

**ARTICLE 18**  
**SPECIAL LAND USE APPROVAL REQUIREMENTS**

A. General Requirements.

For all special land uses, a site plan shall be submitted to the Lenox Township Planning Commission and conform to the Requirements and Procedures for Site Plan Review set forth in Section 305. If the plans meet the required standards of this Ordinance, Article and applicable section and indicate no adverse effects which, in the opinion of the approval authority, cause injury to the residents, users or adjoining property, or the Township as a whole, the Planning Commission shall approve the use. The power to approve or disapprove all special land uses shall be vested with the Planning Commission as provided by State Law and this Ordinance. In consideration of all applications for special land use approval, the Planning Commission shall review each case individually as to its applicability and must find affirmatively to each of the following standards of the proposed special land use if it is to be approved. Such uses shall be subject to conditions, restrictions and safeguards deemed necessary within the scope of the law as set forth below.

1. The proposed special land use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.
2. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relation to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle interfacing.
3. The proposed use shall be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating there from which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
4. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls,

fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

5. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the Township.
6. The proposed use is necessary for the public convenience at the proposed location.
7. The proposed use is so designed, located, planned and to be operated that the public health, safety and welfare will be protected.
8. The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

B. Approval.

If the Planning Commission determines that the particular special land use(s) should be allowed, it shall endorse its approval thereof on the written application and clearly set forth in a special land use permit a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed, and particular use(s) which have been allowed and applicable conditions. Thereafter, the enforcing officer may issue a building permit in conformity with the particular special land use so approved.

C. Denial.

If the Planning Commission shall determine that the particular special land use(s) requested does not meet the standards of this Ordinance or otherwise will tend to be injurious to the public health, safety, welfare or orderly development of the Township, it shall deny the application by a written endorsement thereon which clearly sets forth the reason for such denial.

D. Record.

The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed.

E. Hearings.

The Planning Commission shall investigate the circumstances of each such case and shall hold a public hearing on the proposed special land use. Notice of the hearing shall be given by one (1) publication in a newspaper of general circulation in the Township, and by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within 300 feet of the subject

property, and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or occupant is located within Lenox Township. The notice shall be given not less than fifteen (15) days before the public hearing date, in accordance with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, (M.C.L. 125.3101 et seq.) and shall describe the nature of the special land use request, indicate the property that is subject of the request including a listing of all existing street addresses within the subject property, state the time and place of the public hearing, and indicate when and where written comments will be received.

F. Conditions.

The Planning Commission may impose such conditions or limitations in granting approval as may be permitted by State Law and this Ordinance which it deems necessary to fulfill the spirit and purpose of this Ordinance. The conditions may include, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this Ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The Planning Commission shall maintain a record of changes granted in conditions.

G. Revocation

1. In all cases where a particular special land use has been granted as provided herein, application for a building permit in pursuance thereof must be made and received by the Township not later than one hundred twenty (120) days thereafter, or such approval shall automatically be revoked; provided, however, the Planning Commission or Township Board may grant an extension thereof for good cause shown under such terms and conditions and for such period of time not exceeding six (6) months as it shall determine to be necessary and appropriate.

2. A special land use permit shall be valid for a period of twelve (12) months after the date of issuance of the building permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this 12 month period, the Building Official shall notify the applicant in writing of the expiration of said permit; provided, however, that the Planning Commission may extend the period of time in which the permit is to expire for a period of time not exceeding six (6) months if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction. Once the special land use is established and the conditions of the permit fulfilled, the special land use permit shall be valid until such time that there is a change of conditions or use related to the permit. The Planning Commission reserves the right to review, with the applicant and the Township Zoning Administrator, the status of Special Use Permits on an annual basis.
  
3. If any special land use fails to conform to the specific standards for the particular use, any conditions imposed as part of the special land use permit, the Performance Standards of Article 20, the lot area and width requirements of this Ordinance, or any other provisions of the Zoning Ordinance, or any federal, state and local statutes governing the particular land use allowed under the permit, then the Township Board shall have the authority to revoke the Special Land Use Permit based on a site inspection by the Ordinance Enforcement Officer and its own findings of fact. Prior to revoking the special land use permit, the Township shall:
  - a. Have its Ordinance Enforcement Officer inspect the site and use under consideration and issue a written notice of the violations found to the current permit holder by Regular US Mail.
  - b. Offer the permit holder thirty (30) days to correct all violations, without penalty.
  - c. If all violations are not corrected within thirty (30) days, the Township Board shall hold a revocation hearing as follows:
  - d. The Township Board shall notify the permit holder by Regular U.S. Mail of the date, time and place of a hearing concerning the proposed revocation of the special land use permit.
  - e. Public notice of the revocation hearing shall be given in the same manner as required by Article 18, E.
  - f. During the hearing, the permit holder shall be afforded an opportunity to present any reasons for why the standards of the permit and/or this Ordinance are not being met.
  - g. Following the hearing, the Township Board may revoke the special land use permit, based upon findings made in the specific case and testimony received during the hearing, and shall notify the permit holder of the findings and decision in writing.
  
4. If at any point the original Special Land Use permit holder transfers the land and the use to another party, the Permit shall remain valid for the property subject to the conditions and requirements of Article 18.G and any conditions placed on the original special land use and permit by the Planning Commission. The new holder of the permit shall submit notification of the transfer and an affidavit agreeing to all conditions of the original approval to the Planning Commission

within sixty (60) days of the transfer.



**SECTION 1800. AIRPORTS**

Airports, airfields, runways, hangars, beacons, and other facilities involved with aircraft operations are permitted uses in the AG Districts subject to the approval by the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and following conditions:

A. Airports, airfields, runways, hangars, beacons and other facilities involved with aircraft operations, subject to all rules and regulations of the Federal Aeronautics Administration, which agency shall approve the preliminary plans submitted to the Township. (land beneath all aircraft approach lanes, as established by appropriate aeronautical authorities, which is not part of the airport, shall be so developed as to not endanger safe flight conditions to and from an established airport. Permitted height of buildings, structures, telephone and electrical lines and appurtenances thereto shall be established after consultation with the appropriate aeronautical agencies).

B. Yard and Placement Requirements:

1. No building or structure or part thereof, shall be erected closer than sixty (60) feet from any property line.
2. Those buildings to be used for servicing or maintenance shall not be located on the outer perimeter of the site where abutting property is zoned residential.

C. Performance Requirements:

All the standards cited in ARTICLE 20 Performance Standards shall be compiled with in relation to this use.

D. Prohibited Uses:

The open storage of junked or wrecked motor vehicles or aircraft shall not be permitted, except that wrecked aircraft may be stored in the open for not more than thirty (30) days from the date of the accident.

- E. Off-street Parking Requirements:
1. One (1) parking space shall be required for every three airplanes stored on the site.
  2. All off-street parking shall be paved and constructed to the standards shown in Article 3.

### **SECTION 1801. AUTO WASH**

Auto wash or motor vehicle laundry are permitted uses in the CN and CG Districts subject to the approval of the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

A. Site Requirement:

1. Vehicular ingress and egress from the site shall be directly onto a major thoroughfare except that it shall be permissible to allow vehicles to exit from the facility onto a public alley.
2. All vehicles waiting or standing to enter the facility shall be provided off-street waiting space, and no vehicle shall be permitted to wait on the public right-of-way as part of the traffic approach.

B. Area, Height and Placement Requirements:

Same as for the District in which this use is requested.

C. Buffer and Sign Requirements:

Same as for the District in which this use is requested.

### **SECTION 1802. CEMETERIES**

Cemeteries are a permitted use in the AG District subject to the approval by the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

- A. The area to be occupied by the cemetery shall not have more than fifty one (51) percent of its land area in recorded plots.
- B. The continuity of all roads present or planned for adjacent areas shall be satisfactorily resolved to provide safe and prompt access and egress to and from such areas.
- C. All ingress and egress shall be directly to a public road having a right-of-way of not less than that of a secondary thoroughfare (86 feet) or the

proposed right-of-way of a major thoroughfare on the Township's adopted  
Thoroughfare Plan.

- D. All sides of the cemetery shall be screened from any residential view by providing a continuous and completely obscuring wall or fence, four feet eight inches (4'8") in height, measured from the surface of the ground. The Planning Commission may permit a "chain-link" type fence adequately screened with deciduous and evergreen material.
- E. Approval shall be given contingent on a satisfactory drainage plan approved by the Township Engineer and the Macomb County Health Department.

### **SECTION 1803. PLACES OF WORSHIP**

#### A. Neighborhood Places of Worship.

Neighborhood places of worship are a permitted use in the AG, RL, RH, RM, CC, CG, and OTW districts subject to site plan approval by the Planning Commission, upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

1. The minimum site shall be 5 acres on a contiguous parcel.
2. Access to and from the site shall be directly from a paved public roadway with a planned or existing right-of-way of not less than 86 feet.
3. Places of worship shall comply with the noise performance standards of Section 2008.
4. Off-street parking shall be screened from adjoining residential districts and uses in compliance with Section 300.
5. Off-street parking and access drives shall be paved.
6. Group Child Care Centers associated with places of worship shall be permitted as a special land use in the AG district, subject to the standards of Section 1812 Group Child Care Centers.

#### B. Large-Scale Places of Worship.

Large-scale places of worship are a permitted use in the CC, CG, and OTW districts, subject to site plan approval by the Planning Commission, and a special land use in the AG, RL, RM, and RH districts, upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

1. The minimum site shall be 10 acres on a contiguous parcel.
2. Access to and from the site shall be directly from a paved public roadway with a

planned or existing right-of-way of not less than 86 feet.

3. Places of worship shall comply with the noise performance standards of Section 2008.
4. Off-street parking shall be screened from adjoining residential districts and uses in compliance with Section 300.
5. Off-street parking and access drives shall be paved.
6. Ancillary uses such as group child care centers, classrooms, and accessory retail uses shall require site plan approval.

### **SECTION 1804. CLUSTER DEVELOPMENT**

Cluster Development is a permitted use in the RL, RM and RH Districts and shall be reviewed in accordance with the appropriate procedure for the type of development (lot split, subdivision, site condominium, etc.) and must meet the intent and requirements of this Ordinance. The intent of this section is to permit residential developments to be planned as a comprehensive unit with an allowance for residential open space. Certain modifications to standards outlined in the "Area, Height, and Placement Requirements" section of Article 17 are therefore permitted when the following conditions are met:

- A. Lot dimensions in the RL, RM and RH Districts may be reduced in accord with the following schedule, provided that the number of residential lots shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas conventionally required for each district.
  1. All calculations of density shall be predicated upon the maximum number of dwelling units per acre (including roads); as normally shown for each district. A yield plan (also known as a parallel plan) demonstrating the number of units feasible under conventional development must be submitted.

2. Lot widths and overall area reductions shall not be more than twenty-five (25) percent. Approved modifications to side yard setbacks for single family structures shall not result in side yards less than nine (9) feet. Side yards shall be oriented so that any detached single family structure shall be located at least twenty (20) feet from any other detached single family structure.
  3. Rear yards may be reduced to thirty (30) feet when bordering on land dedicated to the common use of the development as indicated in the following paragraph B.
- B. Open Space. The total area of open space shall equal or exceed the total area by which proposed lot areas are reduced below the district minimum requirements.
1. Open space shall be dedicated to the common use of the lot owners in the development in a manner approved by the Township, or may, if approved by the Township, be dedicated to the Township. If dedicated to the Township, no individual land areas shall be less than four (4) acres in size, except that said parcel may be divided by a road or stream.
  2. One half (1/2) of the existing wetland, flood plain, open water bodies, and "wet" storm water detention/retention areas on the site may be counted toward the required open space under this section provided all other requirements of this section are met. Such areas shall be adjacent to other usable open space areas where possible for the benefit of the community. In order to qualify as required open space detention areas must be well designed and improved. Community wastewater treatment facilities may not be credited as dedicated open space.
  3. The area to be dedicated for either public park or private open space shall be in a location and shape approved by the Planning Commission in reviewing the proposed Cluster Development. Said land shall be so graded and developed as to have natural drainage.
  4. Under this cluster approach, the developer or subdivider shall dedicate the total open space area at the time of filing of the final plat on all or any portion of the plat, or final site plan unless otherwise agreed to by the Township.
  5. Where the open space is dedicated to the land owners or their representative, such land area shall be maintained by the same. In the event of a default in maintenance, said open space shall either be conveyed to Lenox Township or in lieu thereof, the lots in the

development shall be assessed equally as a tax lien to provide necessary maintenance.



