Height Regulations**

No building shall exceed thirty-five (35) feet or two and one-half stories in height, whichever is less.

#### **Section 8.05 Area and Dimension Regulations**

No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement.

- A. Front Yard (i.e. front setback): There shall be a front yard of at least 40 feet from the edge of a street right-of-way or easement provided. However, accessory buildings for agricultural uses,

country clubs, golf courses and private recreational uses must be at least 60 feet from any street easement or right-of-way.

- B. Side Yard (i.e. side setback): There shall be two side yards of not less than 20 feet each
- C. Rear Yard (i.e. rear setback): There shall be a rear yard of at least 100 feet.
- D. Lot Area:
  - 1. No lot shall be created or utilized that is not at least 2 acres in size.
  - 2. Lot width: Every lot shall have an average width of at least 200 feet.

**Section 8.06 Minimum Floor Area**

The minimum floor area for all residential uses shall meet the minimum floor areas set forth in Sect 3.14.

**ARTICLE 9**  
**“RR” RURAL RESIDENTIAL ZONING DISTRICT**

**Section 9.01 Purpose**

This zoning district is intended for low-density residential use.

**Section 9.02 Permitted Uses**

Only the following structures and uses are permitted:

- A. Single family homes for residential use.
- B. General and specialized farming, together with dwellings and customary accessory structures.
- C. Essential services and institutional or public uses as otherwise regulated by this chapter.

**Section 9.03 Height regulations**

No building shall exceed thirty-five (35) feet or two and one-half stories in height, whichever is less.

**Section 9.04 Area and Dimension Regulations**

No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement.

- A. Front Yard (i.e. front setback): There shall be a front yard for a dwelling of at least 40 feet from the edge of a street right-of-way or easement provided. For other permitted uses a front yard of not less than 60 feet from any street easement or right-of-way shall be required.
- B. Side Yard (i.e. side setback): There shall be a side yard of not less than 20 feet on each side of the dwelling or accessory building. No non-residential structure shall be closer to a side lot line than distance equal to its height.
- C. Rear Yard (i.e. rear setback): There shall be a rear yard of at least 60 feet.
- D. Lot Area:
  - 1. There shall be a lot area of not less than 32,000 square feet for residential uses. For all other uses, there shall be a lot area of not less than 64,000 square feet.
  - 2. Lot width: Every lot shall have a width of at least 150 feet.

**Section 9.05 Minimum Floor Area**

The minimum floor area for all residential uses shall meet the minimum floor areas set forth in Sect 3.14.

## ARTICLE 10

### “RL” LAKE RESIDENTIAL ZONING DISTRICT

#### Section 10.01 Purpose

- A. Encourage the proper development and use of land abutting lakes and waterways.
- B. Avoid pollution.
- C. Preserve the recreational values and natural features of lakes and waterways.

#### Section 10.02 Permitted Uses

Single-family dwellings for residential use.

#### Section 10.03 Height regulations

No principal building shall exceed thirty-five (35) feet or two and one-half stories in height, whichever is less. No accessory building shall exceed a height of 16 feet.

#### Section 10.04 Area and Dimension Regulations

No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement.

- A. Front Yard (i.e. front setback): There shall be a front yard of at least 20 feet. Accessory buildings, sewage disposal systems and storage structures may be located in front of a principal building provided the structures are at least 20 feet from a street right of way.
- B. Side Yard (i.e. side setback): There shall be two side yards of not less than ten (10) feet each.
- C. Rear Yard (i.e. rear setback): There shall be a rear yard of at least 30 feet. Accessory buildings and storage structures may be located to the rear of the dwelling provided such structure is at least 30 feet from the street right-of-way or easement on all conforming and newly-created lots.
- D. Lot Size:
  - 1. Dwellings with public sewer and water shall be located on a lot containing not less than 7500 square feet. The width of the lot shall be at least 75 feet.

2. No public or private sewage disposal system, drain field, septic tank or similar device for the disposal of household or human wastes shall be located or used in any side yard or between the principal structure and the waterfront.
3. Accessory structures located between the waterfront and the principal structure shall meet the side yard provisions for the principal structure. Seasonal docks, boat landings and similar structures in lakes or ponds shall not be longer than is required to reach a water depth of four and one-half feet. The structures located in rivers or streams shall not be longer than 10% of the width of the stream or river measured at the point of location of the structure.
4. No tree or trees shall be removed from a building site unless the removal thereof is necessary for the erection of a building thereon or an elimination of a danger or hazard. A land use permit is required

E. Lot Width: Lot width shall be at least 75 feet

#### **Section 10.05 Minimum Floor Area**

The minimum floor area for all residential uses shall meet the minimum floor areas set forth in Sect 3.14.

**ARTICLE 11**  
**“RC” COMMUNITY RESIDENTIAL ZONING DISTRICT**

**Section 11.01 Purpose**

This zoning district is intended for residential use.

**Section 11.02 Permitted Uses**

Only the following uses are permitted:

- A. Agriculture uses.
- B. Single family dwellings for residential use.
- C. Two family and multiple dwellings for residential use are permitted as a special land use.

**Section 11.03 Height regulations**

No building shall exceed thirty-five (35) feet or two and one-half stories in height, whichever is less. No accessory building shall exceed a height of 15 feet.

**Section 11.04 Area and Dimension Regulations**

No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement.

- A. Front Yard (i.e. front setback): There shall be a front yard for a dwelling of at least 35 feet from the edge of a street right-of-way or easement. Accessory structures for agricultural uses shall be at least 50 feet from any street.
- B. Side Yard (i.e. side setback): There shall be a side yard of not less than 20 feet on each side of the dwelling or accessory building. No non-residential structure shall be closer to a side lot line than a distance equal to its height.
- C. Rear Yard (i.e. rear setback): There shall be a rear yard of at least 30 feet.
- D. Lot Area: There shall be a lot area of at least 7500 square feet for each one and two family dwelling and at least four acres for farms.



- E. Lot width: Every one family dwelling shall be located on a lot with a width of at least 100 feet. Every two family dwelling shall be located on a lot with a width of at least 100 feet. Parcels of land of four or more acres shall have a width of at least 250 feet.
- F. Site Plan: A site development plan is required for all uses containing more than four parking spaces.

**Section 11.05 Minimum Floor Area**

The minimum floor area for all residential uses shall meet the minimum floor areas set forth in Sect 3.14.

## ARTICLE 12

### “CN” NEIGHBORHOOD COMMERCIAL ZONING DISTRICT

#### Section 12.01 Purpose

A business district designed to serve the retail business needs of the Township.

#### Section 12.02 Permitted Uses

Only the following uses are permitted:

- A. Retail stores selling goods such as bakeries, drug stores, clothing stores, jewelry stores and appliance stores.
- B. Personal services such as banks, barbers, restaurant, photographers, laundry and dry cleaning, professional offices, indoor theaters, and gasoline service stations.

#### Section 12.03 Special Uses

Marinas with special use approval.

#### Section 12.04 Required Conditions

All business shall be conducted entirely within completely enclosed buildings, unless outdoor uses are approved via special land use.

#### Section 12.05 Height regulations

No structure shall exceed 30 feet or two stories in height, whichever is less.

#### Section 12.06 Area and Dimension Regulations

No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement.

- A. Front Yard (i.e. front setback): All buildings or additions to existing buildings shall be so located as to provide a front yard of not less than 30 feet.

- B. Side Yard (i.e. side setback): No side yard is required except as follows:
  - 1. A minimum side yard of ten feet will be required for fire protection purposes.
  - 2. Where the district abuts residential property on one or more sides, a side yard of at least 25 feet shall be required.
- C. Rear Yard (i.e. rear setback): A rear yard of at least 20 feet shall be required.
- D. Greenbelt: A greenbelt may be required as provided in Section 3.19.
- E. Lot Width: Lot width shall be at least 200 feet.
- F. Lot Size: Every lot shall be at least 30,000 square feet in size.

**Section 12.07 Site Plan**

A site development plan shall be presented to the Planning Commission for approval before an application for a building permit may be made. The plan shall include the following in addition to those requirements in Article 20:

- A. Location of streets and highways.
- B. A sketch showing the relationship of the proposed uses to the area within 2000 feet thereof.
- C. Parking facilities. The use shall provide adequate off-street parking facilities.
- D. Loading zones.
- E. Driveways to streets.
- F. Location and dimensions of buildings and structures.
- G. Surface drainage facilities.
- H. Location of sewage disposal facilities, a description of the method of disposing of sanitary waste and soil tests.
- I. All landscaping.
- J. Additional information as the Building Inspector may deem necessary to protect the public health, safety and the general welfare.

**ARTICLE 13**  
**“CH” HIGHWAY COMMERCIAL ZONING DISTRICT**

**Section 13.01 Purpose**

A business district designed to serve the general business and service needs of the Township, the surrounding area and the motoring public.

**Section 13.02 Permitted Uses**

Only the following uses are permitted:

- A. Those uses permitted in the CN district.
- B. Vehicle sale, service and rentals.
- C. Printing, construction, wholesale and storage enterprises.
- D. General office buildings, motels and hotels.
- E. Kennels and animal hospitals.
- F. New and used merchandise may be sold.
- G. Adult Uses/Adult-Oriented Businesses as specified in Section 3.57

**Section 13.03 Area and Dimension Regulations**

No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement.

- A. Front Yard (i.e. front setback): All buildings shall have a front yard of not less than 80 feet.
- B. Side Yard (i.e. side setback): There shall be two side yards of not less than 15 feet each.
- C. Rear Yard (i.e. rear setback): There shall be a rear yard of at least 20 feet and no principal or accessory building shall be closer to a residential or agriculture district than a distance equal to its height.
- D. Rear Yard Footage: There shall be a rear yard of at least 24,000 square feet unless the Zoning Administrator determines that a larger lot area is required to meet sewage disposal and water supply needs. In that case a lot area of at least 60,000 square feet shall be required.

- E. Lot width: Every lot shall have a width of at least 100 feet.
- F. Lot Size: Every lot shall be at least one (1) acre in size.
- G. Site Plan: A site development plan is required for all uses containing more than four parking spaces.

**Section 13.04 Special Conditions**

More than one principal building may be permitted on a lot with site plan approval provided the buildings are owned by the same person and are part of an approved site development plan for a planned business development. Each like building shall provide required yards individually as though separated by a lot line.

## **ARTICLE 14**

### **"I" INDUSTRIAL ZONING DISTRICT**

#### **Section 14.01 Purpose**

A district for industrial uses meeting the performance standards of 14.09 of this Article.

#### **Section 14.02 Permitted Uses**

The following uses are permitted:

- A. Enclosed manufacturing enterprises, including planned industrial complexes.
- B. Assembly, compounding packaging, processing of materials.
- C. Fuel distributors, storage and transportation facilities.
- D. Vehicle repair shops.
- E. Junk Yards with special land use approval.

#### **Section 14.03 Screening**

All operations and storage shall be conducted within buildings or behind solid fences or walls of a height equal to the height of the proposed use. However, natural resources and new equipment may be stored in side or rear yards without the screening.

#### **Section 14.04 Height Regulations**

No structure shall exceed a height of 40 feet.

#### **Section 14.05 Area Regulations**

No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement.

- A. Lot Size: A lot of at least five (5) acres in area and 200 feet in width at the street is required.
- B. Front Yard (i.e. front setback): There shall be a front yard of not less than 60 feet.

- C. Side Yard (i.e. side setback): There shall be a side yard of not less than 20 feet on each side of any building.
- D. Rear Yard (i.e. rear setback): There shall be a rear yard of not less than 50 feet.
- E. Where a lot abuts a residential district or dwelling, no structure shall be closer than twice its height to the district or dwelling.

#### **Section 14.06 Parking**

Parking is permitted in all yards.

#### **Section 14.07 Landscaping and Outdoor Storage**

Unpaved areas shall be landscaped to avoid dust and erosion. Storage areas shall be maintained in dust-free condition if not paved or landscaped.

#### **Section 14.08 Site Plan**

A site development plan is required.

#### **Section 14.09 Performance Standards**

The applicant shall sign a written agreement guaranteeing that the use will meet the following standards before a building permit or certificate of occupancy may be issued.

- A. Fire and explosion hazards. All uses shall meet applicable building codes and fire ordinances.
- B. Smoke and nuisance factors. No radiation, fumes, gas, dust, odors or other atmospheric pollutants causing property damage, hazards to health or interference with property rights shall be emitted.
- C. Liquid or solid waste. No wastes shall be discharged into any body of water. County and state disposal and treatment requirements shall be met.
- D. Vibration noise and glare. No noise, vibration or glare is permitted to pass beyond the boundaries of premises.

## **ARTICLE 15**

### **“OW” WILDERNESS OVERLAY**

#### **Section 15.01 Purpose**

The purpose of this overlay is the preservation of the large, contiguous tracks of forest/wilderness in areas surrounded by and/or adjacent to the Manistee National Forest. This overlay specifically is intended to govern areas that were once part of the Manistee National Forest or are currently part of the forest and may one day revert to private land. Low density single-family dwellings situated on large parcels, that preserve the nature of the forest with limited intrusion of humans and the preservation of wildlife and flora is the primary use in this over lay.

#### **Section 15.02 Uses Permitted**

- A. All uses allowed in the Rural Residential zoning district.
- B. Land division in the “OW” overlay shall be limited to one (1) land division per 40 acres of land.

#### **Section 15.03 Special Uses**

The following uses are allowed if approved by the Planning Commission as a special use:

- A. All special uses allowed in the Rural Residential zoning district.
- B. Private Campgrounds.
- C. Outdoor Recreational and Entertainment Facilities.

#### **Section 15.04 Height Regulations**

All height regulations in the Rural Residential zoning district apply.

#### **Section 15.05 Area Regulations**

All area regulations in the Rural Residential zoning district apply.

#### **Section 15.06 Minimum Floor Area**

The minimum floor area for all residential uses shall meet the minimum floor areas set forth in this ordinance under *Dwelling Units*.



## **ARTICLE 16**

### **“ORL” RIVER/LAKE OVERLAY**

#### **Section 16.01 Purpose**

The purpose of this overlay is the preservation and enhancement of rivers, streams and lakes in Yates Township and in particular, their special environmental aspects such as flood plains and wetlands in the interest of present and future generations; the prevention of ecological damage and aesthetic damage that may result from overcrowding, overuse or unwise and disorderly development. This overlay is a buffer of 300 feet along each side of designated rivers/creeks from the ordinary high water mark.

#### **Section 16.02 Designated District and Boundaries**

This overlay covers all lands abutting and within 300 feet of any river, stream, or lake within Yates Township that is not already within the Lake Residential zoning district. These regulations are in addition to those for the underlying zoning district.

#### **Section 16.03 Regulations**

- A. Accepted normal agricultural activities shall be followed, providing there is no undue erosion of banks by farm animals or pollution of the waters from animal wastes.
- B. One pump house is allowed when it is set back at least 10 feet from the water's edge and does not exceed 9 square feet in area and 3 feet in height.

#### **Section 16.04 Natural Vegetation Strip**

To minimize erosion, stabilize riverbanks, protect water quality and keep nutrients out of the water, a strip 25 feet wide, bordering the water's edge, shall be left undisturbed, or if disturbed shall be planted and maintained in trees and shrubs. An opening is allowed for access to the lake, river, or stream of not more than 10 feet wide. Trees and shrubs may be trimmed or pruned, allowing building setback of 30 feet, with a minimum frontage of 200 feet.

#### **Section 16.05 Earth Changing Activities**

All earth changing activities, including dredging, cutting, filling and grading within this overlay district that involves the removal of ground cover, shall be in accordance with the requirements of the sedimentation control regulations of the Lake county Soil Conservation District (or successor agency). If the earth changing activity involves the filling in of a flood plain, all regulations of the state of Michigan must be

met. In addition, no refuse, garbage, rubbish, or waste material shall be used as fill material. No approval by the Planning Commission shall be gained without assured compliance with this Section.