- C. The following objectives will be observed in reviewing a proposed Cluster Development:
1. To provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, topography, and similar natural assets.
  2. To encourage developers to use a more creative approach in the development of residential areas.
  3. To encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs, and by allowing the developer to bypass natural obstacles in the site.
  4. To encourage the provision of open space so benefits may accrue directly to residents of the development and to further encourage the establishment of recreational facilities and linkages within the Township.
- D. The Cluster Development shall contain the following in addition to the information required by other Sections of this Ordinance or the Subdivision Regulations.
1. A complete description of the land proposed to be dedicated to the Township or to the common use of lot owners (herein called open space) shall be provided, including the following as a minimum:
    - a. Legal description of open space.
    - b. Topographical survey of open space.
    - c. Types of soil in open space as classified in "Soil Survey, Macomb County, Michigan.
    - d. Description of natural features of open space (stands of trees or other vegetation, streams or other bodies of water, etc.).
    - e. Other relevant information.
  2. The proposed method of maintenance and use of open space shall be submitted with the Preliminary Plat for tentative approval or Preliminary Site Plan in the form of a recordable Master Deed and shall include the following as a minimum:

- a. The proposed manner in which the title to land and facilities is to be held by the owners of land in the development.

- b. The proposed manner and collection of maintenance costs, financing costs or assessments so that nonpayment will constitute a lien on the property, thus avoiding Township responsibility in the future.
  - c. The proposed manner of regulating the use of the common facilities and open space areas so as to eliminate possible nuisance to property owners and cause for enforcement by the Township.
  - d. The proposed method of notifying the Township when any change is contemplated in plans that would affect the original specifications approved by the Township.
  - e. The proposed method of setting up assessments to cover contingencies, insurance against casualty and liability and payment of taxes relating to these properties.
- 4.A statement of the benefits to be realized by the residents of the proposed cluster development and the Township upon approval of the proposed development with reference to the objectives noted in subsection 1804 E. 1-4 above.
5. Before any action is taken upon any Cluster Development application, copies of the Preliminary Plat or Site Plan and supporting data shall be submitted through the Clerk to the Township Planner, the Township Engineer, and the Township Attorney for review and recommendation.
- a. The Township Planner shall review and render an opinion upon the proposed Cluster Development based on the materials furnished, from visits to the site, or such other information as he may deem necessary and render his opinion with respect to the following:
    - 1) The suitability of the proposed open space for the purposes proposed.
    - 2) The need for the proposed uses in the general area.
    - 3) The location and layout of the open space with relation to the lots within the development.
    - 4) The effect upon neighboring areas, which would result by the Cluster Development and the appropriateness of the proposed lot sizes in the development area involved

- 5) Any other factor related to the development and proper design of the proposed development.

- b. The Township Engineer shall review and render an opinion upon the proposed Cluster Development as it relates to the following details:
    - 1) The development can be suitably provided with utilities as proposed.
    - 2) The development would not require any undue alteration of the natural grade.
    - 3) The development can be physically developed, as proposed, without injuring the abutting lands as to the capacity available in existing utility services.
  - c. The Township Attorney shall review the proposed Cluster Development and render his opinion with respect to the following:
    - 1) The proposed manner of holding title to the open space.
    - 2) The proposed manner of payment of taxes.
    - 3) The proposed method of regulating the use of the open space.
    - 4) The proposed method of maintenance of property and financing thereof.
    - 5) Any other factor related to the legal or practical concerns regarding ownership and the use and maintenance of open space.
- E. If the Planning Commission is satisfied that the proposed Cluster Development meets the letter and spirit of the Zoning Ordinance and should be approved, it shall recommend approval to the Township Board for Subdivision Developments in accordance with the procedures of the Subdivision Ordinance. The Planning Commission shall be the final approving body for Cluster Developments applying for Site Condominium approval in accordance with Section 328.
- F. If the Planning Commission is not satisfied that the proposed Cluster Development meets the letter and spirit of the Zoning Ordinance or finds that the approval of said development will be detrimental to existing development in the general area and should not be approved, the basis for such disapproval shall be recorded in the decision making motion in the Commission minutes and communicated to the Township Board for proposed Subdivisions. A subdivision proprietor shall be entitled to a hearing upon said proposal before the Township Board upon written request therefore filed with the Township Clerk.
- G. Upon approval of a proposed Cluster Development the Township Attorney shall prepare a development agreement setting forth the conditions upon which such approval is based, which shall be entered

into between the Township and the Proprietor. The Development Agreement shall be recorded with the plat, condominium, or land division needs for the development.

**SECTION 1805. CONVALESCENT OR REST HOME**

A Convalescent or Rest Home, or a home for the aged, indigent or physically handicapped or an orphanage is a permitted use in the AG and RH Districts subject to the approval by the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

**A. Site Requirements:**

1. All ingress and egress shall be directly to a public road having a right-of-way of not less than that of a secondary thoroughfare (86 feet) or the proposed right-of-way of a major thoroughfare on the Township's adopted Thoroughfare Plan.
2. The maximum extent of development shall not exceed thirty (30) children or patients per acre.

**SECTION 1806. DRIVE-IN BUSINESS**

Drive-in business or open front store are permitted uses in the CG District subject to the approval of the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

- A. A setback of at least sixty (60) feet from the right-of-way line of any existing or proposed street must be maintained.
- B. Ingress and egress points shall be located at least twenty five (25) feet from the intersection of any two (2) street right-of-way lines or abutting residential district.

**SECTION 1807. KEEPING OR RAISING OF ANIMALS, INCLUDING KENNELS**

**KEEPING OF ANIMALS.** THE KEEPING OF ANIMALS SHALL BE ALLOWED IN EVERY DISTRICT, SUBJECT TO THE FOLLOWING PROVISIONS:

1. Nothing in this ordinance shall be construed to prevent the keeping of domestic pets in any district. A commercial kennel, however, shall not constitute keeping of domestic pets.
2. The keeping of farm animals shall only be allowed on a minimum site of five (5) acres in the AG district and on a Hobby Farm in the RL district. The raising of animals for a school project, 4H project, or similar educational program shall be exempt from the five (5) acre requirement only for animals that will be sold at the agricultural fair. Horses being raised for a 4H or similar equestrian project shall be limited to one (1) horse on parcels less than five (5) acres, and one (1) additional horse per each acre over five (5) acres.
3. The keeping of animals on any property shall be in accord with Article VIII of the Macomb County Animal Control Ordinance.
4. It shall be unlawful to own, possess or harbor any dangerous, wild or exotic animals without proper Federal, State or Local permits.

**RAISING OR KEEPING OF FUR BEARING ANIMALS.**



1. The raising or keeping of fur bearing animals may be permitted on sites of at least five (5) acres.
2. Pens and runs shall be located no closer than one hundred fifty (150) feet to any property line.
3. All runs and breeding areas shall be enclosed.
4. All animals shall be adequately housed, fenced, and maintained so as not to be or become a public or private nuisance. The premises shall be maintained in such a manner so as not to be harmful to surrounding properties, or create any hazard or detriment to public health, safety or general welfare.
5. All objectionable noise shall be controlled as required by Section 2008.
6. Any use permitted by the Township shall terminate immediately when the lot area requirements set forth herein are decreased in any manner or the provisions of this ordinance violated.

## COMMERCIAL KENNELS

### 1. General Standards

- A. **In AG, IR, and IC districts**, commercial kennels may be permitted on sites of at least five (5) acres.
- B. All commercial kennels shall be licensed by Macomb County and shall comply with the regulations in Article V of the Macomb County Animal Control Ordinance. Where the standards of the Lenox Township Zoning Ordinance are stricter, the Lenox Township ordinance shall control.
- C. The site shall abut either a public road shown as a major or secondary thoroughfare on the Township's adopted Master Plan or an internal industrial park street.
- D. All animals shall be adequately housed, fenced, and maintained so as not to be or become a public or private nuisance. The premises shall be maintained in such a manner so as not to be harmful to surrounding properties, or create any hazard or detriment to public health, safety or general welfare.
- E. Kennels housing more than ten (10) dogs shall provide one (1) off-street parking space for each five (5) animals that can be boarded. Other uses shall provide parking to accommodate the maximum number of patrons using the facility at any one time.
- F. Between the hours of 10:00 p.m. and 6:00 a.m. all animals shall be confined in a sound and odor- proof kennel building that is completely enclosed and climate-controlled. During all other hours, the animals may be exercised as provided for in item G below.
- G. All objectionable noise shall be controlled as required by Section 2008 and shall not be permitted to become a nuisance for adjoining residential properties.
- H. Outdoor animal exercise shall be conducted within the confines of a fenced exercise yard on the property, and limited to:
  - i. Leashed animals under the direct supervision of their owners or commercial kennel staff;

- ii. Small “play groups” of animals pre-selected for compatibility, supervised by kennel staff.

2. Exterior Standards

- A. Exercise yards and kennel buildings shall be located no closer than one hundred fifty (150) feet to any abutting residential property line.
- B. A dog kennel shall have at least the following two levels of outdoor exercise:
  - i. Individual outdoor pens separated by privacy panels to prevent the dogs from seeing one another;
  - ii. A yard completely enclosed by an obscuring fence.
- C. A second yard enclosed by a 5-foot high chain link fence is optional and may be substituted for B(i) above.
- D. Unsupervised outdoor dog runs and pens are not permitted.

### 3. Interior Standards

- A. The number of dogs housed, boarded, or kept in a kennel building shall not exceed one (1) dog for every fifty (50) square feet of floor area.
- B. All kennel buildings shall be fitted with sound-proofing on walls, windows, and doors.
- C. The interior of the kennel building shall be capable of being hosed down and sanitized. Water supply shall be available and floor drains shall be connected to the septic system.
- D. All kennels shall have an isolation pen for dogs that bark uncontrollably, in order to reduce their influence on other dogs.
- E. Privacy panels are required between isolation pens.
- F. A variety of pen sizes shall be provided to accommodate both individuals and “families” of dogs.

### PRIVATE KENNELS

Private kennels for housing only those animals owned by the proprietor may be permitted as a use requiring Planning Commission approval, subject to the following:

- 1. A private kennel shall be accessory to a permitted single family residence.
- 2. No animal shall be allowed to run free. Outdoor exercise areas shall be properly fenced and located no closer than 100 feet to any abutting residential property line.
- 3. The minimum site size shall be five (5) acres with a minimum width of 300 feet.
- 4. No animal shall be housed that is not the personal property of the proprietor except for incidental breeding.
- 5. All animals shall be adequately housed, fenced and maintained so as not to be or become a public or private nuisance. The premises shall be maintained in such a manner so as not to be harmful to surrounding properties, or create any hazard or detriment to public health, safety or general welfare.
- 6. The maximum number of dogs over one (1) year in age permitted to be housed simultaneously in a private kennel is six (6). Private kennels housing more than six dogs shall comply with the standards for commercial kennels. Parking requirements for commercial kennels shall be waived for private kennels.
- 7. Breeding kennels shall be limited to two (2) litters per calendar year.

### **SECTION 1808. GAS AND SERVICE STATIONS**

Gas and Service Stations are permitted use in the CN District subject to the approval by the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

- A. Must be located at the intersection of two public roads each having a proposed right-of-way of a major thoroughfare or one with a proposed right-of-way of a major thoroughfare and the other having a designation of a secondary thoroughfare on the Township's adopted Thoroughfare Plan.

- B. Must have no more than one driveway to each public roadway. Said driveway(s) shall be located at least 100 feet from the centerline of the intersecting public street.
- C. Must be determined to be appropriate to the neighborhood commercial development

proposed for the location as substantiated by an independent market analysis.

D. Must be located on at least one (1) acre.

### **SECTION 1809. LARGE SCALE RECREATION USES**

The following uses may be permitted, subject to Special Land Use Approval by the Planning Commission in the AG, REC, IR, and RL Districts. (See Schedule of Districts to determine which uses are allowed in which districts.) Large scale recreation uses, whether operated privately or for profit, including golf courses, driving ranges, large sports / playfields, ice skating or similar indoor arenas, riding stables, gun clubs, overnight camper and/or tent parks (subject to the state law governing travel trailer parks), hay rides, snow mobile trails, picnic grounds, swimming facilities and water parks. (Amended 3-3-97)

**Schedule of Districts**

	Golf Course / Range	Sportsfield	Indoor Arena	Riding Stable	Gun Club	Camper Park	Hay Ride	Snow Mobile Trail	Picnic Area / Park	Swimming Facilities
AG	X	X		X		X	X	X	X	
REC	X	X	X	X	X	X	X	X	X	X
IR	X	X	X		X				X	X
RL	X			X			X		X	

Such uses and site plans must meet the requirements of this Ordinance and the following conditions:

A. Site Requirements:

- 1.A public park for outdoor recreation may be conducted on a site of ten (10) acres or more. All other approved uses shall be on a contiguous parcel of twenty (20) acres or more in area. (Amended 3-3-97)
- 2.All vehicular ingress and egress from the site shall be directly onto a major thoroughfare, having a designated right-of-way of 120 feet on the Township's adopted Thoroughfare Plan, or a secondary thoroughfare with an existing right- of-way of 86 feet.
- 3.Review of the proposed site plan shows that a proper relationship exists between the major or secondary thoroughfare and all proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety.

B. Yard and Placement Requirements:

- 1.All development features including the principal building shall be designed and arranged to minimize the possibility of any adverse effect upon adjacent property. (Amended 3-97)
- 2.No activity shall take place within thirty (30) feet of the perimeter of the recreational area. All such activities shall be adequately screened from abutting residentially zoned property by means of protective wall or greenbelt as described in Section 300 of this Ordinance.
- 3.Related accessory commercial uses may be permitted in conjunction with recreation use when it is clearly incidental to the main recreational character of the use and such related accessory uses shall not include the sale, servicing, or repair of any vehicles or equipment used on the site except that owned by the proprietor.

4. Permitted accessory uses which are generally of a commercial nature, shall be housed in a single building. Minor accessory uses which are strictly related to the operation of the recreation use itself, such as a maintenance garage, may be located in separate building.

5. No buildings shall be located in the Flood Plain area.

C. Other Requirements:

1. Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence six (6) feet in height, and entry shall be by means of a controlled gate or turnstile.

2. When a gun club is proposed it shall be clearly established that the activities shall in no way endanger the health, safety or welfare of any persons and will not become a nuisance in any manner whatsoever.

Approval shall be for a specific designated use or uses as camping, snowmobiles, or the like, and approval under these provisions shall be subject to approval of the uses and site plan. The additions of other special approval uses must again be approved through the submission of an amended site plan.

### **SECTION 1810. GENERAL HOSPITAL**

General Hospital is a permitted use in the RH District subject to the approval by the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

A. Site Requirements:

1. All ingress and egress shall be directly to a public road having right-of-way of not less than that of a secondary thoroughfare (86 feet) or the proposed right-of-way of a major thoroughfare on the Township's adopted Thoroughfare Plan.

2. The site plan shall show that a proper relationship exists between the abutting thoroughfare and any proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety.

3. All such hospitals shall be developed on sites consisting of at least five (5) acres in area for the first one hundred (100) beds or less plus one (1) acre for each additional twenty five (25) beds.

B. Yard and Placement Requirements:

1. All the development features including the principal building and any accessory buildings, open spaces, and all service roads, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property.

**SECTION 1811. \_\_\_\_\_ MIGRATORY LABOR CAMPS**

Migratory Labor Camps uses for seasonal labor are a permitted use in the AG District subject to the approval by the Planning Commission upon a finding that the plan meets the requirements of this Ordinance and the following conditions:

- A. Migratory labor camps shall only be used for seasonable labor, between April 1 and November 15.
- B. All buildings or structures shall be maintained in a safe and sanitary condition and are furnished with a safe and sanitary water supply and with sewage disposal facilities which are no less than those required by the County and State of Michigan Health Department.
- C. All buildings or structures shall be located so as to comply with regulations for structures in an AG, Agricultural District with the exception that no building shall be located nearer than fifty (50) feet to any side property line.

**SECTION 1812. GROUP CHILD CARE CENTERS (NURSERY SCHOOLS)**

Nursery schools, day nurseries and adult/child care centers are permitted uses in the AG, RH, MH and CN Districts subject to approval by the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

- A. All such uses shall provide adequate drop-off and waiting space so that parents' cars are not required to stand in a public right-of-way. At least one (1) drop-off space shall be provided for each five (5) persons or children enrolled or cared for at the facility.
- B. Outdoor play space shall be provided in the ratio of one hundred (100) square feet per child cared for, to a maximum required of ten thousand (10,000) square feet. No outdoor play area shall be less than one thousand (1,000) square feet. An outdoor recreation area is recommended, but not required, for adult day-care facilities.



- C. To insure child safety, all outdoor use areas shall be enclosed by a 4 foot 6 foot high fence of a non-climbable design. On those sides abutting a residential zoning district or use, a 6 foot high obscuring fence of masonry or other material approved by the Commission shall be required.

- D. The site layout shall be designed to insure pedestrian safety by separating play areas from parking and driveways.
- E. Overnight and night time care after 8 p.m. shall require evidence of compliance with Michigan Department of Social Services rules.
- F. All day-care facilities shall provide fifty (50) square feet of indoor space for each adult or child in their care, based upon their current license and any conditions of their Special Land Use Permit. This space shall be exclusive of space for offices, restrooms, and kitchens.
- G. Sufficient on-site parking shall be provided to satisfy the needs of the staff, visitors, and clients of all day-care facilities, but not less than one (1) space for each five (5) persons cared for shall be provided on site. All parking shall be paved and constructed to the standards of Article 3.

### **SECTION 1813. GROUP DAY CARE HOME**

A group day care home shall be issued a special land use permit in the AG or RH District if the proposed home meets all of the following standards:

- A. It is not located closer than 1,500 feet to any of the following:
  - 1. Another licensed group day care home.
  - 2. Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 P.A. 218, MCL 400.701 to 400.737.
  - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 P.A. 368, MCL 333.6101 to 333.6523.
  - 4. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
- B. Has appropriate fencing for the safety of the children in the group day-care home as determined by Lenox Township.
- C. Maintains the property consistent with the characteristics of the neighborhood.
- D. Does not exceed 16 hours of operation during a 24- hour period. The township may limit but not prohibit the operation of a group day care home between the hours of 10 p.m. and 6 a.m.

- E. Meets regulations, if any, governing signs used by a group day care home to identify itself.
- F. Meets regulations, if any, requiring a group day care home operator to provide off-street parking accommodations for his or her employees.

### **SECTION 1814. PUBLIC AND PRIVATE COLLEGES AND UNIVERSITIES**

Public and private colleges and universities and other similar institutions of higher learning beyond high school level are permitted uses in the AG, RL and RM Districts subject to the approval by the Planning Commission upon a finding that the plans meet the requirements of this Ordinance and the following conditions:

#### A. Site Requirements:

1. All ingress and egress shall be directly to a public road having a right-of-way of not less than that of a secondary thoroughfare (86 feet) or the proposed right-of-way of a major thoroughfare on the Township's adopted Thoroughfare Plan.

#### B. Yard and Placement Requirements:

1. No building other than a structure for residential purposes shall be closer than seventy-five (75) feet to any property line.
2. Height of residential buildings in excess of the minimum requirements may be allowed provided minimum yard setbacks where yards abut land zoned for residential purposes, are increased by not less than thirty (30) feet for each yard, for each twelve (12) feet or fraction thereof by which said building exceeds the minimum height requirements of the zone.
3. Those buildings to be used for servicing or maintenance, such as heating plants, garages, storage structures and the like shall not be located on the outer perimeter of the site where abutting property is zoned for residential purposes.

### **SECTION 1815. UTILITY STRUCTURES, UTILITY TRANSMISSION SYSTEMS, WIRELESS TRANSMISSION / RECEPTION / RELAY TOWERS**

#### A. Local Utility Structures

Local utility structures, such as but not limited to, electric transformer stations and sub- stations, gas regulator stations, sewer lift stations, and the like, shall be permitted in all districts subject to Site Plan and Special Land Use Approval by the Planning Commission and the following standards:

1. Operating requirements necessitate the proposed location in order to serve the residents of the Township.
2. All such uses shall be completely enclosed and without storage yards.
3. No structure shall exceed the height limit of the district in which it is to be located.
4. All buildings shall be designed to be compatible in style and materials with other uses permitted in the district.
5. No building shall be located closer than fifty (50) feet to any property line abutting land zoned for residential use.
6. A minimum fifteen (15) foot landscaped greenbelt shall be provided around the entire perimeter of the utility building site.
7. Adequate off-street parking shall be provided for any service personnel and all drives and parking areas shall be paved with asphalt or concrete.

B. Utility Transmission Systems

The Zoning Ordinance is subject to the Electric Transmission Certification Act, Public Act 30 of 1995 as amended which supersedes the Zoning Ordinance for any transmission line that has already received a certification of public convenience and necessity. Utility transmission systems, such as but not limited to, high voltage electric transmission lines, high pressure gas pipelines, and oil pipelines may be permitted in all districts after obtaining Special Land Use Approval by the Planning Commission, subject to the following requirements and standards:

1. All such utility lines shall follow existing utility corridors where possible, and reasonable, as determined by the Planning Commission.
2. Selective clearing techniques shall be used throughout a utility corridor or property for installation of towers, lines, pipelines, service roads, drainage facilities, and similar facilities. Existing vegetation shall be maintained, whenever possible, throughout the remainder of the corridor not affected by the actual installation of approved facilities.
3. Any area destroyed by necessity in the construction of such approved facilities, may be subject to conditions imposed by the Township Board for its immediate restoration by replanting or similar techniques.

4. During construction or repair of any facilities approved hereunder, the following shall be required:

- a. All internal roads shall be kept dust-free by chemical treatment.
  - b. Any damages to public or private roads, fences, structures, or facilities shall be repaired immediately.
  - c. No wastes or spoils of any kind, such as tree stumps, construction wastes, trash and the like, shall be left after construction or repair operations are complete.
  - d. All construction operations shall be confined to daylight hours, Monday through Saturday, unless permitted in writing by the Planning Commission.
5. The existence of one line or facility approved hereunder does not imply permission to erect any other lines or facilities other than those originally permitted.

C. Utility Transmission Structures

Utility transmission structures, such as but not limited to, high voltage electric stations, gas compressor stations, oil well pumping/storage facilities, and wireless communications, receiving or transmitting towers, shall require site plan approval by the Planning Commission, subject to the following requirements and standards:

- 1. Special Land Use Approval required:

<u>Use</u>	<u>Permitted District</u>
Electric Stations	AG, IR, IC
Gas Compressor Stations	IR, IC
Oil Storage Facility	IC
Wireless Communications Tower	AG, IR, IC, Township or publicly owned prop
recreation sites of at least 100 acres in size.	
Commercial Television & Radio Towers	IR, IC

- 2. Wireless communication facilities shall be principal uses permitted in the following circumstances, subject to the provisions of Section 1815 and following site plan approval by the Planning Commission and Township Board in conformance with Section 305:

- a. An existing structure will serve as a support structure for a Wireless Communication Facility within an AG, B-1, B-2, NB-O, I-1 or I-2 district or upon any publicly-owned land within the boundaries of the Township, where the existing structure is not, in the discretion of the Planning Commission, proposed to be either materially altered or





- b.A proposed colocation upon an existing Wireless Communication Facility which had been previously-approved by the Township.
  - c.An existing utility pole located within a right-of-way or utility easement which will serve as a support structure for a Wireless Communication Facility, where the existing pole is not proposed to be modified in a manner which, in the discretion of the Planning Commission, would materially alter the structure and/or result in an impairment of sight lines or other safety interests. This shall include DTE Energy extra high voltage towers and similar facilities.
3. Requirements for Colocation:
- a.All new and modified wireless communication facilities shall be designed and constructed so as to accommodate colocation.
  - b. A special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that colocation is not feasible.
  - c. The policy of the Township is for colocation. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible colocation, such facility shall be deemed to be a nonconforming structure and use.
  - d.If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible colocation, and this requires the construction and/or use of a new wireless communication facility, the party failing or refusing to permit a feasible colocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the Township and consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the Township for a period of five years from the date of the failure or refusal to permit the colocation. Applicants to the Zoning Board of Appeals regarding this provision must demonstrate that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent

wireless communication services, or would have the effect of prohibiting the provision of personal wireless communication services.