#### **Section 16.06 Considerations for Approval**

The Zoning Administrator may grant permits for dwellings and accessory buildings if the above requirements and following standards are met. Construction and/or use will:

- A. Provide for the conservation of soil, banks, and adjoining uplands.
- B. If abutting a river or stream, protect the natural flood water storage capacity of the river flood plain, so as to prevent flood damages and associated public relief expenditures created by improper construction of structures in a flood plain.
- C. Not damage fish, wildlife, and their habitat.

## ARTICLE 17

### “PUD” PLANNED UNIT DEVELOPMENT

#### Section 17.01 Description and Purpose

The use, area, height, bulk, and placement regulations of this Ordinance are primarily applicable to the usual situation of one (1) principal building per lot. In certain larger or unusual developments, those requirements result in a less desirable development for the achievement of the purposes of this Ordinance than if a controlled degree of flexibility is allowed. For example, a large scale residential development might better achieve the purposes of this Ordinance if a portion of the open space requirements were consolidated into small community parks or open space rather than on an individual, lot-for-lot basis.

A development may be of such large size or unusual nature as to justify permitting certain incidental uses not normally permitted in the existing zoning district. Permitting these uses within the development can, in certain cases, increase convenience, be compatible with the overall character of the development, and not be injurious to adjoining properties. The Planned Unit Development (PUD) zoning district is intended to permit and control the development of areas as planned developments (PUD's) for various compatible uses permitted by this Ordinance in other zoning districts and for other special uses not so permitted. In so doing, a degree of flexibility is allowed in the use, area, height, bulk and placement regulations for PUD developments. However, it is also the intent of a PUD district to afford each type of use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to the PUD zoning district.

All zoning pursuant to this Article shall give due consideration to maintenance of reasonable conditions regarding emission and transmission of injurious or obnoxious noise, vibration, gas, smoke, dust, dirt, litter, odor, light glare, traffic congestion, ease of police and fire protection, drainage, property values, light and air, overcrowding of persons, sanitation, surface and ground water quality, water supply and sewage disposal, general appearance and character of the area, and other similar considerations having an effect on the achievement of the purposes of this Ordinance.

#### Section 17.02 Allowed Uses

If approved by the Township Board, land in the PUD zoning district may be used for all or any of the uses permitted by this Ordinance in other zoning districts and other special uses not permitted as of right, including, without limiting the generality of the foregoing, the following specific uses:

- A. Camps and campgrounds.
- B. Government cemeteries.
- C. Children's homes.
- D. Colleges.

- E. Community swimming pools and other recreation facilities and parks.
- F. Golf courses and country clubs.
- G. Hospitals and clinics.
- H. Housing for senior citizens.
- I. Industrial parks and/or research parks.
- J. Junk yards, landfills and dumping grounds.
- K. Mineral extraction uses.
- L. Large scale residential development.
- M. Mobile-modular home sales lots.
- N. Mobile-modular home development or parks.
- O. Nursing homes.
- P. Offices and office parks.
- Q. Philanthropic institutions.
- R. Private clubs.
- S. Public and private schools and colleges.
- T. Resorts, including motels, restaurants and similar associated uses.
- U. Malls or shopping centers.
- V. Drive-in theaters.
- W. Recreational or entertainment facilities.
- X. Condominiums.
- Y. Site condominiums.
- Z. One-family, two-family, multiple-family, and condominium dwellings.
- AA. Mineral extraction operations.

### **Section 17.03 Procedures**

Any land in the Township may be zoned or rezoned to the PUD zoning district in accordance with the procedures and requirements hereinafter specified.

#### **Section 17.04 Preliminary Plan - Submissions and Content**

Applicants for a PUD zoning district shall prepare and submit to the Zoning Administrator three (3) copies of a preliminary plan for the PUD. The Zoning Administrator shall promptly transmit two (2) copies of this plan to the Planning Commission and one (1) copy to the Township Board. This plan shall set forth, in general terms, the proposed uses to be developed in the PUD and the following specific information:

- A. Legal description of the land included in the PUD.
- B. Small-scale sketch of properties, streets and uses within one-half (1/2) mile of the PUD.
- C. A map to scale showing any existing or proposed arrangement of (1) streets, (2) lots and buildings, (3) access points, (4) other transportation arrangements, and (5) buffer strips.
- D. A narrative describing: (1) the overall objectives of the PUD, (2) method of financing, (3) number of acres allocated to each use, (4) gross densities, (5) proposed method of providing sewer and water service as well as other necessary public and private utilities, and (6) proposed method of providing storm drainage.
- E. All information submitted shall be of sufficient scale, clarity, and quality to permit a determination of compliance with the standards of this Article.
- F. Any additional information required by the Planning Commission.

#### **Section 17.05 Planning Commission Review of Preliminary Plan**

The Planning Commission shall review the preliminary plan and make recommendations to the applicant based on (1) the requirements of this Ordinance and (2) the following specific considerations where applicable:

- A. Ingress and egress to the property and proposed buildings and structures thereon, with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, access in case of fire or catastrophe, and expected demand versus current capacity of service roads.
- B. Off-street parking and loading areas where required, with particular reference to the items in subparagraph A and the economic, noise, glare and/or odor effects of each use in the proposed PUD.
- C. Refuse and service areas, with particular reference to the items in subparagraphs A and B above.
- D. Utilities, with reference to locations, availability, and compatibility.
- E. Screening and buffering with reference to type, dimensions, and character.
- F. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect and compatibility and harmony with adjoining properties and properties in the proposed PUD.
- G. Required yards and other open spaces.
- H. General compatibility with adjoining properties and properties in the proposed PUD.

- I. The purpose of this Ordinance, as well as compatibility with other ordinances and statutes that regulate land development.
- J. Consistency of the project with the Yates Township Master Plan.

#### **Section 17.06 Transmittal of Planning Commission's Recommendation**

The Planning Commission shall transmit its recommendations pertaining to the preliminary plan along with any recommended changes or modifications thereof to the applicant. A copy of the Planning Commission's recommendations shall also be transmitted to the Township Board for final decision. In the course of its consideration of the preliminary plan, the Planning Commission may hold an advisory public hearing and give such notice thereof as it shall deem appropriate.

#### **Section 17.07 Final Plan Submission**

- A. After receiving the recommendations of the Planning Commission on the preliminary plan, the applicant for PUD district zoning shall submit five (5) copies of a final development plan to the Zoning Administrator. The Zoning Administrator shall promptly transmit two (2) copies to the Planning Commission, two (2) copies to the Township Board, and retain one (1) copy.
- B. Simultaneously with the submission of a final development plan, the applicant shall submit to the Zoning Administrator an application for a rezoning request that the land included in the final plan for the PUD be rezoned to the PUD zoning district designation. Consideration of the requested zoning amendment shall then proceed in accordance with the rezoning procedures of the Zoning Act.

#### **Section 17.08 Final Plan Content**

The final plan shall include all of the following information unless the same, as determined by the Township, is found to be unnecessary for the consideration of the PUD.

- A. A plot plan based on an accurate certified land survey showing: (1) location, size, and type of present buildings or structures to be retained or removed; (2) location of all proposed buildings, structures or other improvements; (3) location of existing and proposed streets, easements, rights-of-way, drives and parking lots; (4) location of water and sewer lines; (5) storm drainage; (6) topographical features including contour intervals no greater than five (5) feet and bodies of water; (7) ditches and water courses; (8) ground cover and other pertinent physical features of the site such as trees; (9) proposed landscaping; (10) location of existing improvements; (11) location of lot lines; (12) loading and unloading facilities; (13) wetlands; and (14) exterior lighting and signs.

- B. Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Height and area of buildings and structures shall be described.
- C. The period of time within which the project will be completed.
- D. Proposed staging of the project, if any.
- E. Gross areas of buildings and parking.
- F. Delineation of the one hundred (100) year flood plain, if applicable and any proposed uses therein.
- G. A description of all aspects of such plan that might have an adverse effect on public health, safety, and welfare.
- H. An environmental impact statement or assessment, if requested by the Planning Commission.
- I. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land as an option or purchase contract.
- J. Method of financing and commitments or other proof of ability to obtain financing.
- K. Additional information that the Township Board may request that is reasonably necessary to evaluate the proposed PUD and its effect on the surrounding neighborhood and properties and the Township in general.
- L. Such other data or information as is required by the Planning Commission.

### **Section 17.09 Public Hearing**

The Planning Commission shall hold a public hearing pursuant for the purpose of receiving comments relative to the final development plan and the proposed rezoning.

### **Section 17.10 Final Planning Commission Recommendations**

The Planning Commission shall transmit its recommendations concerning the final development plan and the proposed zone change along with any recommended changes, conditions, or modifications to the Township Board.

### **Section 17.11 Final Approval by Township Board**

Final approval (together with conditions of approval) or disapproval of the zone change and final development plan shall be by the Township Board. The Township Board shall also hold a public hearing pursuant to Section 23.12. A copy of said final zone change, if finally approved, shall be forwarded to the Township Clerk for filing with the Township Zoning Ordinance and shall be an official amendment to this

Ordinance. If all conditions and requirements of this Article are fulfilled, the Township Board may approve the PUD. The Township Board may attach conditions to any PUD approval.

### **Section 17.12 "PUD" Planned Unit Development General Provisions**

#### **A. Minimum Size, Modification of Standards, and Project Design Review Standards:**

1. Size. In order to be zoned as a PUD zoning district, the proposed area of land shall be no less than five (5) acres. Where the proposed area of land includes lots directly across a street right-of-way, those lots separated by the street right-of-way are included in the PUD zoning district. The area of the street right-of-way shall not be counted toward the minimum size.
2. Project Design and Review Standards. Unless specifically specified otherwise, the Township Board may approve deviations to the dimensional standards normally required for projects developed in traditional fashion. These include modifications to building setbacks, building density, customary building placement parking, and access, and similar modifications. In approving the PUD, including any modifications, the Township Board shall find:
  - a) That there will be no adverse effect upon public health, safety, or general welfare.
  - b) That the modifications are consistent with the Township Master Plan.
  - c) The PUD will be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent properties and the surrounding area.
  - d) The proposed use and modifications will not change the essential character of the surrounding area and the neighborhood.
  - e) The proposed use and modifications will not place demands on public services, roads, and facilities in excess of their current capacities.
  - f) The proposed use and modifications will not establish a precedent for developments or uses that could adversely affect the long-term goals of the Township Zoning Ordinance or Master Plan. The proposed use and modifications shall be designed to preserve environmental features, such as lakes, streams, flood plains, agricultural areas, ground water and natural areas.
  - g) The standards for a site plan are met.

- #### **B. Time Limitations on Development**. Each PUD development shall be under substantial construction within one (1) year after the date of rezoning by the Township Board. If this requirement is not met, the Township Board may grant an extension provided the developer



presents reasonable evidence to the effect that said development has encountered unforeseen difficulties but is now ready to proceed. Should the aforementioned requirements not be fulfilled within a period of one (1) year after final approval by the Township Board, any building permit issued for said development shall be invalid and void, and the Township Board may initiate proceedings to hold a public hearing for the purposes of rezoning said property.

- C. Security. The Township Board, in connection with reviewing any application for a final development plan, may require reasonable undertakings by the applicant to guarantee and assure by agreement, including a performance bond or irrevocable letter of credit, such bond or security to be posted by applicant in order to ensure that the development will be executed in accordance with the approved plan.
- D. Required Improvements Prior to Issuance of Occupancy Permit. The Township Board is hereby empowered to require that all required improvements be constructed and completed prior to issuing an occupancy permit. In the event that said improvements are partially completed to the point where occupancy would not impair the health, safety, and general welfare of the residents, but are not fully completed, the Building Inspector may, upon the recommendation of the Township Board, grant an occupancy permit so long as the developer deposits a performance bond with the Township Clerk in an amount equal to the cost of improvements yet to be made, said improvements to be completed within one (1) year of the date of the occupancy permit.
- E. Additional Provisions. All provisions of this Ordinance and other ordinances of the Township shall apply to the PUD district except where inconsistent therewith, in which case the provisions of this Article shall control.

### **Section 17.13 Discretionary Density**

- A. Notwithstanding the density requirements of this Ordinance, the Township may require a lesser density for a particular land development (that is, fewer dwelling units, fewer dwellings or other buildings, or fewer lots, mobile home sites, parcels of land or site condominium units) if it is determined that the following requirements will not be satisfied with the proposed density or the proposed number of lots, mobile home sites, parcels of land or site condominium units:
  - 1. The property is located on a paved public street and is served by adequate public streets.
  - 2. There is a public sanitary sewer system to serve the property.
  - 3. There is a public water supply system or a privately-owned public water supply system to serve the property.
  - 4. There are no natural or environmentally-sensitive areas, including lakes, woodlands, wetlands, or prime farmland.
  - 5. The proposed development will not impose unreasonable demands upon public services or public facilities.

- B. In determining whether a lesser density shall be required, the Planning Commission and Township Board shall consider whether the requiring of such lesser density will assist in overcoming, compensating for or improving, in whole or in part, the disadvantages resulting from any of the following:
1. Inadequate public streets.
  2. Lack of a public sanitary sewer.
  3. Lack of a public or community water supply system.
  4. Potential harm to or degradation of environmentally sensitive areas, including lakes, wetlands, woodlands, and prime farmland, resulting from the proposed development.
  5. Unreasonable demands on public services and facilities resulting from the proposed development. The other standards contained in this Article.

#### **Section 17.14 Certain Residential Developments as Planned Unit Developments**

- A. In the "RL" Lake Residential and "RC" Community Residential zoning districts with a minimum land area of two and a half (2.5) acres, and the "RR" Rural Residential zoning district with a minimum land area of eight (8) acres, no subdivision (as defined in this section) shall be established or created and no lot, site condominium unit, individual mobile home or trailer site or park or parcel of land in a subdivision shall be sold, conveyed, transferred or otherwise established, nor shall any building permit or zoning approval permit be issued, for any land in a subdivision unless such subdivision shall have been approved by the Township as a planned unit development (PUD).
- B. For purposes of this section, a "subdivision" means any land or property, wherever located, improved or unimproved, that is divided, split, conveyed, proposed to be divided, split or conveyed, or developed as a land division, mobile home park, site condominium or recorded plat, for the purpose of sale, transfer or building construction, into or including 11 or more lots, parcels of land, site condominium units, individual mobile home or trailer sites or other interests in land, or any combination thereof whether in whole or in part. For purposes of this section, "subdivision" also includes any lands, whether contiguous or not, if 11 or more lots, parcels of land, site condominium units, individual mobile home or trailer sites or other units or interests are offered as part of a common promotional plan for rent, sale or conveyance, or where the subdivision is being developed or is offered for sale, rent, transfer or building construction by one developer, or more than one developer, whether acting individually or in concert.
- C. If parcels of land are contiguous or if they are known, designated or advertised as a single or common development, or by a single or common name, the land shall be deemed to be offered for disposition as part of a common promotional plan and shall accordingly be deemed to be part of a subdivision, if the total number of lots, parcels of land, site condominium units, individual mobile home or trailer sites or other interests is 11 or more.

- D. For purposes of this section, "contiguous" land means any additional land adjacent to or adjoining the subdivided land included in any previous subdivision.
- E. If a parcel of land is created, divided or split from or out of another parcel of land, and if either or both of such parcels are further divided, split or site condominium units are created, or if any of such actions is proposed, within seven years after the recording of the first land division or land split, then each parcel shall be considered a subdivision for purposes of this section, and accordingly, each parcel shall be subject to planned unit development approval, if 11 or more lots, parcels of land or site condominium units are created or developed from or out of such parcels or either of them.

#### **Section 17.15 Modification of PUD Plans**

Minor changes to a PUD site plan may be approved administratively in writing by the Zoning Administrator provided the changes comply with all applicable requirements of this Ordinance and all other Township regulations and state laws. Any other changes shall require a formal amendment to the developers' PUD Ordinance or approval.

#### **Section 17.16 Conditions**

The Township Board may attach reasonable conditions to any PUD approval, including the following:

- A. PUD's shall be designed to protect and enhance environmental features, such as the preservation of trees, flood plains, waterways, agricultural areas and natural areas, and shall encourage proper site landscaping.
- B. The Township may require additional standards for private roads in addition to those specified in Section hereof.
- C. All PUDs shall be designed with open space.
- D. The Township may also require that the applicant provide some or all of the following information:
  - 1. Soil surveys, borings and septic suitability reports.
  - 2. Natural hazards.
  - 3. Substrate information.
  - 4. Surface and groundwater information.
  - 5. Storm water drainage information.
  - 6. Erosion information.
  - 7. Streams and water bodies impact analysis.

8. Environmental impact statement.
9. Traffic information.
10. Market study.

Such additional information as is reasonably necessary for the Township to determine a proposal's environmental impacts upon adjoining woodlots, waterways, wetlands, adjoining properties and other resources.

For large scale residential developments and nonresidential developments, the Township may require that the developer pay for and install a private community water system and/or a private community sewage system, where public municipal water and sewage systems are unavailable.

## **ARTICLE 18**

### **SHORT-TERM RENTALS**

#### **Section 18.01 Intent and Purpose**

A. This Article is intended to protect and promote the health, safety, and general welfare of all of the citizens of Yates Township by requiring the registration and permitting of short-term renting of single family and duplex dwelling units. Short-term rentals provide the community a variety of lodging facilities for guests to utilize, supports the local economy by increasing the number of visitors to the area, and assists owners of short-term rentals by providing revenue which may be used for maintenance upgrades and deferred costs.

B. The provisions of this Article are necessary to prevent the continued burden placed upon county and township services and impacts on residents affected by short-term rentals.

C. The purpose of this Article is to regulate short-term rentals by:

1. Identifying the short-term rentals in Yates Township.
2. Lessening complaints involving excess noise, litter, disorderly conduct, overcrowding, traffic, congestion, and parking.
3. Making the enforcement and administration of existing ordinances easier, since the nature of the occupants are transitory.
4. Assuring the preservation of the residential character of the community and the quality of life for all residents.

#### **Section 18.02 Applicability**

All requirements, regulations and standards imposed by this Article are intended to apply in addition to any other applicable requirements and standards imposed elsewhere in other ordinances of the Township. Further, this Article does not affect additional requirements placed on use of property (or a portion thereof) imposed by deeds, associations, or rental agreements.

#### **Section 18.03 Definitions**

*Bedroom:* A separate room with a door, closet, and window that is used or intended to be used specifically for sleeping purposes. A bedroom must be a habitable space, not be less than 70 square feet, not less than seven feet in one dimension, not located in the attic or basement without egress meeting standards in the applicable building, meet residential and fire codes, and not a room by design intended to serve another purpose, such as a kitchen, dining area, den, family room, or living room.

*Dwelling unit:* A building, or portion thereof designed exclusively for residential occupancy by one family, and having cooking and bathroom facilities connected to sewer or septic.

*Dwelling duplex:* A single building with two dwellings units designed for or occupied by two families living independent of each other.

*Dwelling, single-family:* A detached dwelling unit designed for the exclusive occupancy by a single family.

*Extenuating circumstances:* Conditions under which a violation of this article has occurred that may include:

1. Violations committed by a non-renter and the renter(s) attempted to prevent or halt the violation;
2. An occurrence resulting from an act of nature;
3. Other circumstances that the property owner or local agent could not reasonably anticipate and prevent, and could not reasonably control.

*Good visitor guidelines:* A document prepared by Yates Township that includes:

1. A summary of the following Yates Township / Michigan ordinances and regulations:
  - a. Consumer Fireworks Ordinance TBD of the Township Code.
  - b. Fire Prevention and Protection Ordinance 153.3 of the Township Code.
  - c. Blight Control Ordinance 91 of the Township Code.
  - d. Noise Ordinance TBD of the Township Code.
  - e. Trespass Ordinance—MCL 750.552.
  - f. Discharge of Firearms Ordinance TBD of the Township Code.
  - g. Copy of the Handbook of Michigan Boating Laws and Responsibilities.
2. A reminder that the short-term rental may be operating in a residential neighborhood and that the neighbors may not be vacationing.
3. A reminder that short-term rentals may be operating in the forestry district, and the host and guests must avoid activities that would impact protected species or otherwise damage the environment.
4. A statement informing the occupant(s) that neighboring property owners may contact the local agent, Local Law Enforcement, Yates Township, or the township's designee to report any issues relating to the property.

*Local Agent:* An individual designated to oversee the short-term rental of a dwelling unit in accordance with this article. The local agent shall respond to calls from renters, concerned citizens, and representatives of the township, live or maintain a place of business within 50 miles of the dwelling unit, be available 24 hours a day while the short-term rental property is occupied, and respond within 60 minutes to any issue that may arise. A property owner who meets these criteria may be the local agent.

*Occupant:* Any individual living in, sleeping in, or having possession of a dwelling unit, or portion thereof pursuant to a rental agreement. This does not include guests who are visiting between the hours of 8:00 am and 11:00 pm.

*Owner:* The person or entity that holds legal or equitable title to the property (or portion thereof) used as a short-term rental.

*Parking space:* An improved, designated area on the property where short-term rental operates that is legally available for occupants to park motorized vehicles and trailers. This may include garages, carports, parking bays, and driveways. This does not include yards and street rights-of-way.

*Short-term rental:* The commercial use of renting a dwelling unit, or portion thereof, for a period no more than 31 consecutive calendar days. This does not include approved bed and breakfast establishments, hotels/motels, tenant housing, campgrounds, or resorts.

*Special event:* Outdoor parties, lawn parties, weddings, family reunions, bachelor/bachelorette parties, or other similar gatherings that exceed the maximum number of occupants allowed.

*Tourist home:* A short-term rental operation in which a portion of a dwelling unit is rented out where the owner of the property resides full-time in the dwelling unit and is primarily present at the time of occupancy.

*Vacation home:* A short-term rental operation in which the entire dwelling unit is rented out without the property owner residing at the dwelling unit at the time of occupancy.

#### **Section 18.04 General Standards for All Short Term Rentals**

The following standards and requirements shall apply to all short-term rentals:

A. Permit.

1. All short-term rentals shall be required to register with and be permitted by Yates Township.
2. Permits shall:
  - a. Be valid for one calendar year.
  - b. Be required for each short term rental.
  - c. Be issued prior to advertising a short term rental.
3. Be inspected per Ordinance No 150
4. Not transfer with the sale of the property, or be transferred from one property to another.
5. Be displayed on the front door, or in a prominent location on the façade or nearby window not more than five feet from the front door, measured from the edge of the door frame.
6. Display the maximum number of occupants allowed.
7. Display the contact information for the owner or local agent and Yates Township.
8. The short-term rental permit number shall also be posted and clearly evident on any and all advertisements related to the short-term rental of a property.

B. Exceptions and exemptions.

A dwelling unit does not need a short-term rental permit as required in this Article when the occupancy of the dwelling unit occurs under the following circumstances:

- (1) *Family occupancy.* Any member of a family (and that family member's guests) may occupy a dwelling as long as any other member of that family is the owner of the dwelling or dwelling unit. Family occupancy also exempts guest houses or similarly separate dwelling units located on the same premises as the owner's domicile, when occupied by family guests, exchange students, visiting clergy, medical care givers, and child care givers, without compensation to the owner.
- (2) *House sitting.* During the temporary absence of the owner and the owner's family, the owner may permit non-owner occupancy of the premises, without compensation to the owner, and without a short-term rental permit.
- (3) *Dwelling sales.* Occupancy by a prior owner after the sale of a dwelling under a rental agreement.
- (4) *Estate representative.* Occupancy by a personal representative, trustee, or guardian of the estate and his family, with or without compensation.

C. Local agent.

Each owner of a short-term rental shall designate a local agent meeting the criteria as defined in this Article, who has access to and authority to assume management of the short-term rental and take remedial measures. For tourist homes, the owner shall be the local agent.

D. Good visitor guidelines.

A copy of the Good Visitor Guidelines established by Yates Township shall be provided to all occupants for review and remain on premises.

E. Refuse and recyclables.

All refuse and recyclables disposal shall be the responsibility of the owner or local agent.

F. Pets.

All pets shall be confined on the property or on a leash at all times. Pets that cause frequent or long continued noise that disturbs the comfort and repose of any person in the vicinity shall be found in violation of this article. Property owners are responsible for the cleanup of pets.

G. Wastewater.

The owner shall maintain a properly functioning septic system or be connected to municipal sewer.

H. Parking.

All parking by the occupants and guests of a short-term rental shall only park in designated parking spaces as defined by Article 6 of the Zoning Ordinance.

I. Fireworks.



The use of fireworks at a short-term rental shall comply with the Township Fireworks Ordinances.

J. Noise.

No person within the township shall cause or create any of the following unreasonable or improper noises or disturbances, injurious to the health, peace or quiet for any purpose, other than to avoid an accident or collision.

K. Signage.

Signage advertising the existence of a short-term rental is required to comply to Article 5 of this Ordinance.

L. Events.

Special events are permitted during the hours of 9:00 a.m. to 10:00 p.m.

M. Recreational vehicles.

Recreational vehicles (with living quarters) shall not be used on the property by occupants or the property owner while a short-term rental is being occupied.

N. Fire safety.

All short-term rental operations shall meet the necessary safety standards established by all state, county, and local regulations, including but not limited to smoke detectors, carbon monoxide detectors and fire extinguishers per Fire Prevention Code 153.3.

O. Prohibited Structures.

No STR shall occur in:

- (1) Any tent, bunkhouse, yurt, shed, barracks or similar item.
- (2) Any boat, pontoon, houseboat, barge or other water vessel or watercraft.
- (3) Any "tiny house" or any dwelling that does not meet the minimum size requirements of this Ordinance.
- (4) Any house, dwelling, cottage or cabin that was unlawfully built, expanded or modified.
- (5) Any camping trailer, recreation vehicle (with living quarters), popup trailer, bus, motorhome or similar item or vehicle units.
- (6) Any lot or parcel with two (2) or more dwellings thereon that did not exist prior to the effective date of this ordinance, unless allowed by 3.62 Accessory Dwelling Units

P. "Caps"

There shall be no more than 63 short term rental parcels or lots within the Township in total. The following are the maximum number of short-term rentals allowed in the following areas:

- (1) Agriculture - 15

- (2) Rural Residential - 12
- (3) Lake Residential -24
- (4) Community Residential - 12

Q. Where Allowed

Short-term rentals are allowed in the A, RR, RL and RC zoning districts.

R. Approved Use Only

No short-term rental lot or property shall have any special event such as a wedding, funeral wake, bachelor or bachelorette party, reunion or commercial event unless such use or activity is approved by the Planning Commission as a special land use.

S. Single Family

No short-term rental lot or property shall be utilized by, occupied by or rented to more than one single-family at a time unless such use or activity is approved by the Planning Commission as a special land use.

T. Application.

- (1) *Responsibility.* It shall be the responsibility of the owner of a STR to register the operation and obtain a permit from the township.
- (2) *Application.* The owner shall truthfully provide and certify as true the following on a form prepared and supplied by the township:
  - a. Name, address, telephone number, and email of the owner of the vacation home.
  - b. Name, address, telephone number, and email of the designated local agent.
  - c. The number of bedrooms in the vacation home intended to be used by occupants.
  - d. A sketch of designated parking spaces.
  - e. An affidavit signed by the owner acknowledging the provisions of this article, and all applicable local and state laws.

U. Maximum occupancy.

The maximum occupancy of any ~~vacation~~STR home shall be based on the number of bedrooms, whereas:

- 1. An average number of two occupants per bedroom shall be allowed;
- 2. A maximum of four bedrooms shall be rented to occupants of a vacation home.

3. Two additional occupants are allowed.
4. The property owner shall inform the township of any renovations or additions to the vacation home that will result in an increase in the maximum occupancy.
5. An average number of two occupants per bedroom shall be allowed;
6. A maximum of four bedrooms shall be rented to occupants of a vacation home.
7. Two additional occupants are allowed.
8. The property owner shall inform the township of any renovations or additions to the vacation home that will result in an increase in the maximum occupancy.

**Section 18.05 Tourist Home Standards**

In addition to the general standards in Section 18.04 of this article, the following standards and requirements shall apply to all tourist home short-term rentals.

A. Allowable locations.

Tourist homes shall be permitted only in the A, RR, RL and RC zoning districts.

B. Maximum occupancy.

The maximum occupancy of any tourist home shall be based on the number of bedrooms, whereas:

1. A maximum number of two occupants per bedroom shall be allowed.
2. A maximum of four bedrooms shall be rented to occupants of a tourist home.
3. The property owner shall inform the Township of any renovations or additions to the tourist home that will result in an increase in the maximum occupancy.

C. Owner occupancy.

The owner of a tourist home shall have their legal residence established at the location of the operation, and be living in the dwelling unit and present overnight at the time occupants are staying on the property.

**ARTICLE 19**

**SPECIAL LAND USES**

**Section 19.01 Scope**

This Article provides a set of procedures and standards for special uses of land or structures, which because of their unique characteristics require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the

protection of the health, safety, convenience, and general welfare of the Township. For purposes of this Ordinance, all special uses within the various zoning districts are subject to the conditions and standards of this Article. In addition, particular special uses shall conform to the specific standards cited in this Article as applicable.

#### **Section 19.02 Application and Review Procedures**

- A. An application for a special use shall be submitted through the Zoning Administrator, accompanied by:
  - 1. The payment of an application fee or fees and any required escrow fee(s) as established by the Township Board.
  - 2. A completed application form, as provided by the Township.
  - 3. A complete site plan as specified in this Ordinance.
  - 4. A narrative describing the proposed use(s).
- B. Applications for a special use (if complete) shall be submitted at least thirty (30) days prior to the next Planning Commission meeting.
- C. The application (if complete), along with the required site plan, shall be forwarded to the Planning Commission for consideration.
- D. The Planning Commission shall hold a public hearing on the application, noticed in accordance with this Ordinance. The Planning Commission shall review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports from the Township's Zoning Administrator, planner, engineer, attorney, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed on an approval.
- E. No request for special use approval that has been denied shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be allowed by the Zoning Administrator after learning of new and significant material facts or substantially changed conditions that might result in favorable action upon re-submittal.
- F. A special use approved pursuant to this Article shall be valid for one (1) year from the date of approval. Each development or use shall be under substantial construction within one (1) year after the date of approval of the special use, except as noted below.
  - 1. The Planning Commission may grant one six (6) month extension of the approval, provided the applicant requests the extension prior to the date of the expiration of the special use approval.
  - 2. The time extension may be approved if the applicant presents reasonable evidence to the effect that the development or use has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.

3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the special use approval shall be null and void.
- G. No use, building, or structure requiring special use approval shall occur or be commenced prior to such Township approval.

### **Section 19.03 General Standards**

- A. In addition to the standards established for specific uses herein, an application for a special use shall be reviewed for compliance with the review standards for approval of site plans in this ordinance. Reasonable conditions may be placed upon a special use approval (and the accompanying site plan approval).
- B. No special use may be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed special use will:
1. Be designed, constructed, operated and maintained so as 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 area in which it is proposed.
  2. Be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, and refuse disposal, water and sewage facilities.
  3. Not create excessive additional requirements at public cost for public facilities and services.
  4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production or effects of traffic, noise, smoke, fumes, glare, or odors.
  5. The proposed use shall be sufficiently designed to maintain adequate provision for the protection of the health, safety, conveniences, and social and economic welfare of those who will use the special use, residents, and landowners adjacent to the special use, and the community as a whole.
  6. The proposed use shall be consistent with the intent of this Ordinance and the intent of the Master Plan.
  7. The use shall not create or substantially add to traffic hazards in the area.
  8. The proposed use shall not set precedents for development which could adversely affect the long term plans or policies of the Township.
  9. The proposed use shall not have significant adverse environmental, ecological, or natural resource impacts.