4. In order to provide a pleasing community appearance and to prevent noise levels, odors, dust, and similar external physical effects from adversely affecting adjoining properties, all equipment shall be completely enclosed within a building, unless the setback and screening guidelines specified in subsection 5 below are followed, as approved by the Planning Commission.
5. All buildings and equipment permitted under this section shall be setback at least one hundred (100) feet from all adjoining property lines. In addition, an obscuring, landscaped buffer shall be provided, based on the following guidelines, as determined by the Planning Commission after considering the type, size, height, and anticipated noise levels of all equipment being proposed:
  - a. A landscaped earthen berm at least eight (8) feet high, along all sides of the equipment.
  - b. A landscaped greenbelt at least twenty-five (25) feet in width, along all sides of the equipment.
  - c. An obscuring fence or a masonry wall at least six (6) feet high, completely surrounding the equipment.
  - d. Any combination of the above requirements approved by the Planning Commission.
6. Expansions of transmission facilities, which facilities existed prior to the effective date of this amendment, may be placed within one hundred (100) feet of an adjoining property line only after approval of the Zoning Board of Appeals and only when fully enclosed within a building.
7. Where there will be employees stationed at the utility building on a permanent or intermittent basis, adequate off-street parking shall be constructed with an asphalt or concrete surface.
8. There shall be no outdoor storage of equipment and/or materials which are not necessary for daily operations of any utility building site, except those which are necessary for safety or emergency repairs at that particular utility transmission structure site.
9. New wireless communication facilities which do not meet the colocation criteria in Section 1513 C 2 above, may be authorized as special land uses within the AG, IR, and IC districts and upon

any publicly-owned land within in the boundaries of the Township  
subject to Article 15 and the following standards and conditions:

- a. The applicant shall demonstrate the need for the facility to be located as proposed based upon the presence of one or more of the following factors:
    1. Proximity to major thoroughfares
    2. Population concentrations
    3. Business centers
    4. Signal interference
    5. Topography
    6. Other specifically identified reason(s) creating facility need
  - b. The proposal shall demonstrate conformance with the colocation requirements of Section 1315 C 2 above.
10. Applications for new towers shall include a map showing existing and known proposed wireless communication facilities within the Township and areas surrounding the Township. If the information is on file with the Township, the applicant shall update as needed. Any such information which is trade secret and/or other confidential commercial information may be submitted with a request for confidentiality in connection with the development of governmental policy. This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be made in writing.
11. Where the utility transmission structure proposed is a wireless transmission, receiving or relay tower, or a commercial television and/or radio tower which exceeds the height limit of the particular zoning district in question, it shall comply with the following special standards:
- a. No wireless transmission tower in excess of one hundred (100) feet in height shall be located closer than 2,000 feet to any other such tower.
  - b. All wireless transmission towers not subject to the regulations of the Federal Aviation Administration shall be painted with a color designed to cause the tower to blend in with the surrounding landscape.
  - c. No new wireless transmission tower shall be constructed where there exists another tower that could reasonably be used to carry the transmission or receiving equipment proposed. The purpose of this section is to require the sharing of tower space by more than one company where broadcast and receiving frequencies do not prohibit such sharing of tower space.
  - d. The tower shall be located centrally on a parcel having a

dimension equal to the height of the tower measured from the base of the tower to all points on each property line, or having construction characteristics which guarantee that tower collapse will occur within the property owned or being leased by the applicant.

12. A condition of every approval of a new wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
- a. When the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
  - b. Six months after new technology is available at reasonable cost, as determined by the Planning Commission, which permits the operation of the communication system without the requirement of the support structure.
  - c. The situations in which removal of a facility is required, as set forth above, may be applied and limited to portions of a facility.
  - d. Upon the occurrence of one or more of the events requiring removal the property owner or persons who had used the facility shall immediately apply for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal.
  - e. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn, collected and/or enforced from or under the security posted at the time of application.
  - f. The application shall include a description of security to be posted at the time of receiving a building permit to ensure removal of the facility when it has been abandoned or is no longer needed. The security shall be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the Township attorney and recordable at the Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely

manner as required in this ordinance. The applicant and owner shall be responsible for the payment of any costs and attorneys fees incurred by the Township in securing removal.



**SECTION 1816. SOIL REMOVAL OPERATIONS**

All new soil, sand, clay, gravel, or similar removal operations, quarrying, and excavating, are permitted as a Special Land Use only on parcels of at least fifty (50) acres in the AG, Agriculture district subject to review and approval by the Planning Commission upon a finding that the use meets the requirements of this Ordinance and the Lenox Township Soil Removal Ordinance. Post-mining development shall be required as a condition of original approval.

**A. Intent and Purpose**

It is the intent and purpose of this Section to promote the underlying spirit and intent of the entire Zoning Ordinance, but at the same time allow for the extraction of earth materials in locations where they have been naturally deposited, and to insure that mining of earth materials shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use, and to insure that mining activities are consistent with the public health, safety and welfare of the Township.

**B. Use Restriction**

The mining of earth materials in the Township shall be prohibited unless first authorized by the grant of a special use application by the Planning Commission in accordance with this Section and Article. In all events, such use shall be prohibited in RL, RM, RH and MH Districts.

**C. Exemption**

Usual and customary land balancing by cutting and filling, in preparation for immediately planned and approved development in accordance with this and all other applicable ordinance and law, shall be exempted from the provisions of this Section.

**D. Definitions**

1. EARTH MATERIALS, shall mean any soil, topsoil, subsoil, sand, gravel, rock, clay, peat, minerals, or other similar materials.
2. MINING OPERATIONS, shall mean the excavation and/or removal from their existing site of any earth materials.
3. OPERATOR, shall mean the owner of the site and/or the person who is responsible for the day-to-day activities at the mining site and/or

the person responsible for payment of all application fees, annual permit fees, and performance bonds.

### E. General

The mining of earth materials may be permitted as a special land use only after proper notice has been given and after review and approval of the use and location by the Planning Commission, subject to the requirements and standards of the Lenox Township Soil Removal Ordinance. Earth material mining operators shall also be required to obtain an annual operating permit from the Township Board, subject to the Lenox Township Soil Removal Ordinance.

### F. Uses Permitted

The following uses shall be permitted, each of which shall meet applicable performance standards and be subject to all limitations described herein.

1. Mining, or earth materials (hereinafter referred to as mining or mined).
2. Construction and maintenance of processing plants, be they temporary or permanent, for the processing of such earth materials, and to include necessary accessory uses, buildings, and equipment.
3. Storage and stockpiling of said earth materials.

### G. Requirements for Mining Operations

In reviewing the application for special land use approval the Planning Commission shall be certain that the following characteristics of the use are present and complied with:

1. Processing and stockpiling of earth materials will be accomplished in a manner that minimizes the affect on adjacent properties.
2. Uses permitted herein shall be screened from view by one of the following:
  - a. Construction of a raised earth berm, along the boundaries of the property, at least six (6) feet in height at its center above the actual elevation of the property along the property lines. The berm shall have slopes not in excess of one foot vertical to four feet horizontal and shall be seeded and mulched and planted with evergreen trees, and similar vegetation.
  - b. Plantings of coniferous trees having a minimum diameter of three (3) inches along the boundaries of the property with two (2) rows five (5) feet apart, staggered 15 feet center to center, to guarantee effective screening.

3. Uses permitted shall comply with all applicable pollution control requirements of the State of Michigan, Macomb County and Township of Lenox.

4. Mining of earth materials shall not constitute a hazard to public health, safety, and welfare, and shall be conducive to and result in the reclamation of the land for another use of uses permitted in the district.
5. Uses permitted shall comply with all requirements of the Lenox Township Soil Removal Ordinance.

#### H. Application Procedures for Annual Mining Permit

All applicants for the Mining of Earth Materials special land use permit shall also concurrently apply for an annual permit under the Soil Removal Ordinance. Application procedures are explained in the Soil Removal Ordinance. The application procedure shall be complied with prior to the commencement of any new mining and/or the horizontal expansion of any mined area which exists as of the effective date of this ordinance. The application form shall be obtained from the Township Clerk.

#### I. Planning Commission Review

1. All applicants shall complete and submit to the Township Clerk eighteen (18) copies of a Community Impact Statement (CIS). The requirements of the CIS can be found in Section 330 of this Ordinance.
2. The Planning Commission shall approve the issuance of a Special Land Use permit only upon an affirmative finding to all of the following:
  - a. The Community Impact Statement demonstrated minimal adverse impact on Township services, the immediate neighborhood, the areas of the Township affected by the haul route, and the natural environment.
  - b. All of the general requirements of Section 1800 have been complied with.
  - c. All specific requirements of subsection G above have been met.
  - d. All application requirements of the Soil Removal Ordinance have been met.

### **SECTION 1817. TWO FAMILY RESIDENTIAL DWELLING**

Two Family Residential dwelling use is a permitted use in the RM District subject to the approval by the Planning Commission upon a finding that the plans meet the requirement of this Ordinance and the following conditions:

## A. Site Requirements:

1. The construction or placing of a two family structure in this district shall be on a single or a series of single platted or officially recorded lots, or on a larger tract where each structure will face on a public road. In the latter instance each structure shall be considered as occupying one lot for yard and placement requirements.
2. The character and quality of construction shall be such as to blend with existing homes in the district.

## B. Yard and Placement Requirements:

1. Minimum floor area:
  - a. One bedroom unit: 600 square feet
  - b. Two or more bedroom units: an additional 200 square feet for each bedroom over one, added to the minimum floor area requirement of 600 square feet.

**SECTION 1818. PONDS ASSOCIATED WITH COMMERCIAL OPERATIONS**

Ponds associated with such commercial operations as pay-to-fish farms or for commercial fire protection are permitted in the AG Agriculture District subject to the approval of the Planning Commission upon a finding that the plans meet the requirements of this Ordinance, the following standards, and in no way endanger the health, safety, and general welfare of the residents of the Township or the users of this property.

A. Permit Requirements - all such ponds must obtain Special Land Use approval from the Planning Commission and a building permit from the Township Building Inspector.

## B. Site Requirements:

1. All approved ponds shall be on a contiguous parcel of at least ten (10) acres. This requirement may be waived by the Planning Commission for ponds that are developed exclusively for fire protection.
2. Soils removed to create the pond must remain on the site. In the event the owner wants to sell or transport more than 1,000 cubic yards of the excavated material off the site, he shall conform with the

requirements of Section 18.16, A of this Ordinance.



3. All ponds shall be provided with adequate protection by the construction of a non-climbable fence at least five (5) feet high, complete with locked gates, around the entire pond. There shall also be a minimum of two (2) life stations placed on opposite sides of the pond.
4. Ponds shall only be of an excavation type as defined by the Soil Conservation Service engineering standards and all ponds shall be constructed to the SCS standards (See USDA Agriculture Handbook Number 590).
5. Only commercial activities of a clearly incidental nature shall be permitted on the site. A fish pond development shall not be changed to a swimming area for any recreational use permitted under Section 1809 of this Ordinance.

C. Yard and Placement Requirements:

1. A setback of at least one hundred (100) feet to the nearest edge of the pond from the right-of-way of any existing or proposed street or road shall be required. In the event the pond is greater than 200 feet long, the setback distance from the road shall be equal to one-half the length.
2. A setback of at least one hundred (100) feet shall be maintained from all adjoining property lines.
3. All buildings shall minimize the possibility of any adverse effect upon adjacent property. This shall mean a distance of one hundred (100) feet to the property line of abutting lands or public right-of-way; where topography conditions are such that the building would be screened from view, this requirement may be modified by the Planning Commission.
4. No activity shall take place within fifty (50) feet of the perimeter of the site. All such activities shall be adequately screened from abutting residentially zoned property.
5. No buildings shall be located in a Flood Plain area.
6. All off-street parking shall be constructed to the standards shown in ARTICLE 3.

D. Off-Street Parking:

1. There shall be one (1) parking space for each employee of a fish farm operation.
2. For public fishing operations, there shall be one (1) parking space for each two (2) persons at capacity use of the facility.

**SECTION 1819. LANDFILLS, TRANSFER STATIONS, WASTE PROCESSING PLANTS, AND SIMILAR USES.**

The Lenox Township Board recognizes the authority of the Michigan Department of Natural Resources with regard to the issuance of construction and operating permits for sanitary landfills and similar uses. The Township considers the requirements of Act 641 of 1978, as promulgated pursuant to authority of said Acts, as the minimum standards for approval of any landfill, transfer station, or similar use. As such, it shall also be necessary for all proposed landfills to obtain a permit from the Lenox Township Zoning Board of Appeals, and all transfer stations and similar uses to obtain special land use approval from the Township Board subject to the following requirements:

- A. Landfills shall be regulated by Ordinance No. 83-3 the Lenox Township Landfill Ordinance, and shall be operated in conformance with a permit issued by the Zoning Board of Appeals. The Planning Commission shall review all proposed landfills in the same manner as a special land use and make findings and recommendations as to whether or not the granting of a permit as proposed would:
  - 1. Permanently impair the intended land use potential of the property in question;
  - 2. Detrimentially affect the adjoining properties;
  - 3. Be consistent with the planning and zoning of the area where the proposed operation is to be located.
- B. Transfer stations, waste processing plants, incinerators and similar uses shall meet the following criteria for special land use approval:
  - 1. Must be located in an IC - Controlled Industrial District.
  - 2. Must be located on a paved, public road capable of carrying Class A loadings on a year-round basis.
  - 3. Shall not be located in a flood plain or wetland.
  - 4. Shall not be located within 1,500 feet of any occupied residences.
  - 5. All internal roads and drives shall be paved with asphalt, concrete, or similar hard surface material.