10. The proposed use shall not have significant adverse impacts upon adjoining properties or uses.
  11. The proposed use will be reasonable.
  12. Any standards listed later in this Article for specific uses must also be met.
  13. All site plan standards shall be met.
- C. The Planning Commission may impose additional conditions and safeguards on a special use approval deemed necessary to accomplish the following purposes. Failure to comply with the conditions or the approved site plan may result in the revocation of the special use approval, pursuant to this Ordinance. Conditions imposed shall be those necessary to ensure that the proposed special use will:
1. Meet the intent and purpose of the Zoning Ordinance and the Master Plan.
  2. Relate to the standards established in the Ordinance for the land use or activity under consideration.
  3. Ensure compliance with those standards.
  4. Protect the general welfare.
  5. Protect individual property rights.
  6. Ensure that the intent and objectives of this Ordinance will be observed.
- D. The Planning Commission shall adopt a statement of findings and conditions relative to the special use that specifies the basis for the decision and any conditions imposed.

#### **Section 19.04 Performance Guarantee**

The Planning Commission may require a performance guarantee or guarantees to ensure compliance with any requirements or conditions associated with the granting of a site plan and special use approval.

#### **Section 19.05 Special Use Specific Requirements**

The general standards and requirements are basic to all special uses. The specific and detailed requirements set forth hereafter relate to particular uses and are requirements which shall be met by those uses in addition to the foregoing general standards and requirements.

#### **Section 19.06 Termination/Revocation of a Special Use Approval**

In the event that a special use approval is granted, the individual or successor in interest as to the property involved shall not use the property in question such that it would exceed the rights granted by the special

use (and site plan) approval or any conditions attached thereto or fail to follow or comply with any conditions or requirements thereof. In the event that the use of the property exceeds or violates those rights given by the special use (and site plan) approval or violates any of the conditions attached thereto, or the property owner fails to follow the conditions placed upon the special use (and site plan) or any requirements of this Ordinance, the special use (and site plan) shall terminate immediately. Alternatively, in such cases, the Planning Commission shall also have the authority to terminate a special use approval after reasonable notice and hearing.

#### **Section 19.07 Institutional and Public Uses**

Institutional and public uses may be allowed as a special use if the Planning Commission finds that all of the following requirements are met:

- A. The proposed use will be harmonious with, and not harmful, injurious, or objectionable to, existing and projected future land uses in the area.
- B. The proposed use is adequately served by necessary improvements, including, but not limited to, water, sewer, electricity, roads, drainage, and parking.
- C. The proposed use is in accordance with the development policies of Yates Township.

#### **Section 19.08 Kennels**

Kennels may be allowed as a special use provided the Planning Commission determines all the following requirements are met:

- A. All animals must be housed no closer than 200 feet from any adjoining property line and at least 500 feet from any residential dwelling.
- B. Animals shall be kept under sanitary conditions and in sanitary enclosures. The special use approval may be revoked if the premises become unsanitary or if objectionable noise or odors emanate from the premises.

#### **Section 19.09 Oil, Gas or Other Drilling Activity**

Oil and gas wells, including drilling operations for any underground resources, though not controlled by this Ordinance, shall comply with the following requirements:

- A. No truck parking or storage shall be located within 500 feet of any adjoining residence or within 200 feet of adjoining property lines.
- B. All truck operations shall be directed away from residential streets.
- C. Site operations shall be at least 500 feet from any dwelling, church, school, public building, or public or semi-public place including parks and recreation areas.

- D. The area shall be completely enclosed by a solid wall or fence of at least 6 feet but no more than 8 feet in height, with no material stored within the fenced area visible above said fence.
- E. No dumping of garbage, trash or any byproducts shall be permitted.
- F. The site shall not create a nuisance adversely affecting adjoining property owners.

#### **Section 19.10 Outdoor Recreational and Entertainment Facilities**

Outdoor recreational and entertainment facilities may be allowed with special use approval if the Planning Commission finds that all of the following requirements are met:

- A. The proposed use will be harmonious with, and not harmful, injurious or objectionable to, existing and projected future land uses in the area.
- B. The proposed use is adequately served by necessary improvements, including, but not limited to, water, sewer, electricity, roads, drainage, and parking.
- C. The proposed use is in accordance with the development policies of Yates Township.

#### **Section 19.11 Private Campgrounds and Family Campsites**

Private campgrounds may be allowed as a special use if the Planning Commission finds that all of the following requirements have been met:

- A. The campground shall be situated on a lot of no less than 20 acres, with direct access to a paved public road.
- B. Each camp site shall contain a minimum of 1,500 square feet.
- C. No vehicle, trailer, or tent shall be erected or placed within 30 feet of any road right-of-way.
- D. A greenbelt of at least 50 feet shall be maintained along all parameters of said campground.
- E. Public restrooms, housed in all-weather structures, containing adequate water outlet, toilet, waste container and shower facilities shall be provided uniformly throughout the said campground at a ratio of not less than one such restroom for every 20 sites.
- F. All sanitary facilities shall be designed and constructed in strict conformance with all applicable Lake County health regulations.
- G. The development of the entire parcel is subject to all applicable requirements of the Michigan Department of Natural Resources, and Camp Ground Act 368 of Public Acts of 1978, as amended.
- H. Each campground shall have a minimum of 20 campsites.



- I. No particular trailer, tent, or recreational vehicle shall remain at a campsite for longer than 120 days during a calendar year. Family campsites are exempt from the 120 day requirement as long as said equipment is maintained and in operating condition.
- J. Deer camps, one family campsites, and similar uses shall not be deemed a “campground.”

Family Campsites may be allowed as a special use if the Planning Commission finds that all of the following requirements have been met:

- A. The campsite shall be situated on a lot of no less than 2 acres, with direct access to a public road.
- B. The campsite shall contain no more than 6 sites.
- C. No vehicle, trailer, or tent shall be erected or placed within 30 feet of any road right-of-way.
- D. A greenbelt of at least 50 feet shall be maintained along all parameters of said campground.
- E. Restrooms, housed in all-weather structures, containing adequate water outlet, toilet and waste container shall be provided uniformly throughout the said campground with at least one such restroom available.
- F. All sanitary facilities shall be in strict conformance with all applicable Lake County health regulations and inspected by the District Health Department.
- G. The development of the entire parcel is subject to all applicable requirements of the Michigan Department of Natural Resources, and Camp Ground Act 368 of Public Acts of 1978, as amended.
- H. No particular trailer, tent, or recreational vehicle shall remain at a campsite for longer than 120 days during a calendar year.
- I. Deer camps, one family campsites, and similar uses shall not be deemed a “campground.”

### **Section 19.12 Mining and Mineral Extraction Uses and Operations**

- A. Purpose and Intent. The purpose of this Section is to provide for the use of lands that have significant gravel and/or sand deposits and which, if mined for such deposits under the regulations of this Article and this Ordinance, would not constitute a hazard to the public health, safety, and welfare. The regulations are intended to result in: mining and excavation operations that will not be detrimental to the public health, safety, and welfare; and operations that will be conducive to and result in the reclamation of the land so that it will be suitable for other purposes, including single-family residential purposes. Further, it is the intent of these provisions to preserve the natural resources of the Township.
- B. Zoning Districts. Mining and mineral extraction shall be allowed in any zoning district (except LR Lake Residential) if approved by the Planning Commission as a special use.
- C. Site Plans. A site plan for the proposed mining or mineral extraction operation (together with a reclamation plan) shall be filed with the Township and shall be reviewed and approved, approved with conditions or denied by the Planning Commission as part of the special use review process.

- D. Standards. In order to approve a special use for mining or mineral extraction, the Planning Commission must find that no very serious consequences would result from the mining or mineral extraction operation, use or activities. In making that determination, all of the following factors may be considered if applicable:
1. The relationship of extraction and associated activities with existing land uses; The impact on existing land uses in the vicinity of the property involved.
  2. The impact on property values in the vicinity of the property involved and along the proposed hauling route serving the property involved, based on credible evidence.
  3. The impact on pedestrian and traffic safety in the vicinity of the property involved and along the proposed hauling route serving the property involved.
  4. The impact on other identifiable health, safety, and welfare interests in Yates Township.
  5. The overall public interest in the extraction of the specific natural resources on the property involved. When considering this factor, the Planning Commission shall determine:
    - a) Whether the mineral or minerals involved are available from other locations nearby or closer to the site or sites where the materials are needed.
    - b) The degree and extent of the public interest in the extraction of the materials at issue.
    - c) Whether the public interest in the specific material(s) is very high or relatively low.
    - d) Market conditions related to the resource at issue in the specific location or area involved.
    - e) The demand for the materials at issue.
- E. Conditions. If the Planning Commission approves a special use for a mining or mineral extraction use, activity, or operation, the Planning Commission can attach reasonable conditions to such approval regarding the following areas and topics:
1. Hours of operation.
  2. Noise.
  3. Dust control.
  4. Blasting hours.
  5. Traffic.
  6. Blasting hours.

### **Section 19.13 Communications Towers**

Communications towers may be allowed as a special use in any zoning district if the Planning Commission determines that all of the following requirements are satisfied, in addition to the general standards for all special uses.

Communications towers exceeding 50 feet in height shall also comply with all of the following requirements:

- A. Placement: Communications antennas and other such equipment shall be required to be located on an existing approved tower or other structure within a three (3) mile radius of the proposed tower unless one (1) or more of the following conditions exist:
  - 1. The planned communications equipment would exceed the structural capacity of the existing tower, as documented by a qualified and registered professional engineer, and the existing tower cannot be reinforced, modified, or replaced so as to accommodate planned or equivalent equipment at a reasonable cost.
  - 2. The planned communications equipment would cause interference materially affecting the usability of other existing or planned equipment on or at the existing tower, as documented by a qualified and registered professional engineer, and such interference cannot be prevented at a reasonable cost
  - 3. Existing or approved towers within a three (3) mile radius cannot accommodate the planned communications equipment at a height necessary to function reasonably, as documented by a qualified and registered professional engineer.
  - 4. Other unforeseen conditions that make it unfeasible to locate the planned equipment upon an existing tower.
- B. Access by Other Users: Any proposed communications tower shall be designed, structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least four (4) additional users. Towers shall be designed and constructed to allow for future rearrangement of equipment upon the tower and for the accommodation of equipment mounted at varying heights on the tower.
- C. Design: Towers shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by state or federal authorities. Towers shall be of a monopole design unless Federal Communications Commission requirements or engineering requirements require an alternate design.
- D. Setbacks: All parts of the communications tower and associated structures and equipment placed on the ground shall comply with the following setback requirements:
  - 1. Except as noted under subsection 3, towers and associated equipment shall be located a minimum height of the tower from any property line or right of way.
  - 2. Towers in Nonresidential Districts: Except as noted under subsection 3, any part of a tower and associated equipment shall be set back for a distance equal to the required

setbacks for main buildings for the zoning district in which the tower is located, except that in all cases a tower and associated structures and equipment shall be located at least twenty-five (25) feet from any adjacent lot line or main building, and at least three hundred (300) feet from any residential zoning district, lot line or residential dwelling.

3. Noncollapsible Towers: Towers that have not been designed and constructed to collapse in a downward, vertical fashion shall be set back from all property lines a distance of one (1) foot for each one (1) foot of height (tower and antenna combined). In no case however, shall said setback be less than as specified under subsections 1 and 2, above.
- E. Screening: The Planning Commission may require such towers and associated buildings, structures and equipment on the ground to be screened with landscaping, berms, fences, or a combination of these elements.
- F. Illumination and Advertising: Towers shall not be illuminated unless required by state or federal authorities. No signs or other advertising not related to safety or hazard warnings shall appear on any part of the tower or associated equipment or buildings.
- G. Abandonment: Towers that are abandoned or unused shall be removed, along with any associated structures, buildings or equipment, within twelve (12) months of the cessation of the operations, unless a time extension is granted by the Zoning Administrator. One three-month extension shall be permitted only if the Zoning Administrator finds that the owner or former operator of the facility is pursuing active measures to accomplish its removal.

#### **Section 19.14 Sanitary Landfills**

Sanitary landfills for the deposit of rubbish, garbage or wastes are permitted if the use will prepare land for an ultimate use. Application for sanitary landfills shall be approved by the appropriate county authorities and meet all county and state requirements.

#### **Section 19.15 Mobile Home Courts**

Mobile home courts may be permitted provided the Planning Commission finds that all of the following conditions are met.

- A. Each mobile home court shall be in single ownership and shall consist of at least 50 mobile home sites.
- B. A 50-foot landscaped front yard shall be provided and maintained.
- C. A 30-foot greenbelt shall be provided on side and rear yards.
- D. Common sewer and water facilities shall be provided for each mobile home site. The Board of Appeals may permit the use of a lagoon treatment plant, or a mechanical treatment plant meeting state and county standards, the use of drain fields, septic tank systems or similar disposal systems are prohibited.

- E. All utility services shall be located underground.
- F. All mobile home sites shall face on internal paved streets approved by the Township Board. The mobile home court shall have two paved accesses to a major arterial street and not have an access on a minor residential street.
- G. No mobile home site shall be less than 4,000 square feet in area. No mobile home site shall be less than 45 feet in average width.
- H. Mobile homes shall be located upon an approved mobile home site. Mobile homes shall be at least 15 feet from the front and rear width. No side yard shall be less than five feet in width.
- I. Mobile homes shall have at least 600 square feet of floor area.
- J. Structures permitted in this district shall be subject to the height limitations of the A district.
- K. The mobile home court shall be landscaped and regularly maintained and shall conform to all state regulations. At least 10% of the mobile home court shall be devoted to not more than two landscaped parks for the residents of the court. No required yard shall be computed as part of the landscaped park.
- L. Sites for transient trailers, mobile homes, or camping accommodations may be provided within a mobile home court for temporary stays not to exceed two consecutive weeks. The requirements of subsections (7) and (9) above shall not apply to the trailers, with common restrooms and water supply. Common sewage facilities shall be provided for sewage wastes.
- M. The sale of new or used mobile homes is permitted only upon an approved mobile home site.
- N. In carrying out the provisions of this section, the Planning Commission shall ascertain that the location and arrangement of sites and improvements will provide safe and desirable living accommodations for the occupant.
- O. Site development plan. A site development plan is required in accordance with Article 20
- P. Building permits for mobile home courts shall only be issued for sites to be constructed within 12 months from the date of issuance of the building permit.
- Q. Where a mobile home court abuts an R district or dwelling an additional 20 feet of landscaped side and rear yards adjacent to the district or dwelling is required in addition to the minimum side and rear yard requirements set forth in this section.

### **Section 19.16 Apartments**

- A. Apartments may be permitted provided the Planning Commission finds that all of the following conditions are met.
  - 1. No apartment building shall contain more than 12 dwelling units.
  - 2. Every apartment shall be connected to a common sanitary sewer service and water supply.
  - 3. Every principal entry shall be visible from a public street. No entrance shall be located

more than 300 feet from a street. Every building shall be located within 150 feet of an off-street parking area.

4. Group buildings: groups of apartment buildings shall be in single ownership and shall be located on one parcel of land. Where more than one building is located on a lot, no building shall be located in front of the main entrance wall of another building unless separated by a common yard of at least 40 feet. A front yard of 35 feet shall be required. No building shall be located in back of another unless separated by a common yard of at least 100 feet. Every group building shall have a greenbelt of at least 30 feet unobstructed by any accessory structure. No group building shall be located closer than a distance equal to its total height to any other building.

B. Height and area:

1. Apartment buildings shall have an average minimum floor area of 600 square feet dwelling unit. No dwelling unit may be less than 400 square feet;
2. There shall be at least 4,000 square feet of lot area for each dwelling unit exclusive of streets; and
3. *Other requirements:* See 11.03.

**Section 19.17 Junk and Salvage Yards**

Junkyards may be permitted by the Planning Commission in the I-1 district, if it finds that the use is not less than 1,000 feet from any residential use. The Planning Commission may impose any reasonable restrictions in the interest of the public health, safety and general welfare in addition to those set forth elsewhere in this ordinance.

## **ARTICLE 20**

### **SITE PLANS**

#### **Section 20.01 Purpose**

It is the purpose of this Article to achieve, through site plan review, safe and convenient traffic movement; harmonious relationships of buildings, structures, and uses; and the conservation of natural features and resources and the preservation of adjacent property values.

The general and intensive use of the automobile requires careful study of the relationships between buildings, parking areas, streets, alleys, pedestrian walkways, traffic movements, and obstructions caused by uses that generate or attract traffic or that require parking. To ensure the safety, convenience, and well-being of the residents of Yates Township and the public, the Planning Commission shall, prior to the granting of certain zoning approvals, review and consider a site plan. A preliminary site plan may be required at the option of the Planning Commission.