6. All such uses shall be set back at least 200 feet from all property lines.

7. An 8 foot high, landscaped berm shall be constructed along all sides of the proposed use.
8. The active area of the transfer station, waste processing plant or incinerator shall be surrounded by a 6-foot high security fence of chain-link or similar non-climbable design.

### **SECTION 1821. RESIDENTIAL ACCESSORY OCCUPATION**

Residential Accessory Occupations may be approved by the Planning Commission in AG, Agricultural and RL, Residential Low Density districts as a special land use, subject to a finding by the Planning Commission that the use complies with the following special standards, the general standards for all special land uses, and subject to any special conditions placed upon the use by the Planning Commission:

- A. The occupation shall be carried on only by the occupant of the dwelling located on the same property, shall employ only those persons who reside in the dwelling, and shall not be visible or noticeable in any form or manner from outside the walls of the accessory building.
- B. The floor area devoted to the Residential Accessory Occupation shall not exceed one-half (1/2) the area of the accessory building up to a maximum of one thousand (1,000) square feet.
- C. No Residential Accessory Occupation shall be approved that produces noise, wastes, odors, vehicular traffic or similar side effects which, in the opinion of the Planning Commission, are not customary in a residential district.
- D. Approval of one Residential Accessory Occupation shall not be grounds to establish any other accessory occupation on the same site. All changes in such occupations shall obtain prior approval of the Planning Commission.
- E. Approval to transfer a Residential Accessory Occupation permit from a current owner-occupant to a new owner-occupant may be granted by the Planning Commission upon receipt of a request that demonstrates no changes in the use as originally approved. (Amended 11-4-96)

### **SECTION 1822. YARD WASTE COMPOSTING FACILITIES**

Yard waste composting facilities, those that manage the biological decomposition of organic matter under controlled, aerobic conditions, may be

permitted in Agricultural districts only, subject to this issuance of a Special Land Use Permit by the Planning Commission and compliance with the following conditions and standards:

- A. Only yard wastes shall be composted at such facilities, typically including leaves, grass clippings, brush, and tree or shrub trimmings. Material shall only be accepted in paper bags; or unbagged. (Amended 3/3/03)
- B. The decomposition process shall be properly managed and maintained in an aerobic condition to prevent all unnecessary odors.
- C. Pondered water shall not be permitted to collect on a yard waste composting site. A plan for collection, retention and drainage of storm water shall be provided for review and approval. The Planning Commission shall require that the plan provide a settling basin/detention pond and vegetation filtration of runoff prior to discharge off-site. Vegetation filtration shall be accomplished by use of a 50 foot wide perimeter strip of grass, or a similar measure.
- D. The operator shall provide sufficient equipment on-site to properly manage the composting process. As a minimum this shall include a front end loader or similar machinery for loading and unloading operations; a windrow machine for turning, and aeration operations; a shredder for reducing new material to a smaller particle size for faster decomposition; a source of water or watering trucks; and a screen to improve the quality and marketability of the final product.
- E. The site shall be level and well-drained. If the site abuts property shown as residential on the Township Zoning Map or Master Plan, a buffer zone shall be maintained where no composting, storage, transfer or loading activities will take place equal to 500 feet from existing residences and 50 feet from adjoining property lines. All buffer areas shall be maintained as vegetative strips to facilitate the filtration of pollutants.
- F. All site access roads or drives and all areas for employee parking shall be paved with asphalt or concrete.
- G. The volume of yard wastes handled by the facility shall not exceed 7,000 cubic yards of incoming yard wastes per acre of active composting area on-site, exclusive of access roads, service areas, parking areas, required buffer zones, and similar areas.
- H. The operator shall provide a name, address, and phone number of the person responsible for operation of the site and who is also responsible for correcting all operational problems that may result in complaints being made to the Township.

I. The operator understands and agrees that failure to maintain and operate the site in a responsible manner that minimizes the potential for adverse impacts on neighboring properties shall constitute grounds for revocation of the permit by the Planning Commission.



- J. Access to the site shall be controlled to prevent unauthorized dumping during non-business hours. The operator shall establish a procedure and mechanism for proper disposal of non-yard wastes at an approved sanitary landfill.
- K. Treated yard wastes shall be actively rotated, that is, they shall not be allowed to accumulate for longer than eighteen (18) months before being finished and removed from the site.
- L. The operator shall provide plans showing all equipment maintenance and storage areas. Plans shall show the location of all fuel storage facilities and shall detail primary and secondary containment for all hazardous materials, including product-tight containers for primary containment.
- M. The operator shall submit a bond, in an amount established by resolution of the Township Board, to guarantee restoration in the event of abandonment, clean-up of chemical or other hazardous spills, and the like.
- N. An annual inspection/permit fee for all yard waste composting facilities shall be established by resolution of the Township Board.
- O. Copies of all Michigan Department Natural Resources applications/permits, where required, shall be provided to the Planning Commission as part of the application package.
- P. An annual inspection for rodents shall be performed by a license pest control company. Copies of the report shall be transmitted to the Township. If rodents are detected, appropriate measures shall be taken to capture or exterminate the rodents in an environmentally safe manner.
- Q. An annual test shall be performed to insure that on site soils and surface waters leaving the site are not contaminated by a concentration of nitrogen, phosphorus, phenols, pesticides and/or herbicides. Soil samples shall be taken from the windrow area and the settling basin/detention pond and surface water samples shall be taken at the outlet from the detention pond. Tests shall be performed for concentrations of listed substances adopted by resolution of the Township Board.

### **SECTION 1823. HIGH VOLUME WATER WELL OR WELL SYSTEM**

A High Volume Water Well or Well System, defined as a well or series of wells capable of producing over 100 gallons per minute peak capacity and intended

to serve a use other than one single family home, may be permitted by the Planning Commission in the AG district subject to the following:

- A. There must be a demonstrated need for the proposed High Volume Water Well or System.
- B. All such uses shall be completely enclosed and without storage yards.
- C. No structure shall exceed the height limit of the district and all storage tanks shall be set back from all property lines a distance equal to at least the height of the tank.
- D. In order to protect surrounding property values, all buildings shall be designed to be compatible in style and materials with other uses and structures permitted in the district.
- E. No building shall be located closer than fifty (50) feet to any property line abutting land zoned for residential use. No High Volume Well or Well System shall be located closer than 100 feet to any property line.
- F. Adequate off-street parking, screened from public view, shall be provided for any service personnel and all drives and parking areas shall be built in accordance with Township requirements.
- G. The applicant shall submit a site plan and hydrogeologic study prepared by a registered engineer, qualified by training and experience to prepare hydrogeological studies, showing the extent of the well cone of influence, the number and location of wells, the anticipated average and peak water flow on a daily and peak basis, and all other information required in Section 319. In addition, the study shall document the location and depth of existing wells within the maximum proposed cone of influence area or 2,000 feet, whichever is greater, and describe the anticipated impact on these wells. Furthermore, the study shall include a plan that provides, at a minimum, for the connection of any and all existing wells within the cone of influence to the proposed well or system free of charge in the event that the wells fail after the proposed well(s) is constructed. As an alternative, the plan may provide for the drilling of new or deeper wells for individuals. The plan shall also provide, at a minimum, for the future connection to the well or system (or drilling of new individual wells) to those properties within the cone of influence that are currently undeveloped or underdeveloped. In no way shall the construction and operation of a water well structure restrict or eliminate the availability of potable water to those residents, businesses, and property owners within the cone of influence of the well(s).
- H. The applicant shall submit an application to the Planning Commission for approval to drill a test water well for the purpose of collecting data needed

to complete a full application and to determine the feasibility of establishing a permanent well or well system. The drilling of a test well may be permitted as a temporary use not requiring special land use approval. The application shall include the following information:

1. Name, address, city, zip code and phone number of applicant
  2. Location of proposed test well
  3. Purpose of proposed test well
  4. Anticipated depth and peak volume of well
  5. A scale drawing showing the location of potential contaminants, industrial uses and industrial zoning districts within 2,000 feet of the proposed well
  6. Proposed end users of the well or well system and location of end users
  7. Number of days anticipated to complete drilling and number of days anticipated to complete testing
  8. Signature of applicant
- I. An application for a permanent High Volume Water Well or Well System shall include an application for special land use approval, all information required in Section 305 and Section 1823 [including Section 1823 (8)], and all other similar information as may be necessary to confirm compliance with the provisions of the Lenox Township Zoning Ordinance.
- J. In order to protect the public health, safety and welfare and protect the public supply of drinking water, No High Volume Water Well or Well System shall be constructed within 2,000 feet of any known source of contamination (e.g., waste disposal site, land application of sanitary waste water or sludge, sanitary landfills, chemical or waste chemical storage or disposal facilities, etc.), existing industrial uses, or property zoned for industrial uses. The applicant shall provide a map, prepared by a registered engineer, land surveyor, architect, landscape architect or planner showing the existing uses and zoning within a minimum 2,000 foot radius of the site which shall include an inventory of all hazardous materials users, underground fuel tanks, and similar potential sources of groundwater contamination. This radius may be increased by the Township Board depending on the results of the hydrogeologic study. If other potential sources of contamination other than those listed above are identified within a minimum 2,000 foot radius of the proposed High Volume Water Well or Well System, the Planning Commission may deny the application or, if appropriate, require appropriate conditions

to protect the public health, safety and welfare.

K. In addition to the above, the applicant shall address other potential negative impacts that may be caused by the construction and operation of a high volume water well system, and provide and establish a plan for mitigation of these negative impacts.

- L. Because the supply of clean, safe drinking water is an important natural community resource, no High Volume Water Well or Well System may supply water to any property outside the limits of Lenox Township unless an agreement is reached between the Lenox Township Board and the Legislative Body of the other municipality.
- M. An annual permit shall be required for all High Volume Water Wells or Well System. Prior to December 31 of each year, the owner-operator shall submit an application and appropriate application fee to the Township Clerk for renewal of the annual permit. The application shall include well log data including peak and average flow data on a monthly basis and water quality testing results.
- N. A performance bond in an amount to be set by the Township Board shall be provided by the Applicant to ensure protection of adjacent property owners' water supply.
- O. Well location, construction and operation shall be in conformance with the State of Michigan Public Health Standards and the standards in this ordinance. In the event of a conflict between the two, the standard(s) which is more restrictive shall apply.

#### **SECTION 1824. CONCRETE AND ASPHALT PLANTS**

Concrete and asphalt plants may be permitted in the IC Controlled Industrial District subject to issuance of a special land use permit. The Planning Commission may issue the permit only upon a finding that the following standards have been met:

- A. The application shall demonstrate that the plant location is the closest possible to the source of sand and aggregate materials for the plant.
- B. The application shall clearly demonstrate strict compliance with all requirements for air, ground water, and surface water quality. In particular, the Performance Standards of this Ordinance shall be strictly adhered to.
- C. A Community Impact Study shall accompany the application, according to a format provided by the Township.
- D. A Market Study, which demonstrates the need for the specific facilities proposed to serve the surrounding area, shall accompany the application.
- E. The stated life of the plant, in years, shall be specific and tied to the operator's anticipated local reserves of the sand and aggregate materials for the plant.

- F. The site shall have direct access to a paved thoroughfare.
- G. The plant equipment shall maintain a minimum separation of 1,300 feet from a residential zoning district.



- H. The plant itself should be screened from view from any adjoining residential zoning district or public street by a 20-foot wide greenbelt planted with vegetation at a sufficient height and opacity to screen at least 90 percent of the facility during the summer months and 70 percent during the winter months. At the discretion of the Planning Commission, a obscuring wall of poured concrete with a brick-like texture, brick, or decorative, pressure- treated wood may be constructed in place of a greenbelt.
- I. The permit for a concrete or asphalt plant shall be renewed every 2 years. At least thirty (30) days prior to transferring a permit for a concrete or an asphalt plant, the operator shall notify the purchaser of all conditions of the permit and shall notify the Township of the name, address and phone number of the new owner/operator.