#### **Section 20.02 Uses Requiring Site Plan Approval**

The following buildings, structures, and uses require site plan approval by the Planning Commission:

- A. All rezoning and conditional rezoning requests.
- B. All special uses.
- C. All commercial, industrial, business, and office uses, including parking areas.
- D. Any land division or development involving the creation of 5 or more lots, parcels, or site condominium units.
- E. Any site condominium.
- F. Any Planned Unit Development (PUD).
- G. Any use requiring a site plan as specified elsewhere in this Ordinance.
- H. Any change to or expansion of any of the above uses.
- I. No use, building, or structure requiring site plan approval shall occur or be commenced prior to site plan approval.

#### **Section 20.03 Site Plan Scale Requirements**

Each site plan shall have the date, north arrow and scale. The scale shall not be less than 1" = 20 feet for property under three acres and at least 1" = 100 feet for property of three acres or more.

#### **Section 20.04 Site Plan Information Requirements**

Three (3) copies of each site plan submitted to the Township shall contain all of the following information, unless specifically waived by the Planning Commission, in whole or in part:

- A. Location, shape, area, and dimensions of the property.
- B. Surrounding property uses and zoning districts.
- C. Public and private easements or rights-of-way located adjacent to the property and also located on the property or proposed for said property.
- D. Driveways, off-street parking areas, loading spaces and all other facilities to deal with traffic.
- E. Location and dimensions of all buildings, existing and proposed, number of floors and uses.
- F. Pedestrian walkways, fences, and landscaping.
- G. Existing and proposed water, sewer, and utility lines, including sites for solid waste pickup.
- H. The method of storage of any and all toxic materials to be stored, sold, or used on the premises.
- I. Location, height, and orientation of all signs.
- J. All major environmental features, including, but not limited to, wetlands, lakes, creeks, streams, major stands of timber and vegetation, steep slopes (over 18%) and rock outcroppings on and within 100 feet of said property.
- K. Such other information as is required by the Planning Commission.

#### **Section 20.05 Review Procedure**

The Planning Commission shall study the site plan and shall approve, approve with conditions, or disapprove said plan. After review, the Planning Commission, prior to making a final decision, may require more studies or reports to be provided by the applicant. These may include, but are not limited to, environmental impact studies, property valuation studies, traffic studies, or other studies or reports as required by the Planning Commission. If the site plan is rejected, the reasons for disapproval shall be stated. Upon approval of a site plan, three copies shall be signed and dated by the Chairman of the Planning Commission. One copy shall be kept on file by the Planning Commission, one by the Zoning Administrator, and one returned to the applicant. All findings of facts shall be made part of the public records of the meetings of the Planning Commission.



## **Section 20.06 Standards for Site Plan Review and Approval; Conditions**

- A. The Planning Commission shall not approve a site plan unless it determines that the site plan is consistent with this Ordinance and in accordance with the Township land use plan and that all of the following standards will be met:
  - 1. That the movement of vehicular and pedestrian traffic within the site and in relation to access streets will be safe.
  - 2. That the site will be equal to or an improvement in relation to property in the immediate vicinity and to the Township as a whole.
  - 3. The proposed use will not cause undue congestion or cause an adverse environmental impact or in any way negatively affect the properties or aesthetic values of township residents.
  - 4. That the site plan will not overburden the Township's ability to provide public services, while at the same time adequately providing for sewage collection and treatment, storm drainage, and parking.
  - 5. That the site plan is adequate to provide for the health, safety, and general welfare of persons and property on the site and in the neighboring community.
  - 6. That all uses, structures, and buildings comply with this Ordinance and all other applicable Township ordinances.
  - 7. That the use is reasonable.
- B. Reasonable conditions may be attached to the approval of a site plan by the Planning Commission.
- C. The conditions imposed with respect to the approval of a site plan shall be part of the record of approval and shall remain unchanged except by mutual agreement of the Planning Commission and the land owner, after a public hearing, notice of which must be given in the same manner as the original hearing. The Planning Commission shall keep on record the conditions that are changed.

## **Section 20.07 Revocation**

Every structure, building, land use, or activity covered by or subject to an approved site plan must fully comply at all times with that site plan. If a violation of the site plan (or any conditions of approval attached thereto) or any other part of this Ordinance occurs, then the Planning Commission shall have the authority to revoke the approved site plan after reasonable notice has been given to the property owner or applicant and a hearing has been held pursuant to this ordinance.

## **ARTICLE 21**

### **ZONING BOARD OF APPEALS**

#### **Section 21.01 Purpose and Intent**

This section is adopted to facilitate the performance of the duties of the Yates Township Zoning Board of Appeals as provided by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, M.C.L.A. §§ 124.3101, et seq. and the Yates Township Zoning Ordinance (the "Zoning Ordinance").

#### **Section 21.02 Creation and Confirmation**

This section confirms the prior and continuing existence of the Yates Township Zoning Board of Appeals.

#### **Section 21.03 Members and Composition**

The Yates Township Zoning Board of Appeals shall be comprised of five (5) regular members plus two alternate members. Members of the Zoning Board of Appeals shall be appointed by majority vote of the members of the Yates Township Board. One regular member of the Zoning Board of Appeals shall also be a member of the Yates Township Planning Commission, but shall not be the Chairperson of either body. All members of the Zoning Board of Appeals shall be electors of Yates Township. The members of the Zoning Board of Appeals shall be representative of the population distribution and of the various interests present in Yates Township. One member of the Yates Township Board may be a member of the Zoning Board of Appeals, but such a member shall not serve as Chairperson of the Zoning Board of Appeals. An employee or contractor of Yates Township shall not serve as a member of the Zoning Board of Appeals. The Yates Township Board may appoint to the Zoning Board of Appeals not more than two (2) alternate members for the same term as regular members. Terms of office for all members of the Zoning Board of Appeals shall be three years. However, for a member serving because of his or her membership on the Planning Commission or Township Board, their terms shall be limited to the time where he or she is a member of the Planning Commission or Township Board. A vacancy on the Zoning Board of Appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment. If it is unclear when the term of a specific Zoning Board of Appeals member ends, the Township Board shall determine the end of that member's term and the decision of the Township Board shall be final, binding and conclusive. A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing on or vote in the same manner that the member voted on as a member of the Planning Commission or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

#### **Section 21.04 Officers**

- A. Selection and Tenure. At the first regular meeting of each year, the Zoning Board of Appeals shall select from its membership, a Chairperson, a Vice-Chairperson and a Secretary. An elected township official shall not serve as Chairperson. All officers shall serve a term of one year, or until

their successors are selected and assume office, except as noted in division (D)(3), below. All officers shall be eligible for re-election for consecutive terms for the same office. All officers will assume office at the adjournment of the meeting in which they are elected.

- B. Chairperson. The Chairperson shall preside at all meetings, appoint committees (with the approval of the Zoning Board of Appeals) and perform such other duties as are directed by the Zoning Board of Appeals or Township Board.
- C. Vice-Chairperson. The Vice-Chairperson shall act in the capacity of the Chairperson in his or her absence. In the event the office of Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term and the Zoning Board of Appeals shall select a successor to the office of Vice-Chairperson for the unexpired term of the Vice-Chairperson.
- D. Secretary. The Secretary shall execute documents in the name of the Zoning Board of Appeals, perform the duties listed below and shall perform such other duties as the Zoning Board of Appeals may determine.
  - 1. Minutes. The Secretary shall be responsible for preparing the minutes of each meeting and shall have them recorded in suitable permanent records retained by the Township Clerk. The minutes shall contain a brief synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and the record of attendance.
  - 2. Correspondence. The Secretary shall be responsible for issuing formal written correspondence with other groups or persons, as directed by the Zoning Board of Appeals. All communications, petitions, reports or other written materials received by the Secretary shall be brought to the attention of the Zoning Board of Appeals at or before the next meeting.
  - 3. Attendance. The Secretary shall be responsible for maintaining an attendance record for each Zoning Board of Appeals member and shall forward those records to the Township Clerk's office.
  - 4. Notices. The Secretary shall issue such notices as may be required by the Zoning Board of Appeals.
  - 5. A Recording Secretary may take over some of the duties of the Secretary.
- E. Planning Commission Representative. The Planning Commission representative to the Zoning Board of Appeals shall report the actions of the Zoning Board of Appeals to the Planning Commission and update the Zoning Board of Appeals on actions by the Planning Commission that relate to the functions and duties of the Zoning Board of Appeals. The Planning Commission representative shall be allowed only one vote on any specific issue or application and may choose to vote with either the Planning Commission or the Zoning Board of Appeals on that specific issue or application.

## **Section 21.05 Meetings**

- A. Meetings. Meetings of the Zoning Board of Appeals shall be held each month or as otherwise provided below. All meetings shall take place at the township offices at 6437 S. Nelson Road,

Idlewild, Michigan 49642 or at such other dates, locations or times within the Township that may be deemed necessary by the Zoning Board of Appeals to carry out the functions of the Zoning Board of Appeals. All meetings shall comply with the Michigan Open Meetings Act.

- B. Notice. Meetings shall be noticed in accordance with the requirements of the Zoning Ordinance and the Michigan Open Meetings Act. Meeting notices shall state the purpose, date, time and location of meetings and shall be posted in accordance with the Open Meetings Act.
- C. Public Records. All meetings, minutes, records, documents, correspondence and other materials of the Zoning Board of Appeals shall be open to public inspection in accordance with the Freedom of Information Act ("FOIA") Act, except as may otherwise be provided by law.
- D. Quorum. A majority of the total membership of the Zoning Board of Appeals (i.e., at least three members) shall constitute a quorum for transacting business and taking official action for all matters unless a greater number is required by law. The Zoning Board of Appeals shall not conduct business unless a majority of all of the regular members (or seated alternates) are present.
- E. Voting. To approve or deny any variance, appeal or other official action required by the Zoning Ordinance, an affirmative vote of at least a majority of the total membership of the Zoning Board of Appeals (i.e., at least three members) is required. With a use variance, however, no such variance shall be approved except with an approval vote of two-thirds of the total membership of the Zoning Board of Appeals. Voting shall be by voice vote. A roll call vote shall be required if requested by any Zoning Board of Appeals member or directed by the Chairperson or as required by law. All Zoning Board of Appeals members, including the Chairperson, shall vote on all matters with the exception of a conflict of interest or involving the Planning Commission representative who may have already voted with the Planning Commission on a particular issue or application. The Chairperson shall generally vote last on issues before the Zoning Board of Appeals.
- F. Agenda. The Chairperson shall be responsible for preparing an agenda for the Zoning Board of Appeals meetings.
- G. Public Hearings. All public hearings by the Zoning Board of Appeals must be held as part of a regular or special meeting of the Zoning Board of Appeals. The suggested format for public hearings are as follows:
  - 1. Chairperson opens the public hearing and announces the subject.
  - 2. Chairperson summarizes procedures/rules to be followed during the hearing.
  - 3. The applicant presents his/her/its request.
  - 4. Township Zoning Administrator/Township Planner presents a summary or analysis of the request.
  - 5. Persons wishing to comment on the request are recognized and heard.
  - 6. Chairperson closes the public hearing and returns to the regular/special meeting.
  - 7. The Zoning Board of Appeals deliberates and decides.
  - 8. To ensure that everyone has the opportunity to speak, the Zoning Board of Appeals may elect to limit the time permitted for each person to speak, except that the applicant may be permitted such additional time as the Chairperson allows. The Chairperson may also

elect to allow persons to speak only once, until all other persons have had the opportunity to speak, at which time the Chairperson, in his or her discretion, may permit additional public comments.

9. All comments by the public and the Zoning Board of Appeals shall be directed to and through the Chairperson.
- H. Special Meetings. Applicants to the Zoning Board of Appeals may request a special meeting, of which all costs shall be paid by the applicant. However, if there is more than one applicant, the costs for a special meeting shall be shared equally between all applicants. The business that the Zoning Board of Appeals may conduct at a special meeting shall be in compliance with the Open Meetings Act. Special meetings shall also be noticed as required by the Michigan Zoning Enabling Act, as amended, the Open Meetings Act and this section.
- I. Meeting Minutes. Any time that there is a meeting involving a decision, with the exception of housekeeping decisions, a meeting shall be called the following month to approve the minutes of that meeting, even if no other business is set for the agenda.
- J. Cancelled or Adjourned Meetings. Either the Chairperson or two members of the Zoning Board of Appeals may cancel or adjourn any meeting of the Zoning Board of Appeals beforehand due to inclement weather, the likely lack of a quorum, the lack of any applications or other matters on the agenda, an emergency or for similar reasons. Any such cancellation or adjournment shall be in a writing or email signed or concurred in by either the Chairperson or two members of the Zoning Board of Appeals. Either the Chairperson or two members of the Zoning Board of Appeals shall also have the authority to reschedule any such adjourned or cancelled meeting in writing or via email.

#### **Section 21.06 Duties of the Zoning Board of Appeals.**

The Zoning Board of Appeals shall perform the following duties:

- A. Act on applications for variances, appeals, interpretations, or other matters as required by the Zoning Ordinance and/or the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, being M.C.L.A. §§ 125.3101, et seq.
- B. Attend training sessions, conferences, or meetings as needed to properly fulfill the duties of a Zoning Board of Appeals member, and for which appropriations of funds have been approved by the Township Board, as needed.
- C. Perform other duties and responsibilities as requested by the Township Board or as may be specified by the Zoning Ordinance or another township ordinance or state law.
- D. Conduct site visits as deemed necessary to evaluate an application. Site visits shall be conducted individually and not as a group or with enough members of the Zoning Board of Appeals to form a quorum (unless the site visit is formally posted as a public meeting of the Zoning Board of Appeals).

**Section 21.07 Duties of the Zoning Administrator and Township Planner.**

- A. The Zoning Board of Appeals shall be assisted by the Zoning Administrator and Township Planner (if any) in performing the duties of the Zoning Board of Appeals.
- B. The Zoning Administrator and Township Planner (if any) shall be responsible for the professional and administrative work in coordinating the functions of the Zoning Board of Appeals.
- C. The Zoning Administrator shall:
  - 1. Attend Zoning Board of Appeals meetings if requested.
  - 2. Supervise and review the zoning work of the Planning Consultant and township staff.
  - 3. Accept applications for matters to be reviewed by the Zoning Board of Appeals and ensure that such applications are complete.
  - 4. Forward complete application materials to the Zoning Board of Appeals at least one week prior to the meeting at which such matters will be considered.
  - 5. Inform the Zoning Board of Appeals of administrative and enforcement actions taken on behalf of the township related to the Zoning Ordinance or other appropriate ordinance.
- D. The Township Planner (if any) shall:
  - 1. Attend Zoning Board of Appeals meetings, if requested.
  - 2. Consult with the Zoning Board of Appeals, Zoning Administrator and other township officials concerning interpretation, procedural questions and other matters arising from the Zoning Ordinance, as requested.
  - 3. Conduct one planning/zoning workshop each year for the Township Board, Zoning Board of Appeals and Zoning Administrator as requested by the Township Board.
  - 4. Prepare and forward to the Zoning Administrator written reviews and recommendations, if appropriate, for all requests and development proposals to be considered by the Zoning Board of Appeals, if requested by the Chairperson of the Zoning Board of Appeals.
  - 5. Perform such other duties and functions as may be directed by the Zoning Board of Appeals.
  - 6. The Zoning Board of Appeals may be assisted by other professional or township staff as needed, including the Building Inspector, Township Attorney, Township Engineer or other person or agencies.

**Section 21.08 Absences, Removals, Resignations, Vacancies and Alternates.**

- A. To be excused from a meeting, a Zoning Board of Appeals member shall notify the Township Clerk or Zoning Board of Appeals Chairperson, Vice-Chairperson or Secretary when they intend to be absent from a meeting. Failure to make this notification prior to a meeting shall result in an unexcused absence.