### **SECTION 1825. INCINERATORS, ENERGY RECOVERY PLANTS**

Incinerators and energy recovery plants may be permitted by the Planning Commission in the IC districts, subject to the following:

- A. All activities involving the receipt of incoming garbage or other wastes shall be conducted within an enclosed building.
- B. Areas for storage of recycled materials shall be completely enclosed within a building.
- C. All removal of ash for disposal shall occur in covered containers or covered trucks.
- D. The plant shall be located in the interior of the M-1 district and shall maintain a minimum setback of 300 feet from all lot lines.
- E. Blowing trash or debris shall not be permitted to leave the site and shall be collected daily.
- F. The entire perimeter of the plant and all other buildings and active use areas on-site shall be enclosed by a chain link-type fence at least 6 feet in height.
- G. All internal drives, parking areas, roadways and the like shall be designed and paved to handle the weight of anticipated heavy vehicles.
- H. All access to and from the site shall be directly onto a paved major thoroughfare of at least 120 feet right-of-way capable of carrying Class A loadings on a year-round basis.

### **SECTION 1826.**

(This Section has been Repealed.)

### **SECTION 1827. RETAIL USES WHICH HAVE AN INDUSTRIAL CHARACTER**

- A. Retail uses which have an industrial character in terms of either their

outdoor storage requirements or activities such as, but not limited to: lumber yards, building materials outlets, garage sales, upholsterer, cabinet maker, outdoor boat or house trailer, automobile or agricultural implement sales, may be permitted by the Planning Commission in IR and IC districts.

- B. Retail uses which serve convenience needs of the industrial district such as, but not limited to: eating and drinking establishments, banks, savings and loan associations, credit unions, automobile service stations, motel or hotel, trade or industrial schools, or medical or other offices serving the district, including an industrial clinic, may be permitted by the Planning Commission in IR and IC districts.

**SECTION 1828. LUMBER & PLANING MILLS**

Lumber and planing mills may be permitted by the Planning Commission in IR and IC districts, subject to the following:

- A. The use shall be completely enclosed with no activities occurring outdoors except ancillary loading and unloading of raw materials and finished products.
- B. The use shall be located in the interior of the industrial district so that no property line shall form to the exterior boundary of the IR or IC District.

**SECTION 1829. METAL PLATING & SIMILAR USES**

Metal plating, buffing, polishing, and similar uses may be permitted by the Planning Commission in IR and IC districts only, subject to the following:

- A. Appropriate measures shall be taken to control the type of process in order to prevent noxious results and/or nuisances.
- B. The use shall be completely enclosed with no activities occurring outdoors except ancillary loading and unloading of raw materials and finished products.
- C. The use shall be located in the interior of the industrial district so that no property line shall form the exterior boundary of the IR or IC District.

**SECTION 1830. COMMERCIAL RADIO & TELEVISION TOWERS**

Commercial television and radio towers, long-distance telephone microwave towers, and similar public utility transmitting towers, and their attendant facilities may be permitted by the Planning Commission in IR and IC districts subject to the following:

- A. The use shall be located centrally on a continuous parcel having a dimension equal to the height of the tower measured from the base of said tower to all points on each property line, or having construction characteristics which guarantee that should such tower collapse, it will

occur within said property.

**SECTION 1831. JUNK & SALVAGE YARDS**

Junk yards and Salvage yards may be permitted by the Planning Commission in the IC districts only, subject to the following:

- A. The premises shall be entirely enclosed within a minimum eight (8) foot high obscuring wall or pressure-treated wood fence, as determined by the Planning Commission.
- B. There shall be no burning on the site.
- C. All industrial processes including the use of equipment for compressing or packaging shall be conducted at least 200 feet from the exterior (fenced) property line; provided that occasional metal cutting shall be allowed anywhere behind the prescribed fence provided adequate measures are taken to insure against fire and adjacent properties are protected from glare.
- D. Materials for processing or storage shall not be piled higher than the wall or fence for more than 60 consecutive days, each pile, and there shall be a free walkway around the fence area.
- E. All junk or salvage yards shall be located within the interior of the IC Industrial District.
- F. Junk or salvage yards shall have either direct access to a major thoroughfare or access to a major thoroughfare via an internal industrial service roadway, and shall be at least 1,000 feet from any Residential District including the Mobile Home Districts.

**SECTION 1832. RETAIL AND PERSONAL SERVICE ESTABLISHMENTS**

Certain retail and personal service establishments, including office supplies, florist shop, tailor, hair stylist, travel agent, dry cleaners drop-off without processing facilities, private mailing service, or group child day-care center, may be permitted by the Planning Commission in the OS, Office Service district. Similar uses not specifically listed may be approved by the Planning Commission subject to a finding that they are similar in character to the above. All uses shall be subject to the following standards:

- A. The use shall provide goods and/or services necessary for the convenience of employees in the Office Service district.
- B. Retail and personal service establishments shall not precede office development in the OS district.
- C. Off-street parking shall be provided based upon the appropriate Business/Commercial category from Section 301 H.

- D. This section is not intended to promote fast-food restaurants, or similar uses that derive most of their business from users outside the OS district.

**SECTION 1833. LIMITED SOIL REMOVAL PERMITS** (Amended 9-22-99)

Limited Soil Removal Permits may be granted as a Special Land Use in the AG-Agricultural, RL- Residential Low Density, RM-Residential Medium Density, and RH-Residential High Density zoning districts, subject to the following special standards:

- A. Limited Soil Removal Permits may be issued only for an activity that is accessory to the actual and approved development of property in Lenox Township. As a prerequisite for the issuance of a Limited Soil Removal Permit, One of the following shall occur:
1. If the proposed development is a platted subdivision, the developer shall obtain Final Preliminary Plat Approval, or
  2. If the proposed development is going to be a condominium, final approval of a condominium site plan shall be required, or
  3. Land divisions on existing public roads that seek approval under the Land Division Act shall require the land divisions be approved and at least 25% of the divided lots be sold before issuance of a Limited Soil Removal Permit and commencement of the excavation, or
  4. Any other use that requires Site Plan Approval shall submit a site plan for final approval prior to obtaining a Limited Soil Removal Permit.
- B. The actual removal of soil materials under a Limited Soil Removal Permit shall only proceed in conformance with the approved site plan and an engineering plan that complies with all design, information, permit, fees, inspection, operation and reuse requirements of the Lenox Township Zoning Ordinance for Soil Removal Operations, Section 1816 and the following:
1. The purpose of the Limited Soil Removal Permit shall be the creation of a body of water that qualifies as a lake under permit rules and regulations of the Michigan Department of Environmental Quality (MDEQ), or the removal and sale of excess topsoil that is necessary in order to complete a development approved by the Planning Commission.
  2. The minimum site size for a development that includes a request for a Limited Soil Removal Permit shall be twenty (20) acres.
  3. The minimum size of any proposed body of water shall be five (5) acres.

4. The applicant shall submit application materials and copy of a MDEQ Lake Permit for the proposed body of water.



5. Actual construction of the lake shall occur within the time frames provided below, based upon the size of the proposed water body:
    - a. 5.0 - 7.0 acres 1 year
    - b. 7.1 - 10 acres 2 years
    - c. 10.1 - 15 acres 3 years
    - d. 15.1 - 20 acres 4 years
  6. Notwithstanding the timetable referenced above for the completion of the lake, the applicant and his assigns shall, with the exception of November 15 through April 15, unless the frost laws dictate a longer period of time, diligently and continuously excavate the lake until completion.
  7. Not more than thirty percent (30%) of the total area of the site shall be involved in the soil removal activities allowed under the Limited Soil Removal Permit. The maximum size of a lake under this provision shall be twenty (20) acres. The creation of a lake larger than twenty (20) acres shall not be permitted by means of a Limited Soil Removal Permit and shall require approval and permit under Section 1816.
  8. In order to prevent all unnecessary dust and blowing of sand, there shall be no stockpiling of sand in piles in excess of one thousand (1000) cubic yards each and all stockpiles shall be restricted to a maximum height of fifteen (15) feet.
  9. Refer to the Lenox Township Soil Removal Ordinance, Section 308, Specific Requirements for Stripping Operations, for performance standards on stripping operations.
- C. A performance guarantee, acceptable to the Lenox Township Board, shall be required as a condition for the issuance of a Limited Soil Removal Permit.
  - D. A Limited Soil Removal Permit shall be issued only after findings of fact made by the Planning Commission and approved by the Township Board, demonstrating no adverse impacts on adjoining properties beyond the phase of the approved, permanent use to which the Limited Soil Removal Permit is accessory.
  - E. Any deviation from the approved plat, site plan and/or Limited Soil Removal Permit shall be grounds for immediate revocation of the Limited Soil Removal Permit and forfeiture of the performance guarantee.

**SECTION 1834. SIMILAR USES COMPATIBLE WITH PRINCIPAL PERMITTED USES**

In AG, Agricultural zoning districts the Planning Commission may permit, as special land uses, specific uses which are similar to the special land uses listed in Section 501 and compatible with the principal permitted uses of Section 500, subject to findings of fact based upon the General Requirements of Article 18 and the following special standards:

- A. The use shall be consistent with the intent of the district and shall not change the basic uses allowed in the district.
- B. The use shall be found to be compatible with the principal permitted uses allowed in the district at the specific location proposed.
- C. The use shall cause no more traffic than other principal permitted or special land uses in the district.
- D. The use shall not require permanent buildings, structures, or equipment that would be incompatible with the principal permitted uses allowed in the district.
- E. The Planning Commission may place such conditions on the use as it finds necessary to ensure compatibility with the principal permitted uses allowed in the district, subject to the standards of Article 18 subsection F. In this regard, the Planning Commission shall identify standards for similar special land uses that it finds are appropriate for application to the use being considered.

**SECTION 1835. BED AND BREAKFAST INNS (EFFECTIVE 11/21/2007)**

- A. Must be clearly incidental to the principal use of a dwelling unit as a single-family dwelling unit. Not more than twenty-five (25) percent of the total floor area of the dwelling unit, or five bedrooms whichever is less, shall be used for bed and breakfast guest rooms.
- B. Bed and breakfast inns shall be confined to the dwelling unit, which is the principal dwelling unit on the property.
- C. Rooms for sleeping shall have a minimum size of ninety (90) square feet for single occupancy rooms, one hundred (100) square feet for double occupancy rooms, one hundred fifty (150) square feet for triple occupancy rooms, and two hundred (200) square feet for four person rooms. There shall be a maximum of four (4) occupants per room. Each

sleeping room shall have no wall dimension of less than nine (9) feet in length.

- D. There shall be no separate cooking facilities used for the bed and breakfast stay. Food served will be done so in accordance with, and limited by, that permitted by applicable state law and subsequent guidelines published by the Michigan Department of Public Health.
- E. The maximum consecutive length of stay for any guests of bed and breakfast operations shall be fourteen (14) days.
- F. The dwelling unit which contains the bed and breakfast establishment shall be the principal residence of the owner/innkeeper. Said owner/innkeeper shall reside on the premises when the bed and breakfast inn is in operation.
- G. In the residential district one sign not to exceed six square feet in area shall be permitted in accordance with the requirements of Section 304.
- H. Parking shall be provided as follows:

One (1) off-street parking space shall be provided for each guest room to be rented in addition to requirements for residential family vehicles. Front yard parking is prohibited. Parking lot lighting is prohibited in residential or multiple districts except for the use of porch lights or low voltage landscape lights. Low intensity bollards not over 36 inches in height may be approved by the Planning Commission based on catalog specifications, including illumination coverage details. In residential or multiple districts, parking shall not be permitted within a required rear yard setback unless the Planning Commission finds that adequate screening can be provided to ensure that there will not be a deterioration of the quality of life to the abutting residential property owners. In order to preserve the residential character of the area, the Planning Commission may permit stacking of the owners' vehicles.

- I. The Planning Commission may limit the number of guest rooms permitted if it finds that proposed characteristics of the use will be excessive for the site or have the potential to negatively impact the residential character of the site and surrounding properties.
- J. Screening for off street parking shall be provided for abutting residential uses. Such screening shall consist of a dense evergreen planting with shrubs not less than three and one-half (3 1/2) feet tall at the time of planting. Screening shall be maintained by the operator of a bed and breakfast.
- K. Each sleeping room used for the bed and breakfast operation shall have a separate smoke detector alarm and a fire extinguisher shall be kept on

each floor in a location to be determined by the Building Inspector.

L. The owner/operator of the bed and breakfast inn shall install carbon monoxide monitors in each sleeping room and shall comply with all applicable adopted codes of the Township.