- B. Members of the Zoning Board of Appeals may be removed by the Township Board, after written charges have been prepared and a hearing conducted, for non-performance of duty, misconduct, malfeasance, nonfeasance or misfeasance in office or upon the failure to declare a known conflict of interest. For purposes of this section, non-performance of duty shall mean three or more consecutive, unexcused absences or not meeting continuing educational or training requirements. Alternates shall be notified to attend a meeting at any time that a regular member will be absent for one or more meetings.
- C. A member may resign from the Zoning Board of Appeals by sending a letter of resignation to the Township Supervisor, the Township Board or the Zoning Board of Appeals Chairperson. Vacancies shall be filled by the Township Board. Successors shall service out the unexpired term of the member being replaced, with the exception of the Planning Commission representative whose term shall run consecutively with his/her term as Planning Commissioner.
- D. The Township Board may appoint not more than two alternates to the Zoning Board of Appeals. An alternate member may be called to sit as a regular member for a specific matter as provided by the Zoning Ordinance and the Michigan Zoning Enabling Act. When an alternate is called and an issue goes on for more than one meeting, that alternate shall be the voting member on that issue through its completion and the regular member who was absent or had a conflict of interest shall abstain from voting on such matters.

#### **Section 21.09 Conflict of Interest**

- A. Zoning Board of Appeals members shall declare a conflict of interest and abstain from participating in a hearing or deliberations on a request or matter when:
  - 1. A relative or other family member is involved in any request or matter for which the Zoning Board of Appeals is asked to make a decision.
  - 2. The Zoning Board of Appeals member has a business or financial interest in the property involved in the request or matter, or has a business or financial interest in the applicant's company, agency or association.
  - 3. The Zoning Board of Appeals member owns or has a financial interest in neighboring property. For purposes of this section, a neighboring property shall include any property falling within the notification radius for the proposed development, as required by the Zoning Ordinance or other applicable ordinance, or there is a reasonable appearance of a conflict of interest, as determined by the Zoning Board of Appeals member declaring such conflict.
  - 4. Any other conflict of interest situation under Michigan law.
- B. The Zoning Board of Appeals member declaring a conflict of interest should publicly state the nature of the conflict and whether he or she believes that he or she could impartially consider the request or matter before the Zoning Board of Appeals. He or she should individually decide to abstain from any discussion or votes relative to the matter that is the subject of a conflict. If he or she prefers, the member declaring a conflict of interest may ask the other Zoning Board of Appeals members to decide if he or she should abstain, although this is not required. If the Zoning Board of Appeals is asked to decide whether a conflict of interest exists, the members will immediately

cease discussion on the main issue, discuss the possible conflict of interest and vote as to whether or not it exists. If by a simple majority vote a conflict of interest is found, that member will abstain from any action on the matter. The member declaring a conflict of interest may excuse him/herself from the room in which the discussion takes place, unless doing so would violate his or her constitutionally-protected rights to participate. He or she should not make any presentations to the Zoning Board of Appeals as a representative of the proposal for which he/she has a conflict of interest.

### **Section 21.10 Conflict with Other Laws or Requirements**

Should any provision or requirement of this Article conflict with state law, state law shall govern.

### **Section 21.11 Required Seminars and Continuing Education**

Within one year of a regular member of the ZBA being initially appointed to the ZBA, that member shall complete the MSU citizen planner program. For every two years thereafter, each member of the ZBA shall attend at least three hours of seminars for a municipal zoning board of appeals as approved by the Yates Township Board. The Yates Township Board may impose further additional continuing education requirements for members of the ZBA. Failure to comply with this division (or any other continuing education requirements specified by the Township Board) shall constitute nonfeasance in an office for purposes of a member of the ZBA potentially being removed.

### **Section 21.12 Jurisdiction and Powers**

- A. The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have the power to act on those matters where this Ordinance provides for an administrative appeal, interpretation, or to authorize a variance as defined in this Section and granted by the Michigan Zoning Enabling Act, as amended.
- B. The powers of the Zoning Board of Appeals include:
  1. Appeals. Upon request, the Zoning Board of Appeals may hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Administrator in interpreting, carrying out or enforcing any provisions of this Ordinance.
  2. Variances. Upon request, a variance from the strict requirements of the Zoning Ordinance may be granted by the Zoning Board of Appeals in accordance with the standards, requirements, and procedures of this Article.
  3. Zoning Ordinance Interpretation. Upon an appeal from an interpretation by the Zoning Administrator, the Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provisions is uncertain.
  4. Any other matters referred to them or upon which they are required to consider under the



terms of this Ordinance.

- C. The Zoning Board of Appeals shall have no authority to consider any appeal from any decision related to Planned Unit Developments, Site Plans, Special Land Uses, Rezoning or Zoning Ordinance amendments.

### **Section 21.13 Application and Review Procedures**

#### **A. Applications.**

1. An application for an appeal may be submitted in writing to the Township by a person aggrieved. Such written application shall be submitted to the Township within 21 days of the date of the decision being appealed. The application shall be on a Township approved form and be filed with the Zoning Board of Appeals and shall specify the grounds for the appeal. The applicable fee(s) must also be paid.
2. Variances, appeals and other actions requiring a decision by the Zoning Board of Appeals shall be submitted to the Township on a form provided for that purpose and shall include a fee or fees as may be determined by the Township Board from time to time.
3. Applications shall be transmitted to the Zoning Board of Appeals along with all the papers constituting the record upon which the action appealed was taken, and a hearing shall be scheduled in accordance with the procedures of this Chapter.
4. Applications shall not be accepted unless all of the following information is submitted:
  - a. A completed application form (provided by the Township);
  - b. An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being considered. The Zoning Administrator shall determine the completeness of such plans.
  - c. An application fee (and zoning escrow fee where applicable) as may be determined by the Township Board from time to time.
  - d. A written explanation from the applicant indicating why the application meets the standards.
5. An application for an appeal or variance or any other action requiring Board approval shall stay all proceedings in furtherance of the matter to which the application applies unless the Zoning Administrator certifies to the Zoning Board of Appeals, after the application of appeal is filed, that by reason of facts present a would stay, in the opinion of the Zoning Administrator, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court upon application and with due cause shown.

#### **B. Decisions.**

1. The concurring vote of a majority of the entire membership of the Zoning Board of Appeals (three votes) shall be necessary to decide in favor of the applicant, except for a use variance.

2. All decisions of the Zoning Board of Appeals are final as provided by law.
3. No request which has been denied by the Zoning Board of Appeals shall be submitted for reconsideration within a one year period from the date of the original application unless the Zoning Board of Appeals or the Zoning Administrator finds that at least one of the following conditions exist:
  - a. The conditions involving all of the reasons for the original denial have been significantly altered; or
  - b. New conditions or circumstances exist that change the nature of the original request.
4. For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:
  - a. Description of the applicant's request;
  - b. The Zoning Board of Appeals' motion and vote, including written justification for the decision in accordance with each of the standards of Section 24.03;
  - c. A summary or transcription of all competent material and evidence presented at the hearing; and
  - d. Any conditions attached to an approved decision.

C. Appeals.

1. The decision of the Zoning Board of Appeals shall be final. However, an aggrieved party may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Michigan Zoning Enabling Act. The Court may affirm, reverse or modify the decision of the Zoning Board of Appeals or may remand the decision to the Zoning Board of Appeals for further hearings or action.

**Section 21.14 Variance Review Standards**

- A. The Zoning Board of Appeals, after a public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or undue hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures or of uses so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done.
- B. Non-Use Variance. A non-use variance may be approved by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following standards are met:
  1. There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District. Exceptional or extraordinary circumstances or conditions include:
    - a. Exceptional narrowness, shallowness or shape of a specific property on the

effective date of this Chapter; or

- b. By reason of exceptional topographic conditions or other extraordinary situation on the land, building, or structure; or
  - c. By reason of the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties.
2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
  3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same Zoning District and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
  4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
  5. The variance will not impair the intent and purpose of this Ordinance.
  6. The practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.
  7. The variance request is reasonable.
  8. The variance request made is the least modification of the Ordinance provision necessary to grant appropriate relief.
- C. Use Variances. Subject to other provisions of this Ordinance, the Zoning Board of Appeals shall have the jurisdiction to decide applications for use variances. The Zoning Board of Appeals shall not grant a use variance unless it finds that unnecessary hardship will occur unless the variance is granted. Additionally, the Zoning Board of Appeals shall not grant a use variance unless it also finds that all of the following standards below are met:
1. The variance request, if granted, will be the minimum variance (i.e., the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.
  2. The granting of the variance will not be injurious or detrimental to neighboring properties or residents.
  3. The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.
  4. The variance will not impair the intent or purpose of this Ordinance.
  5. The problem or condition for which the variance is requested is not a self-created problem by the applicant or property owner (or their predecessors in title) as to the property involved.

6. The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the Township to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.
7. There are exceptional, unique, or extraordinary physical conditions or circumstances that directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem or exception or extraordinary circumstances or conditions must be inherent in the land, structure, or building involved.
8. The variance must be necessary for the preservation and enjoyment of a substantial property right, which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE-a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)
9. The property cannot be reasonably used as currently zoned.
10. As specified above, the Zoning Board of Appeals must also find that unnecessary hardship will occur if a use variance is not granted.

No use variance shall be granted unless at least two-thirds (2/3) of all members of the Zoning Board of Appeals vote in favor of such use variance. Furthermore, before the members of the Zoning Board of Appeals may vote on a given use variance request, the matter shall be referred to the Planning Commission. The Planning Commission shall be asked for its recommendation regarding the proposed use variance request. The Zoning Board of Appeals may take final action regarding such a use variance request once the Planning Commission has forwarded its recommendation on the particular use variance request to the Zoning Board of Appeals or 45 days has elapsed since the referral to the Planning Commission, whichever occurs first.

- D. Period of Validity. No variance granted by the Zoning Board of Appeals shall be valid for a period longer than 18 months from the date of its issuance unless the construction and/or use associated with said variance is completed or has been started with completion being diligently pursued. However, the applicant may, upon application, request up to one six-month extension of said variance. The Zoning Administrator may grant such extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant. The Zoning Administrator may refer any request for an extension to the Zoning Board of Appeals for a decision.

#### **Section 21.15 Conditions of Approval**

- A. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.
- B. Conditions imposed shall be those necessary to ensure that the decision meets the standards of this Chapter.

**Section 21.16 No Advisory Opinions**

The Zoning Board of Appeals shall not give advisory, informal, or hypothetical opinions or decisions.

## **ARTICLE 22**

### **PLANNING COMMISSION**

#### **Section 22.01 Name**

The name of the body is the Yates Township Planning Commission, hereafter sometimes known as the "Commission."

#### **Section 22.02 Scope, purpose and intent**

1. This section is adopted pursuant to the authority granted to the Township Board under the Michigan Planning Enabling Act, Public Act 33 of 2008, M.C.L.A. §§ 125.3801, et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, M.C.L.A. §§ 125.3101, et seq., to establish and/or confirm a township planning commission with the powers, duties and limitations provided by those acts and subject to the terms and conditions of this section and any future amendments to this section.
2. The purpose of this section is to provide that the Yates Township Board does hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, M.C.L.A. §§ 125.3801, et seq., of the Yates Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, M.C.L.A. §§ 125.321, et seq.; to establish the appointments, terms, and membership of the Planning Commission; to identify the officers and the minimum number of meetings per year of the Planning Commission; and to prescribe the authority, powers and duties of the Planning Commission.

#### **Section 22.03 Establishment and confirmation**

The Township Board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, M.C.L.A. §§ 125.3801, et seq., of the Yates Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, M.C.L.A. §§ 125.321, et seq., (and the Municipal Planning Act, Public Act 285 of 1931, M.C.L.A. §§ 125.31, et seq.). Members of the Yates Township Planning Commission as of the effective date of this section shall, except for an ex officio member whose remaining term on the Planning Commission shall be limited to his or her term on the Township Board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for Planning Commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, M.C.L.A. §§ 125.3801, et seq.

#### **Section 22.04 Appointments and terms**

- A. The Planning Commission shall have seven (7) members in total. The Township Supervisor, with the approval of the Township Board by a majority vote of the members elected and serving, shall appoint all Planning Commission members, including the ex officio member.

- B. The Planning Commission members, other than an ex officio member, shall serve for terms of three years each. If it is unclear when the term of a specific Planning Commission member ends, the Township Board shall determine the end of that member's term and the decision of the Township Board shall be binding and conclusive.
- C. A Planning Commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.
- D. Planning Commission members shall be qualified electors of the township, except that one Planning Commission member may be an individual who is not a qualified elector of the township. The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the township, in accordance with the major interests as they exist in the township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the township to the extent practicable.
- E. An ex officio member has full voting rights. An ex officio member's term on the Planning Commission shall expire with his or her term on the Township Board.
- F. One member of the Planning Commission shall be a member of the Township Board. No other elected officer or employee of the township is eligible to be a member of the Planning Commission. The liaison member's term of office shall coincide with his or her elected term of office on the Township Board. This liaison member of the Planning Commission shall not serve as the Chairperson of the Planning Commission.

#### **Section 22.05 Removal**

The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

#### **Section 22.06 Compensation**

The Planning Commission members may be compensated for their services as provided by Township Board resolution.

#### **Section 22.07 Bylaws, Meetings and Records**

- A. The Planning Commission shall adopt bylaws for the transaction of business.
- B. The Planning Commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by the Planning Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, M.C.L.A. §§ 15.231, et seq.

### **Section 22.08 Annual report**

The Planning Commission shall make an annual written report to the Township Board concerning its operations and the status of the planning activities, including recommendations regarding actions by the Township Board related to planning and development.

### **Section 22.09 Authority to make master plan.**

- A. Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, M.C.L.A. §§ 125.3801, et seq., and other applicable planning statutes, the Planning Commission shall make a master plan as a guide for development within the township's planning jurisdiction.
- B. Final authority to approve a master plan or any amendments thereto shall rest with the Planning Commission unless the Township Board passes a resolution asserting the right to approve, revise or reject the master plan.

### **Section 22.10 Membership and officers.**

- A. At the first regular meeting of each year, the Planning Commission shall elect from its membership a Chairperson, Vice-Chairperson and Secretary to serve a term of one year each. All officers shall be eligible for re-appointment for consecutive terms for the same or a different office. The member of the Planning Commission who is also a member of the Township Board shall not serve as the Chairperson or Vice-Chairperson of the Planning Commission.
- B. The Chairperson shall preside at all meetings, appoint subcommittees (with Planning Commission confirmation) and perform other duties as may be necessary. In the absence of the Chairperson, the Vice-Chairperson shall act as Chairperson. In the event the office of Chairperson becomes vacant, the Vice-Chairperson shall succeed to this office for the unexpired term and the Planning Commission shall elect a successor to the office of Vice-Chairperson for the unexpired term. In the absence of both, the Secretary shall act as Chairperson.
- C. The Vice-Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson and shall succeed to the office of the Chairperson in the event of a vacancy in that office, in which case the Planning Commission shall select a successor to the office of Vice-Chairperson at the earliest possible time.
- D. The Secretary shall execute and certify documents in the name of the Planning Commission, perform the duties listed below and perform such other duties as the Planning Commission may determine.
  - 1. *Minutes.* The Secretary shall be responsible for overseeing a permanent record of the minutes of each meeting and having them recorded in suitable permanent records retained by the Township Clerk. The minutes shall contain a synopsis of the meeting, including a complete restatement of all motions and record of votes, conditions or recommendations made on any action and record of attendance and any other matters required by law.
  - 2. *Planning correspondence.* The Secretary shall be responsible for issuing formal written



correspondence with other groups or persons as directed by the Planning Commission. All communications, petitions, reports or other written materials received by the Secretary shall be brought to the attention of the Planning Commission.

3. *Attendance.* The Secretary shall be responsible for maintaining an attendance record for the Planning Commission.
  4. *Notices.* The Secretary shall issue such notices as may be required by the Commission or state law.
  5. *Recording Secretary.* A Recording Secretary (who is not a member of the Planning Commission) may assume some or all duties of the Secretary.
- E. If the Chairperson and Vice-Chairperson are both absent from a meeting of the Planning Commission and are unable to serve as Chairperson at that meeting, then the remaining members shall select a member of the Planning Commission to serve as temporary Chairperson of that meeting.