M. Special Land Use approval for bed and breakfast inns is not transferable to subsequent owners.

## **SECTION 1836. PAWNBROKERS AND PRECIOUS METAL DEALERS**

### **Purpose:**

The Township of Lenox recognizes that there are some uses which, by their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, and they can have a deleterious effect upon the use and enjoyment of adjacent areas. In connection with the adoption of this Ordinance, the Township has received information that certain types of skid-row businesses, including pawnbrokers, and used goods businesses have through studies in the City of Detroit been found to have deleterious effect upon the use and enjoyment of adjacent areas, including information associating blight. Special regulations of these uses are necessary to insure that these adverse effects will not contribute to the blighting or the downgrading of the surrounding neighborhoods. Further, Lenox Township finds that the use of services provided by pawnbrokers and precious metal dealers provides an opportunity for the commission of crimes notwithstanding State and Federal regulations. The purpose of this Ordinance amendment is to minimize the impact on surrounding neighborhoods, minimize the commission of crimes associated thereto, and to assure that such businesses comply with these requirements as well as State and Federal regulations, thereby protecting the public health, safety and general welfare of the citizens of Lenox Township.

### **Definitions:**

1. Pawnbroker: Any person, partnership, or corporation, either as a principal, or agent, or employee thereof, who loans money on deposit or pledge of personal property or other valuable thing, and who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged, as further defined in MCLA 446.201.

2. Precious Metal Dealer: Any person, partnership, or corporation, either as a

principal, or agent, or employee thereof, who purchases or sells any jewelry containing gold, silver or platinum, or any precious gem, as defined in MCLA 445.482.

**Exemptions:**

This section does not apply to, or include, the following:

- A. The sale is held on property principally occupied as a dwelling by the seller, provided that the sale does not exceed a period of 72 consecutive hours.
- B. None of the items offered for sale have been purchased for resale or received on consignment for the purpose of resale.
- C. The sale of bona fide antiques or collectibles, including secondhand books, magazines and films.

**Special Land Use Requirement:**

A pawnbroker may be allowed by special land use permit in the IR (Restricted Industrial District) and the IC (Controlled Industrial District) zoning districts.

A precious metal dealer may be allowed by special land use permit in the CG (Commercial General District) zoning district.

**Location Standards:**

- A. No pawnbroker or precious metal dealer shall be situated within 2000' of any church, park or school.
- B. No pawnbroker or precious metal dealer shall be situated within 2000' of an existing pawnbroker or precious metal dealer.

## **SECTION 1837. ADULT ESTABLISHMENTS AND/OR ADULT ENTERTAINMENT**

**Purpose:**

The Township of Lenox finds that adult establishments and adult entertainment businesses have adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. In connection with the adoption of this Ordinance, the Township has received information, including information associating blight and increased crime with sexually-oriented businesses, including studies in the City of Detroit, Michigan, in the early 1970s, the City of St. Paul, Minnesota in 1978, the City of Phoenix, Arizona in 1979, the City of Minneapolis, Minnesota in 1980, the City of Austin, Texas in the early 1980s, the City of Indianapolis, Indiana in 1987, Oklahoma City, 1986, 1992, the City of Los Angeles, California in 1984, Adams County, Colorado in 1988, the report of the Minnesota Attorney General issued in 1989, Times Square, New York 1974, Dallas, Texas 1994, 1997, and Newport News, Virginia 1996. In connection with the adoption of this Ordinance, the Township has received further information that certain types of skid-row businesses,



including tattoo parlors, pawnbrokers, and used goods businesses have through studies in the City of Detroit been found to have deleterious effect upon the use and enjoyment of adjacent areas, including information associating blight. Based on this, Lenox Township concludes as follows:

- A. Adult establishments and/or adult entertainment businesses have adverse secondary impact of the types set forth above.
- B. The adverse effects caused by adult establishments and/or adult entertainment businesses tend to diminish if they are governed by locational requirements as well as special land use requirements.
- C. It is not the intent of Lenox Township to prohibit adult establishments and/or adult entertainment businesses from having a reasonable opportunity to locate within the Township.
- D. The public health, safety, morals and general welfare will be promoted by the Township adopting regulations governing adult establishments and adult entertainment businesses.
- E. Adult establishments and/or adult entertainment businesses can contribute to an increase of criminal activity in the area in which such businesses are located, taxing Township crime-prevention programs and law enforcement services.
- F. Adult establishments and/or adult entertainment businesses can be used as fronts for prostitution and other criminal activity. The experience of other municipalities indicates that the proper management and operation of such businesses can, however, minimize this risk provided that the owners and operators of such businesses are regulated by strict special land use requirements.
- G. Adult establishments and/or adult entertainment businesses can increase the risk of exposure to communicable diseases including, but not limited to, acquired immune deficiency syndrome (AIDS) for which there currently is no cure. Experiences of other municipalities indicate that such businesses can facilitate the spread of communicable diseases thereby endangering not only the patrons of such establishments but also the general public.
- H. Adult establishments and/or adult entertainment businesses can contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
- I. The risk of criminal activity and/or public health problems can be minimized through this Ordinance and its special land use requirements.
- J. By locating adult establishments and/or adult entertainment businesses away from residential areas, schools, churches, libraries, parks and playgrounds, and the Lenox Township Hall, it can prevent additional criminal activity in those areas and prevent deteriorations of neighborhoods and its consequent adverse affect on real estate values of

properties within the neighborhood.

- K. This is a content-neutral regulation, having neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to adult-oriented materials protected by the First Amendment of the Constitution of the United States, or to deny access by distributors and exhibitors of adult-oriented entertainment to their intended market.

**Definitions:**

An adult establishment or adult entertainment business is any business engaged in any of the following activities or which utilizes any of the following business procedures or practices:

- A. Any business that has at least 30% of its inventory, stock, or trade, or floor area devoted to items, merchandise or other materials distinguished or characterized by having an emphasis on material depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas;

- B. Or any adult use as defined as follows:

- 1) Adult book store:

Any establishment or business used for the rental or sale of any printed material, pictures, slides, records, audio tape, video tape, or motion picture film at least of which 30% of the inventory, stock, trade, or 30% of the floor area, is devoted for items, merchandise or other material distinguished or characterized by having an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

- 2) Adult cabaret:

Any business or establishment that provides dancing, partial nudity, or other live entertainment to patrons if the dancing and live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction of matter that seeks to evoke, arouse or excite the patron's sexual or erotic feelings or desire.

- 3) Adult conversation and/or companionship establishment:

Any business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion

between an employee of the establishment and a customer if such discussions are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

## 4) Adult massage parlor:

A massage parlor or health club that provides the services of massage, if such services are distinguished or characterized by an emphasis of specified sexual activities or specified anatomical areas.

## 5) Adult motion picture theatre:

Any business or establishment used for presenting material if such material is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

## 6) Adult novelty business:

Any business that has at least 30% of its inventory, stock or trade, or at least 30% of the floor area of the business devoted to items, merchandise or other materials or devices which stimulate human genitals or devices which are designed for sexual stimulation.

## C. Nudity, partial nudity, or specified anatomical areas:

1) Less than completely or opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola, and

2) Human male genitals in which the penis is discernibly erect, even if completely and opaquely covered.

## D. Specified sexual activities:

1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, bestiality, direct physical stimulation of unclothed genitals, or any other sexual-oriented act or conduct.

2) Clearly depicted human genitals in the state of sexual stimulation or arousal.

3) Use of human ejaculation or masturbation.

4) Fondling or touching of nude human genitals, public region,



- 5) Situation involving a person or persons, any of whom are nude or partially nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving any specified sexual activity.

**Zoning areas where adult establishments and/or adult entertainment business are permitted:**

An adult establishment or adult entertainment business may be permitted by the Planning Commission in the IR (Restricted Industrial) or IC (Controlled Industrial) Zoning District subject to Special Land Use approval.

**Restrictions on location:**

No adult establishment may be located within 1000' of a residential zoning district, a school, a church, a library, a park, a commercial daycare center, or the Lenox Township Hall, nor within 1000' of another adult establishment and/or adult entertainment business. Distances shall be measured from the nearest point of the building where the adult establishment and/or adult entertainment business is located to the nearest boundary of the residential zoning district, or the property containing a park, school, church, library, commercial daycare center, or the Township Hall, or any other adult establishment and/or adult entertainment business.

**Hours of operation:**

No establishment shall exceed the following hours of operation: 12:00 p.m. until 2:00 a.m.

**Additional conditions for adult cabarets:**

The following additional conditions shall apply to adult cabarets:

- A. No owner, operator or manager of an adult cabaret shall permit or allow any dancer or live entertainer to perform nude.
- B. No dancer, live entertainer, or performer shall be under 18 years of age.
- C. No dancer or performer shall fondle, touch or caress any patron, and no patron shall fondle, touch or caress any dancer or performer.
- D. No dancer or performer shall solicit any pay, tip, or gratuity from any patron.



**SECTION 1838. WIND ENERGY CONVERSION SYSTEMS:****A. Purpose.**

The purpose of this Ordinance is to allow for wind energy facilities in Lenox Township, while controlling the structural integrity and safety of these devices and, at the same time, to attempt to minimize negative impacts associated with the appearance, aesthetics, and shadow flicker of such facilities as well as the noise that is created from them, while promoting the health, safety and welfare of Lenox Township residents and trying to minimize any negative effect that such facilities may have on surrounding properties.

**B. Intent.**

1. This Ordinance applies to an electrical generating facility, based upon a wind turbine, whose main purpose is to supply electricity to the property where the wind energy facility is located and to sell any excess electricity from that wind energy facility to utility companies for electrical use elsewhere.
2. This Ordinance applies to wind energy facilities that consist of a single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities wherein the power generated is used primarily for on-site consumption, consisting of a single wind turbine that has a rated capacity of not more than 30 kW. This Ordinance does not apply to any wind energy conversion systems consisting of more than one wind turbine whose primary purpose is to generate and sell electricity that will not be used on the subject property.
3. This Ordinance does not apply to agricultural windmills whose primary purpose is to use rotating wind blades to turn mechanical energy to do physical work, such as pumping water.
4. The temporary use of an anemometer for three (3) months or less for wind testing shall be exempt from the requirements of this Ordinance. Any proposed anemometer that occupies a site for greater than three (3) months shall not be considered exempt and shall be subject to all requirements of this Ordinance.
5. A wind energy facility may only be constructed in Lenox Township upon approval by the Lenox Township Planning Commission as a special land use. Such special land use permit, if granted, shall be for a period of one year only at which time the applicant/user must

reappear before the Lenox Township Planning Commission and show cause as to why the special land use permit should be extended.

**C. Definitions.**

1. **Height (as applied to WECS):** The height is the distance measured from grade to the highest point of the wind rotor or tip of the turbine blade when it reaches its highest elevation.
2. **Wind Energy Conversion Systems (hereinafter referred to as WECS):** Any device that converts wind energy to mechanical or electrical energy.
3. **Wind Rotor:** The blades plus hub to which the blades are attached used to capture wind for purposes of energy conversion.
4. **Wind Turbine.** A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator that may include a rotor, tower, and pad transformer.
5. **Survival Wind Speed:** The maximum wind speed a WECS in automatic, unattended operation (not necessarily producing power) can sustain without damage to structural components or loss of the ability to function normally.

**D. Application Requirements.**

1. The application shall demonstrate that the proposed wind energy facility will comply with this Ordinance and shall contain at a minimum the following:
  - a. A narrative describing the proposed wind energy facility, including an overview of the project;
  - b. Engineering drawings depicting the elevation view of the actual wind energy facility that is proposed;
  - c. The approximate generating capacity of the wind energy facility; including a copy of the site assessment study to determine wind speeds and site feasibility.
  - d. A site plan, with legal property description, showing the proposed location of the wind energy facility, property lines, setback lines, access drives and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures including permanent meteorological towers, location of

transmission lines, topography, waterways, wetlands, proposed grading, and location of all structures and properties within the geographical boundaries of any applicable set back (provide dimensions for all).

- e. Evidence of compliance with applicable Federal Aviation Administration Regulations, Michigan Airport Zoning Act, and Michigan Tall Structures Act.
- f. Signed and approved copies of any negotiated power purchase agreement and the utility company's approved schematics;
- g. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for insuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the wind power project will be decommissioned and the site restored;
- h. Other relevant studies, reports, certifications, and approvals as may be reasonably requested by Lenox Township to insure compliance with this Ordinance;
- i. Signature and identification of the property owners and the facility owner/operator of the wind energy facility.
- j. Environmental impact and wildlife impact analysis report by a professional engineer.
- k. Provide a complaint resolution process for addressing excessive noise, shadow flicker, or any other nuisance associated with the operation of the WECS.
- l. The Planning Commission may waive any of the submission requirements based on the necessity for the information in relation to the installation type.

#### **E. Applicable Zoning Districts.**

WECS may be permitted in any zoning district subject to Special Land Use Approval Requirements and all applicable laws and ordinances of Lenox Township, the State and the Federal government.