### **Section 22.11 Meetings**

- A. Unless determined otherwise by the Planning Commission, the Planning Commission shall meet once each month at the Township Hall or at such other time and/or location as the Planning Commission shall specify.
- B. Special meetings may be called by the Chairperson or by at least four members of the Planning Commission. Notice shall also be posted in appropriate locations.
- C. All meetings are subject to Public Act No. 267 of 1967, as amended, being the Michigan Open Meetings Act. The dates and times of such meetings shall be posted by the township according to that Act. All meetings, minutes, resolutions, records, documents, correspondence and other materials of the Planning Commission shall also be subject to public inspection in accordance with Public Act No. 442 of 1976, as amended, being the Freedom of Information Act, except as may otherwise be provided by law.
- D. If a member is unable to attend a meeting insofar as is practicable, he or she shall contact the Chairperson or other Planning Commission officer before the meeting. If it is determined that a quorum may not be available, the Chairperson or other Planning Commission officer shall contact the other Planning Commissioners to cancel or adjourn the meeting. The Chairperson or other officer shall then post such notice of the meeting cancellation or adjournment at the Township Hall.
- E. For the purpose of permitting adequate time for the Planning Commission to conduct its review of all business contained on the agenda, the public comment pertaining to agenda items shall be generally limited to the following:
  1. Public comments at a public hearing shall be taken during the period that the Planning Chairperson opens and then closes for the public hearing. This hearing generally occurs after the applicant has had the opportunity to address the Planning Commission. Additional public comments may be taken by the Planning Commission after closure of the public hearing, but only upon recognition by the

Chairperson.

2. Typically, the Chairperson will allow three minutes of public comment per person for each agenda item. However, the Chairperson may allow one spokesperson (whether that is an attorney, engineer, planner or otherwise) to speak for a group of people and the Chairperson can then allow more than five minutes for such public comment by that representative.
  3. Citizen groups are encouraged to designate one or more representatives to speak on their behalf.
  4. Speakers should provide their names, address and any groups or businesses they represent.
  5. The full Planning Commission (by majority vote of those present) can override a decision by the Chairperson involving public comments.
- F. A quorum shall be constituted by at least four members of the Planning Commission.
- G. Township staff, with the prior approval of the Chairperson, may cancel or adjourn a meeting of the Planning Commission beforehand due to inclement weather, the anticipated lack of a quorum, the lack of matters on the agenda, an emergency or for similar reasons. Notice of a cancelled meeting shall be posted at the township offices. An adjourned meeting will be noticed in the manner and to the extent required by law.

## **Section 22.12 Voting**

- A. Each Planning Commissioner, including the Chairperson, shall have one vote. A voice vote shall be taken unless a roll call is requested by a Planning Commissioner or is required by law.
- B. Motions shall be restated by the Chairperson before a vote is taken. The name of the maker and supporters of the motions shall be recorded. The Chairperson may make and second motions.
- C. A majority of the quorum present at a meeting is required to pass a motion or adopt a resolution, unless state law, this section, or the Zoning Ordinance provides otherwise.
- D. All members of the Planning Commission (including the Chairperson) shall vote on all matters, but the Chairperson shall vote last. Any member may be excused from voting but only if that person has a conflict of interest as set forth in division (O) herein.
- E. A tie vote shall cause the defeat of any motion for final action. Votes recommending proposals to the Township Board resulting in a tie vote will cause a "No Recommendation" to be forwarded to the Township Board, unless the motion is later passed by the Planning Commission in the interim.
- F. At least four affirmative votes are required to adopt or amend the Master Plan.
- G. No official action shall be taken without a quorum. A quorum is 4 members present.
- H. A written agenda for all regular meetings shall be prepared before a meeting as follows. The order of business shall generally be:
  1. Roll call.

2. Pledge of Allegiance.
3. Agenda additions/deletions.
4. Public comments and communications concerning items not on the agenda.
5. Approval of minutes.
6. Public hearings.
7. Unfinished business.
8. New business.
9. Reports.
10. Comments from Planning Commissioners.
11. Adjournment.

### **Section 22.13 Staff support**

- A. The Township Clerk shall be responsible for coordinating the agendas, public hearings and other meetings of the Planning Commission and for providing staff for subcommittees.
- B. The Zoning Administrator or Township Planner (if applicable) shall solicit and coordinate the zoning application review process and forward pertinent information to the Planning Commission to aid in its decision making process.
- C. The Zoning Administrator or the Township Planner (if applicable) shall be responsible for carrying out the directives of the Planning Commission. The Zoning Administrator or the Township Planner (if applicable) shall also advise and assist the Planning Commission in the establishment of general planning policy and shall represent that policy to the public.
- D. Staff support shall be provided to compile required records, maintain files and indices, and perform clerical work for the Planning Commission. At the direction of the Planning Commission, staff shall provide factual information and recommendations to the Planning Commission on development proposals and other pertinent issues. Recommendations shall not be binding on the Planning Commission.

### **Section 22.14 Subcommittees**

- A. The Planning Commission may create subcommittees composed of at least three, but less than a quorum, members of the Planning Commission.
- B. The Commission may establish and appoint ad hoc subcommittees for special purposes of issues as deemed necessary.
- C. The Planning Commission or Chairperson may establish and appoint citizen subcommittees with the consent of the Planning Commission. Membership can be any number, so long as less than a quorum of the Planning Commission serve on a citizen subcommittee at any given time. The

purpose of the citizen subcommittee is to have more citizen and municipal government involvement, to be able to use individuals who are knowledgeable or expert in the particular issue before the Planning Commission and to better represent various interest groups in the township.

### **Section 22.15 Conflicts of Interest**

- A. Each member of the Planning Commission shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall, at a minimum include, but is not limited to, the following:
  - 1. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
  - 2. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
  - 3. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she has an ownership interest or may be financially impacted.
  - 4. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.
  - 5. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is an applicant or agent for an applicant or has a direct interest in the outcome.
  - 6. Issuing, deliberating on, voting on, or reviewing a case concerning property owned or controlled by his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
  - 7. Any situation where the Planning Commissioner has a conflict of interest under Michigan law or township ordinance.
- B. Planning Commissioners deemed to have a conflict of interest are disqualified from participating and voting on the matter at issue. Failure to disclose a known conflict of interest constitutes malfeasance in office.
- C. The Planning Commission member declaring a conflict of interest must state the nature of the conflict and whether they believe they can impartially consider the request before the Planning Commission. They should individually decide to abstain from any discussion or votes relative to the matter that is the subject of the conflict. In cases where it is not entirely clear that there is a conflict of interest, the member with a potential conflict of interest may ask the other Planning Commission members to decide if the member with a potential conflict of interest should abstain. If this is requested, the remaining Planning Commission members shall vote on the abstention, and the results of the vote shall determine the participation of the member declaring the conflict.
  - 1. The member declaring a conflict may, but need not, leave the room in which the discussion takes place, but should excuse himself or herself from the Planning Commission table until the matter is decided by the Planning Commission.

2. A Planning Commissioner shall have the right to address any matter before the Planning Commission as a private citizen. In doing so, the Planning Commissioner must excuse himself or herself from the Planning Commission table and address the Planning Commission from the floor.
3. However, this may be seen as placing undue pressure on fellow Planning Commissioners in their consideration of the project or matter. Such action on the part of a conflicted Planning Commissioner should be carefully considered in order to avoid the appearance of a conflict of interest.

### **Section 22.16 Powers and Duties**

- A. The Planning Commission shall have the powers and duties as are set forth in Michigan Public Act No. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L.A. §§ 125.3801, et seq. and the Michigan Public Act No. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L.A. §§ 125.3101, et seq.) and the Zoning Ordinance. In addition, the Planning Commission's duties shall include the following:
  1. Take such action on petitions, staff proposals and Township Board requests for amendments to the Zoning Ordinance as required.
  2. Take such action on petitions, staff proposals and Township Board requests for amendments to the master plan as required.
  3. Prepare and adopt by-laws for the transaction of business, and keep a public record of its resolutions, transactions, findings and determinations.
  4. Prepare an annual report to the Township Board concerning operations and the status of planning activities, including recommendations regarding legislative actions related to planning and development.
  5. Review subdivision and condominium proposals and recommend appropriate actions to the Township Board.
  6. Prepare special studies and plans, as deemed necessary by the Planning Commission or Township Board, and for which appropriations of funds have been approved by the Township Board, as needed.
  7. Attend training sessions, conferences, or meetings as needed and as recommended by township staff, the Township Board, Township Supervisor or the Chairperson of the Planning Commission to properly fulfill the duties of a Planning Commissioner and for which appropriations of funds have been approved by the Township Board, as needed.
  8. Members shall avoid to the best of their abilities ex parte contact (i.e., contact outside of a formal Planning Commission public meeting) with a representative of an applicant before the Planning Commission (or the neighbors). Should such contact occur, the member shall disclose it publicly to the Planning Commission at the next Planning Commission meeting.

## **Section 22.17 Education**

Within 60 days of a regular member of the Planning Commission being initially appointed to the Planning Commission, that member shall complete the MSU citizen planner program. For every one year thereafter, each member of the Planning Commission shall attend at least three hours of seminars for a municipal planning commission as approved by the Yates Township Board. The Yates Township Board may impose further additional continuing education requirements for members of the Planning Commission. Failure to comply with this division (Q) (or any other continuing education requirements specified by the Township Board) shall constitute nonfeasance in an office for purposes of a member of the Planning Commission potentially being removed from the Planning Commission.

## ARTICLE 23

### ADMINISTRATION AND ENFORCEMENT

#### Section 23.01 Zoning Administrator

The provisions of this Ordinance shall be carried out, administered and enforced by the Zoning Administrator, who shall be appointed by the Township Board.

#### Section 23.02 Duties of the Zoning Administrator

- A. This Ordinance shall be administered, interpreted, and enforced by the Zoning Administrator who shall, in no case, issue any permit nor grant any occupancy permit where the proposed structure, alteration, or use would be in violation of any provisions of this Ordinance, except under written order of the Zoning Board of Appeals or a court of competent jurisdiction. The Zoning Administrator shall interpret and enforce the Zoning Ordinance. The Building Inspector shall administer applicable building codes and shall issue Building Permits once a Zoning permit has been issued by the Zoning Administrator.
- B. Violations. The Zoning Administrator shall investigate any alleged violation of this Ordinance as may be discovered. If a violation is found to exist, the Zoning Administrator shall serve written notice upon the owner to cease said violation as provided by law. If said owner fails to act diligently to correct such violation, the Zoning Administrator shall serve notice upon the owner, notify the Township Board, and prosecute (or issue and pursue municipal civil infraction citations/tickets) such violator to terminate said violation before a court of proper jurisdiction.
- C. Inspections. The Zoning Administrator shall make periodic inspections of the Township to ascertain that all the requirements of this Ordinance are being complied with.
- D. Records. The Zoning Administrator shall keep records of all inspections, applications and permits issued, with a notation of all conditions involved. He/she shall file and safely keep copies of all plans, other than for single family dwellings, and records of all fees submitted with applications. The same shall form a part of the records of the Township and shall be available to the Township Board and all other officials of the Township.

#### Section 23.03 Zoning Permits

- A. No structure or part thereof shall be constructed, reconstructed, erected, moved, enlarged, or altered, nor shall any use on any property be commenced or changed to another use, until a zoning permit has been issued by the Zoning Administrator. Application for a zoning permit shall be filed by the owner or an agent of the owner and it shall state the intended use of the structure and of the land. The application shall be accompanied by building plans and specifications, a plot

plan, a site plan where required, and such other information as may be necessary to provide for the interpretation or enforcement of this Ordinance.

- B. The Zoning Administrator may require plans drawn to scale and shall show all dimensions in figures. Plans shall be signed by the person preparing them and by the owner of the property or building involved. A fee as established by the Township Board from time to time to defray the costs of administration and inspections shall accompany any plans or applications for a zoning permit or building permit.
- C. A zoning permit shall only be issued if the plans and intended use conform in all respects to the provisions of this Ordinance. All zoning permits shall expire one (1) year from their date of issuance unless extended by the Zoning Administrator.
- D. A copy of all approved permits shall be sent to the Township Assessor.
- E. A zoning permit shall not be issued until the owner verifies that the lot involved has been created in conformance with this Ordinance.
- F. The zoning permit and building permit shall be displayed so as to be visible at the site where authorized action is being undertaken.
- G. Every use, building and structure must comply with its zoning permit.
- H. The Zoning Administrator may attach reasonable conditions to a zoning permit.
- I. Approval of plans or applications shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any Person making application to excavate, construct, move, alter, or use Buildings, Structures, or land, except as such authority may be explicitly provided for in this Ordinance. The Zoning Administrator shall have no authority to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his/her duties.
- J. The issuance of a zoning permit shall not be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter, or use buildings, structures, or land.
- K. The Zoning Administrator shall have the power to revoke or suspend any zoning permit in the event that an applicant fails to comply with this Ordinance or the permit, or in the event of any false statements or misrepresentations in the application for the permit. Notice of such suspension and revocation shall be securely posted at the site of the application, and such posting and shall be considered as notice to the permit holder of the suspension or revocation of the permit.



#### **Section 23.04 Certificate of Occupancy**

No land shall be used and no building hereafter erected, altered, occupied or used for any purpose until a Certificate of Occupancy shall have been issued by the Building Inspector stating that the premises or building complies with the provisions of approved plans and all ordinances of the Township. Where any special use or site plan review conditions are applicable, said conditions shall be stated on the Certificate of Occupancy. A record of all Certificates of Occupancy shall be kept on file in the Township. A copy also shall also be sent to the Township Assessor. Where a Building Permit is not involved, the Zoning Administrator shall issue a zoning permit. Said permit may be in the form of a letter or such instrument as determined by the Township Board to be fulfill the requirements of this section.

#### **Section 23.05 Ordinance Amendments**

This Zoning Ordinance may be amended at any time pursuant to the procedures of the Zoning Act, as amended, or its successor legislation.

##### **A. Initiation**

1. An amendment to the Zoning Map, which is a part of this Ordinance, may be initiated by the Township Board or Planning Commission on a motion by either body, or by a verified application of one (1) or more of the owners or lessees of the property involved, or by a person authorized in writing by the property owner to submit such application.
2. An amendment to the text of the Zoning Ordinance may be initiated by the Township Board or Planning Commission on a motion by either body.

##### **B. Procedure for Changes**

1. Applications for Zoning Ordinance map or text amendments shall be submitted to the Planning Commission upon forms supplied by the Township, along with the following information or materials:
  - a) A legal description of the property to be affected by a proposed change to the Zoning Map; or a typewritten copy of the proposed text amendment, including specific references to the portions of the existing Ordinance section and language.
  - b) A drawing or map showing, at a suitable scale, the property to be changed by an amendment to the Zoning Map and the location of properties within three hundred (300') feet of the property affected by such amendment.
  - c) Payment of a fee or fees, in accordance with a fee schedule, as determined by the Township Board from time to time.
2. Before submitting its recommendation to the Township Board, the Planning Commission shall hold at least one (1) public hearing, notice to be given in accordance with the requirements of the Zoning Act.

3. The Planning Commission shall transmit a summary of comments received at the public hearing, along with the recommendation of the Planning Commission, to the Township Board. The Township Board may hold additional hearings if it considers it necessary. The notice for such hearing to be the same as required by the Planning Commission public hearing for the same matter.
- C. Resubmission. Whenever a proposed zoning map or text change has not been approved by the Township Board, the Planning Commission shall not reconsider such map or text change for at least one (1) year following the date of the original application unless the Planning Commission finds that at least one of the following conditions exist:
1. That the conditions involving all of the reasons for the original denial have been significantly altered.
  2. That new conditions or circumstances exist that change the nature of the original request.

#### **Section 23.06 Fees, Escrow Charges and Expenses**

- A. Except as may be provided for otherwise in this Ordinance, the Township Board shall determine and set fees to be collected for all applications for zoning matters, permits, and approvals. These fees shall be collected prior to the issuance of any permit or certificate being issued, and other official actions required by this Ordinance. No application shall be considered complete until all applicable fees have been paid to the Township. Furthermore, Township employees and officials shall not commence work on a given zoning application or matter until any and all fees have been paid to the Township in full. The fee schedule shall be that adopted by resolution of the Township Board as amended from time to time.
- B. In addition to regularly established fees, the Township Board at its discretion may also require an applicant to submit to the Township, at any time during the zoning review process, an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. Such costs and expenses to be charged or assessed to the applicant for reimbursement of the Township's reasonable costs and expenses, may include but shall not be limited to Township attorney fees, Township engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in questions, significant Township employee time, special meeting costs, and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies paid or deposited by an applicant, which are not used or spent by the Township pursuant to an escrow fee shall be refunded. If, for some reason, the applicant does not pay, or the Township does not collect, zoning escrow fees during the zoning review process, the Township can still bill such costs and expenses to the applicant after the zoning review process has been completed and the applicant or landowner shall promptly pay/reimburse the Township for the same.

### **Section 23.07 Stop Work Orders**

- A. Notice to Owner. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.
- B. Unlawful Continuance. Any person who continues to work in or about the structure, land or building (or allows such work) or use it after having been served with a stop work order, except such work as that person is directed to perform to remove a violation, shall be in violation of this Ordinance.

### **Section 23.08 Enforcement; Violations**

- A. No property, premise, lot, structure, building, or use shall be used, erected or conducted in such a manner as to cause a nuisance to adjacent property or uses. Any structure, building, lot, or use that violates any provision of this Ordinance (or any permit or approval issued pursuant to this Ordinance) shall be deemed to be a nuisance *per se*.
- B. Any building or structure which is erected, moved, placed, reconstructed, demolished, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance (or any permit or approval issued pursuant to this Ordinance) is hereby declared to be a nuisance, *per se*.
- C. A violation of this Ordinance (or any permit or approval issued pursuant to this Ordinance) constitutes a municipal civil infraction offense. Any person or firm who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a municipal civil infraction.
- D. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50 nor more than \$500 for the first offense and not less than \$100 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, and such fine shall be in addition to all other costs, attorney fees, damages, expenses, and other remedies as provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.
- E. The Township Board, the Zoning Administrator, or their duly authorized representative(s) are hereby charged with the duty of enforcing the Ordinance and are hereby empowered to

commence and pursue any and all necessary and appropriate actions and/or proceedings in the District Court (including municipal civil infraction proceedings) or Circuit Court of Lake County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any noncompliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate the noncompliance or violation.

- F. The rights and remedies provided to the Township herein are cumulative and in addition to other remedies provided by law.
- G. Any building or structure that is erected, altered or converted, or any use of premises or land that is begun or changed subsequent to the time of passage of this Ordinance and is in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se and may be abated by order of any court of competent jurisdiction.
- H. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law. In addition to the above remedies, the Township or any person may institute a civil lawsuit to abate any violation of this Ordinance. Any violation of this Ordinance is a nuisance per se. The Township's remedies are cumulative and not exclusive. Should the Township prevail in any court action to enforce this Ordinance, either in whole or in part, then the Township shall also be awarded its attorney fees and costs.
- I. The prohibitions and penalties of this Ordinance shall apply not only to the landowner or owners and to any person, firm, entity, corporation or association who or which does anything prohibited by this Ordinance and those who aide and abet such acts, but also to any owner, co-owner, lessee, tenant, licensee, part-owner, occupant or person, firm, corporation, or entity owning or having control of any premises or property in violation of this Ordinance.

### **Section 23.09 Performance Guarantees**

- A. As a condition of approval of a site plan review, special use, PUD, Zoning Agreement, Zoning Permit, variance, or other approvals authorized by this Ordinance, the Township Board, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee or guarantees of sufficient sum to assure compliance with this Ordinance, to assure compliance with a condition of approval or a permit, and to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.
- B. The features or components, hereafter referred to as "improvements" for which monetary security may be required, may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.
- C. Performance guarantees shall be processed in the following manner:
  - 1. Required Improvement:

- a) Prior to the issuance of a Building Permit, Zoning Permit, or other approval or permit, the applicant or their agent shall submit an itemized cost estimate of the required improvements that are subject to the performance guarantee, which shall then be reviewed and approved by the Zoning Administrator.
- b) The amount of the performance guarantee shall be not more than one hundred and thirty percent (130%) of the cost of purchasing of materials and installation of the required improvements, including the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.
- c) The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee acceptable to the Township.
- d) The Zoning Administrator shall not sign off on the issuance of a Zoning Permit until all final plans, development agreements, escrow fees and any required performance guarantees are provided.
- e) The Zoning Administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. A portion of the performance guarantee shall be rebated in the same proportion as stated in the itemized cost estimate for the applicable improvements.
- f) When all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
- g) If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- h) The Zoning Administrator shall maintain a record of required performance guarantees.

2. Compliance with Conditions:

- a) As a condition of approval of a site plan, special use, conditional rezoning, PUD, Zoning Permit, variance, or other approvals authorized by this Ordinance, the Township Board, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee or guarantees to ensure compliance with the approval and any conditions attached thereto.

- b) A required performance guarantee or guarantees shall be payable to the Township and shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee with the amount, form, financial institution, and language acceptable to (and approved by) the Township.
- c) The Zoning Administrator shall not sign off on the issuance of a Zoning Permit or other permit or approval until all required fees and performance guarantees are provided to the Township.
- d) The Zoning Administrator shall maintain a record of required performance guarantees pursuant to this subsection.

### **Section 23.10 Zoning Agreements; Conditional Rezoning**

The Township Board recognizes that there are certain instances where it would be in the best interest of Yates Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions and limitations could be proposed by an applicant as part of an application for a rezoning. Therefore, it is the intent of this section to provide a process by which an applicant seeking a change in zoning districts may propose a Zoning Agreement, with conditions and commitments attached thereto, as part of the application for the requested rezoning. These provisions shall be in accordance with the provisions of the Zoning Act, as amended.

A. The following definitions shall apply to this section:

- 1. Rezoning Offer - shall mean conditions proposed by the applicant and approved by the Township that are processed as part of an approval under this section. These conditions shall constitute permanent requirements for and in connection with the development and/or use of the property approved with a Zoning Agreement.
- 2. Zoning Agreement - shall mean a written agreement offered by the applicant and approved and executed by the applicant and the Township and recorded with the Lake County Register of Deeds, incorporating the Rezoning Offer along with any requirements necessary to implement the Rezoning Offer. When necessary, the Zoning Agreement shall also include and incorporate, by reference, a site plan that illustrates the implementation of the Rezoning Offer. This plan shall not replace the requirement for a site plan or other approvals that may be required by this Ordinance.

B. Eligibility: An applicant for rezoning may submit a proposed Zoning Agreement with an application for rezoning.

C. Zoning Agreement

- 1. The Zoning Agreement shall set forth the Rezoning Offer and shall include those terms necessary to implement the Agreement. In addition, the Zoning Agreement shall include the following acknowledgments and understandings that:

- a) The Zoning Agreement and the Rezoning Offer were proposed voluntarily by the applicant, and that the Township relied upon the Agreement and may not grant the rezoning without the Rezoning Offer and terms spelled out in the Zoning Agreement.
  - b) The Zoning Agreement and its terms and conditions are authorized by all applicable state and federal laws and constitutions, and that the Zoning Agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the Township.
  - c) The property shall not be developed and/or used in any manner that is not consistent with the Zoning Agreement.
  - d) The approval and the Zoning Agreement shall be binding upon the property owner and the Township, and their respective heirs, successors, assigns, receivers or transferees.
  - e) If a rezoning with a Zoning Agreement becomes void in accordance with the Zoning Act, no development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established or a new rezoning with a Zoning Agreement has been approved.
2. Each of the requirements and conditions in the Zoning Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact or other condition created by the uses, activities or conditions represented in the approved rezoning and Zoning Agreement, taking into consideration the changed zoning district classification and the specific use(s), structures, activities, or conditions authorized.
  3. No part of the Zoning Agreement shall permit any activity, use, structure, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new Zoning District.

#### D. Rezoning Offer

1. The Zoning Agreement shall specify the Rezoning Offer and any requirements necessary to implement it. However, the Rezoning Offer may not authorize uses or developments of greater intensity or density, and/or which are not allowed in the new zoning district; nor may any variances from height, area, setback or similar dimensional requirements in the Zoning Ordinance of Yates Township be allowed unless a variance has been previously granted by the ZBA pursuant to the requirements of this ordinance.
2. Any uses proposed as part of a Zoning Agreement that would otherwise require approval of a special use permit and/or site plan shall be approved as required in this Ordinance prior to establishment of or commencement of development of the use.

#### E. Application

1. An application for rezoning shall be the same as specified in the Zoning Act. In addition to the required materials listed, a Zoning Agreement in a recordable format acceptable to the Township shall be submitted, along with any plans necessary to illustrate the Rezoning Offer.
2. The application may be amended during the process of Township consideration, provided that any amended or additional Rezoning Offers are entered voluntarily by the applicant.
3. The Zoning Agreement shall be reviewed by the Township Attorney prior to the required Planning Commission public hearing. The Township Attorney shall determine that the Zoning Agreement conforms to the requirements of this section and the Zoning Act, as amended, and shall confirm that the Zoning Agreement is a form acceptable for recording with the Lake County Register of Deeds.
4. An escrow fee deposit may be required by the Township to cover any and all costs incurred for addressing the Zoning Agreement request.

#### F. Approval

1. If the rezoning and Zoning Agreement are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the Zoning Agreement. The Zoning Map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a Zoning Agreement. The Township Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
2. Upon rezoning, the use of the property in question shall conform to all of the requirements regulating use and development within the new zoning district as well as the Zoning Agreement; however, the more restrictive requirements of the Zoning Agreement shall apply, and the Zoning Agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
3. The approved Zoning Agreement shall be recorded with the Lake County Register of Deeds by the applicant with proof of recording provided to the Township.
4. Prior to development, a site plan shall be approved in accordance with this Ordinance, if otherwise required.

#### G. Continuation

1. Provided that all development and/or use of the property in question is in compliance with the Zoning Agreement, a use or development authorized under the agreement may continue indefinitely, provided that all terms of the Rezoning Offer and the Zoning Agreement continue to be adhered to.
2. Failure to comply with the Zoning Agreement at any time after approval may constitute a breach of agreement, and further use of the property may be subject to legal remedies available to the Township.



H. Amendment

1. During the initial two (2) year period, or during any extension granted by the Township as permitted above, the Township shall not add to or alter the Rezoning Offer in the Zoning Agreement.
2. The Zoning Agreement may be amended after the expiration of the initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and Zoning Agreement.

**Section 23.11 Notice and Hearings**

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application or matter is required by this Ordinance or by the Zoning Act (for example, where a rezoning, ordinance amendment, conditional rezoning, special use, PUD, or ZBA matter is involved), notice of the public hearing shall be published and delivered in accordance with the requirements of this section and the Zoning Act.

- A. The notice of public hearing shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
- B. For applications involving the rezoning often (10) or fewer adjacent properties; for applications to the ZBA; and for all planned unit development and special use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or be personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
  1. The applicant;
  2. All persons to whom real property is assessed for property tax purposes within 300 feet of the property that is the subject to the application;
  3. The occupants of all dwellings within 300 feet of the property that is the subject of the application; and
  4. All neighborhood organizations, public utility companies, railroads, and other persons that have requested to receive notice.
  5. If the above-described 300-foot radius extends outside of the Township's boundaries, then notice must also be provided outside of the Township boundaries, within the 300-foot radius, to all persons in the above-stated categories.
- C. The notice of public hearing shall include at least all of the following information:
  1. A description of the nature of the application or request.
  2. An identification of the property that is the subject of the application or request. The notice shall also include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such

addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning.

3. A statement of where and when the application or request will be considered.
4. Indicate where and when written comments will be received concerning the application or request.

### **Section 23.12 Time Limits**

If a zoning approval or permit under this Ordinance has been granted with a specific time limit and the use has not commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval or permit shall automatically expire (and be void) at the end of that time limit. No extension to that time limit shall be granted except by the Township body, commission, or official which granted the initial zoning approval or permit. If a zoning approval or permit is silent with regard to a time limitation, the time limitation shall be deemed to be one (1) year, and the zoning approval or permit shall expire (and be void) after one (1) year if the use has not been commenced or substantial construction has not begun within said one (1) year time limitation. A time extension may be granted only by the body, commission, or official that granted the initial zoning approval or permit.

### **Section 23.13 Proof of Ownership**

The Zoning Administrator or Building Inspector may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before the issuance of a Zoning Permit or a Building Permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The Township may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a Building Permit, variances, special use requests, site plan review, Zoning Permits, and any other zoning or building code action.

### **Section 23.14 Surveys**

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the Township with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the Township to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All such surveying costs shall be paid for by the applicant or property owner.

### **Section 23.15 Revocation or Termination of Zoning Approvals**

If a property owner or applicant violates any of the conditions or requirements attached to a zoning approval or Zoning Permit, then the Township body, board, or official that granted the zoning approval or permit may terminate the zoning approval or Zoning Permit. Where a special use, conditional rezoning, PUD, variance, or site plan approval was involved, no such revocation shall occur until and unless the property owner or applicant has been given reasonable notice and a public hearing has been held regarding the revocation.

### **Section 23.16 Reapplication**

No application for a zoning permit, Site Plan Review, Special Land Use, Planned Unit Development, or Variance that has been denied, in whole or in part, by either the Planning Commission or the Zoning Board of Appeals, may be resubmitted for a period of 12 months from the date of the denial, except on the grounds of newly discovered evidence or unless the site plan is substantially changed in the opinion of the Zoning Administrator.

### **Section 23.17 Representations and Promises of Developers and Property Owners**

If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a rezoning, special use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable condition of any such zoning approval in writing, and whether or not it is reflected in the zoning approval motion, resolution, permit, or other Township approval document) if the Township deems such promise, representation, or condition to have been a consideration by the official or Township body which granted the zoning approval and the Township also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

### **Section 23.18 No Administrative Liability**

No officer, agent, employee, Building Official, Zoning Administrator, or member of the Planning Commission, Township Board, or Zoning Board of Appeals shall be personally liable for any damage that may accrue to any Person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of duties and responsibilities pursuant to this Ordinance.

**ARTICLE 24**  
**AMENDMENTS AND REZONINGS**

**Section 24.01 Amendments**

Any amendment to this Ordinance (including rezoning) shall be done pursuant to the requirements of the Michigan Zoning Enabling Act (MCL 125.3101 et seq.), as amended.

## ARTICLE 25

### MISCELLANEOUS PROVISIONS

#### **Section 25.01 Severability**

If any provision of this Ordinance or the application thereof to any person, property, or circumstance shall be found to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions of this Ordinance and the balance of this Ordinance shall remain unaffected and in full force and effect.

#### **Section 25.02 Nonwaiver**

If any provision of this Ordinance is not enforced against a particular lot, parcel, or property or throughout the Township in general, that shall not be deemed to be a waiver (or constitute laches) regarding the ability of the Township to enforce that provision (or any other provision) of this Ordinance against a particular lot, parcel, or property involved or throughout the Township in general. Furthermore, should any Township official, body, board, or commission render any zoning approval or opinion, or undertake (or not undertake) any other action pursuant to this Ordinance, and it is determined that any such opinion, interpretation, approval, action or inaction was done in error or in an ultra vires or other mistaken fashion, that shall not preclude the Township from reversing, revoking, or revising any such zoning approval, interpretation, opinion, action, or inaction which was done in error and to thereafter enforce the provision or provisions of this Ordinance involved. The Michigan common law "rule of municipal non-estoppel" shall benefit the Township, as well as its officials, officers, bodies and commissions.

#### **Section 25.03 Repeal of Prior Ordinance**

The prior Yates Township Zoning Ordinance, adopted in 2001 and with amendments thereto (as well as any other prior Yates Township Zoning Ordinance), is hereby repealed effective concurrently with the effective date of this Ordinance.

#### **Section 25.04 Effective Date**

This Ordinance shall become effective upon the expiration of seven (7) days after publication as provided by law.