#### **F. Standards for and Regulation of WECS.**

In addition to the requirements of the application for special land use in Lenox Township, the application for a wind energy facility special land use shall also contain the following:

1. **Construction:** Tower construction shall be in accordance with the latest edition of the Michigan Building Code, Fire Code, Electric Code and any future amendments thereof.
2. **Electric-Magnetic Interference (EMI):** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio frequency energy which would cause harmful interference with radio and/or television broadcasting or

reception, and shall comply with the provisions of Title 47, Chapter 1, Part 15 of the Federal Code of Regulations and subsequent revisions governing said emissions.

**3. Setbacks:**

- a. The wind energy tower and rotor must be set back from all property lines a distance equal to 1.5 linear feet for every foot of height. However, the Lenox Township Planning Commission may require additional setbacks to reduce noise and shadow flicker impact to any surrounding properties.
- b. No tower shall be located within the front yard, unless it is setback a minimum of 660' of the front lot line.
- c. The WECS shall be located a sufficient distance from any overhead utility lines, excluding service drops, such that a structural failure of any portion of the WECS or its supporting structure will not cause any portion of it to fall within ten (10') feet of utility lines.

**4. Maximum Height:** The maximum height of a wind energy conversion system facility shall not exceed twenty (20%) percent of the lot width. In no case shall the height of any WECS exceed fifty (50') feet. Roof mount structures shall not project higher than ten (10') above the highest point of the roof and shall be a vertical axis WECS only.

**5. Minimum Blade Height:** The minimum distance between the ground and any protruding blades utilized on a WECS shall be fifteen (15') feet, as measured at the lowest point of the arc of the blades.

**6. Installation and design:**

- a. The installation and design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute, and any applicable Building Codes.
- b. All electrical and mechanical components of the wind energy facility shall conform to relevant and applicable local, state and national codes.
- c. No wind energy facility shall be used or operated until such time as it has received final approval from the Lenox Township Building Department.
- d. The structural integrity of the foundation, tower, and turbine itself must be certified by a licensed structural engineer, registered in the State of Michigan, and further that the structural design complies with all of the standards set forth for safety and stability in all applicable codes then in effect in

the State of Michigan and all sections herein.

- e. Any on-site transmission or power lines associated with the WECS shall, to the maximum extent possible, be placed underground.
- f. Guy wires shall not be permitted as part of any proposed WECS, excepting roof-mounted applications.



- g. Any mechanical equipment associated with and necessary for operation, including a building for batteries and storage cells shall be enclosed with a six (6') foot high decorative fence (aluminum simulated wrought-iron design). The supporting tower shall also be enclosed with the same fence as above unless the base of the tower is not climbable for a distance of twelve (12') feet.
- h. When a building is necessary for storage of cells or related mechanical equipment, the building may not exceed one hundred forty (140) square feet in area nor twelve (12') feet in height, and must be located at least the number of feet equal to the height of the tower from any property line. When a building is necessary for storage of cells or related mechanical equipment, the building may not exceed one hundred forty (140) square feet in area nor eight (8') feet in height, and must be located at least the number of feet equal to the height of the tower from any property line.

**7. Labeling Requirements:** A minimum of one sign shall be posted near ground level on the tower structure warning of high voltage. In addition, the following information shall be posted on a label or labels on the generator or alternator of the WECS.

- a. The maximum power output of the system and the wind speed at which it is achieved.
- b. Nominal voltage and maximum current.
- c. Manufacturer's name and address, serial number and model number.
- d. Maximum survival wind speed and the emergency and normal shut down procedures.

**8. Utility Company Notification:** The Detroit Edison Company shall be notified in writing of any proposed interface with that company's grid prior to installing such interface and shall conform to any legislated requirements governing installations of WECS so as to comply with the Utility Tariff specifications.

**9. Safety:**

- a. The WECS' manufacturers shall document that the WECS model has been tested and certified by Underwriter's Laboratory, or other such applicable independent accrediting agency, and that when installed in accordance with recommended specifications shall have a maximum survival wind speed of

not less than eighty (80) miles per hour.

- b. The WECS shall be kept in good repair and sound condition.
- c. An automatic braking/governing system shall be installed to control rotor speed.

10. **Noise:** Noise generated by the WECS shall not exceed the Lenox Township Noise Ordinance maximum decibel level of 65 dbA at the closest property line. Provide a copy of the modeling and analysis report. Submit a sound analysis report by a 3<sup>rd</sup> party after 90 days of operation to Lenox Township.
11. **Appearance:**
  - a. All WECS shall maintain a galvanized finish or be of a non-obtrusive color such as white, off-white, light gray;
  - b. WECS shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - c. WECS shall not display advertising, including the identification of the turbine manager, facility owner, or operator.
12. **Shadow Flicker:** The WECS shall be designed in such a manner as to minimize shadow flicker on a roadway and any existing structure. The Planning Commission shall require the applicant to conduct an analysis of potential shadow flicker at occupied structures if it deems such an analysis necessary. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.
  - a. If necessary to prevent shadow flicker from crossing occupied structures, the wind turbine generator may be programmed to stop rotating during times when the wind turbine generator shadow crosses these structures.

**G. Decommissioning.**

1. The wind energy facility owner and/or operator and/or property owner shall have three months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months.
2. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads and other associated features. The site shall be restored to pre-construction conditions.

**SECTION 1839. SEASONAL BUSINESS:**

## A. Overview:

The Township Board finds and declares that the interest of the public health, safety and welfare of the citizens of Lenox Township require the regulation, licensing and control of seasonal businesses within Lenox Township as defined in Article 24. This Section is intended to provide standards for those temporary seasonal businesses which are not specifically permitted in any district.

## B. General Provisions:

1. The allowance of a temporary seasonal business shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary seasonal business is permitted.
2. Temporary seasonal business shall be in harmony with the general character of the district.
3. The allowance of the temporary seasonal business shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
4. No temporary seasonal attraction permit shall be granted without first giving notice to adjacent property owners and tenants of the time and place of a public hearing to be held as further provided in this ordinance.
5. All structures constructed on the property, even if they are temporary and seasonal, must comply with the Lenox Township Building Code in its entirety should those structures be occupied at any time by either employees of the seasonal business or persons attending the seasonal business. In addition, such structures, including tents with sides, must comply with the Lenox Township Fire Code in every respect including, but not limited to, safe ingress and egress by persons within the structure and emergency exit lighting. Likewise, all structures must have working fire extinguishers nearby and as approved by the Lenox Township Fire Chief.

## C. Seasonal Outdoor Sales Requiring Site Plan Approval:

Seasonal Outdoor Sales establishments may be permitted in the CN, CC, CG, OS, IR, and IC districts subject to the following requirements:

1. A site plan meeting the requirements of Section 305 shall be submitted to the Planning Commission for approval. The application for site plan approval must be made in writing on such forms and in such manner as prescribed by the Clerk of the Township and shall be made at least sixty (60) days prior to the date of the opening of the proposed seasonal retail sales use.
2. Seasonal outdoor sales may take place not more than four (4) times per calendar year on a lot or parcel (i.e., four sales events per year per lot). The total duration of a sales event shall not exceed thirty (30) days. There shall be at least fifteen (15) days between any two seasonal sales events on a lot or parcel.

3. Seasonal outdoor sales may be conducted only upon a lot or parcel of property having frontage upon a major or secondary thoroughfare.
  4. Temporary outdoor sales areas and temporary structures such as tents shall comply with the setback requirements for buildings in the district.
  5. If seasonal outdoor sales are proposed to be conducted in the parking lot of an active use, the applicant shall demonstrate that there is ample space for the seasonal outdoor sales, any principal uses, and parking for both the seasonal outdoor use and any other use on the subject site, without adverse impact on parking lot circulation.
  6. The seasonal outdoor sales use shall have up to five (5) days to establish the temporary use including erection of tents, placement of merchandise, and placement of temporary signs.
  7. Seasonal outdoor sales may include up to one (1) primary temporary tent plus one (1) additional temporary tent or temporary storage container or trailer. Sales and storage shall be limited to the approved tent(s) and, when provided, storage container. No tent shall exceed 2,400 square feet in area nor shall it be greater than twenty (20) feet in height.
  8. If a seasonal outdoor sales use has a temporary storage container or trailer for the purpose of temporary storage of related merchandise, sales or a combination of storage and sales, the exterior design, appearance and color scheme of the container / trailer shall be in keeping with the general color scheme of the surrounding development or a neutral color. For example, a bright yellow or orange container / trailer located in a shopping center with a brick façade shall not be permitted. When both a container / trailer and tent are proposed, the container / trailer shall not be placed closer to public street than the tent.
  9. Each temporary use may have one sign attached to a tent or other structure on the site. The sign area shall not exceed fifty (50) square feet. For corner lots, one additional sign of up to fifty (50) square feet may be permitted. In addition, signs required by law designating fire routes, tent entrances and exits shall be permitted. Also, directional signs up to four (4) square feet in area and not greater than 3 feet in height may be permitted at driveways serving the site and up to 4 additional directional signs may be placed at locations within the site if necessary for wayfinding and/or traffic safety. No balloons, festoons, inflatables or other similar devices designed to attract attention to the site or use shall be permitted. Temporary signs erected for Seasonal Retail Sales shall comply with the Lenox Township Sign Ordinance.
  10. Provided that the seasonal outdoor sales use complies with all conditions of site plan approval and re-uses the approved site plan, without modification, re-approval of the seasonal use permit shall be automatic each year upon receipt of the fee.
  11. Fireworks stands shall not be located within three hundred (300) feet of a residence.
  12. Seasonal outdoor sales shall comply with all other applicable laws and ordinance regulations of the Township.
- D. Seasonal Attractions Requiring Special Land Use Approval:

1. Site Plan and Special Land Use Requirement:

A person who owns or operates a seasonal attraction as defined herein must adhere to all of the site plan requirements as set forth in this Zoning Ordinance. The Planning Commission, in its discretion, may waive certain technical parts of the site plan requirements, such as requiring stamp of a certified engineer or formal surveys, if good cause exists. A person shall not own or operate a seasonal attraction in Lenox Township unless and until that person has obtained special land use approval as defined in this Zoning Ordinance.

2. Application for Site Plan Approval:

Any person desiring to own or operate a seasonal attraction within Lenox Township shall make a formal site plan application, pursuant to Lenox Township Zoning Ordinance and shall pay the requisite site plan review fee and the requisite special land use application fee.

In addition to the other requirements set forth in Article 18 of the Zoning Ordinance regarding special land use approval, the application for the special land use approval shall also contain the following:

- a. The name, age, residence and mailing address of the person making the applications. (Where the person making the application, this information shall be provided for all partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the Articles of Incorporation shall be filed, and the means and addresses shall be provided of all shareholders having financial interest greater than Five Hundred and 00/100 (\$500.00) Dollars.
- b. A statement of the kind, character and type of proposed assembly.
- c. The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, the licensee shall submit an affidavit from the owner indicating consent to the use of the site for the proposed assembly.
- d. The date or dates and hours during which the proposed assembly is to be conducted.
- e. An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes.

The application for site plan approval must be made in writing on such forms and in such manner as prescribed by the Clerk of the Township and shall be made at least ninety (90) days prior to the date of the opening of the proposed seasonal attraction.

3. Additional Site Plan Review and Special Land Use Application Requirements:

Each application shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the seasonal attraction owner or operator's plans to provide for the following:

- a. Police and fire protection;
  - b. Food and water supply and facilities;
  - c. Health and sanitation facilities;
  - d. Medical facilities and services, including emergency vehicles and equipment;
  - e. Vehicle access and parking facilities;
  - f. Camping and trailer facilities, if applicable;
  - g. All parking lot and exterior lighting, including controls to minimize glare and lighting on adjacent properties;
  - h. Communications facilities;
  - i. Noise control and abatements;
  - j. Facilities for clean-up and waste disposal;
  - k. Insurance and bonding requirements including, but not limited to, general liability insurance of no less than one million dollars (\$1,000,000.00) per occurrence with Lenox Township being named as an additional named insured together with an agreement on the part of the seasonal attraction owner or operator to hold harmless and indemnify Lenox Township from and against any and all causes of action whatsoever arising out of the use and operation of the seasonal attraction.
4. Mandatory Review by the Lenox Township Building Department and Lenox Township Fire Department:
- On receipt by the Clerk, copies of the application and site plan shall be forwarded to the Lenox Township Building Department and the Lenox Township Fire Chief. The Building Department and Fire Department have the right to inspect the property, including all the attractions that are proposed on the property, and shall review and investigate matters relevant to the application within twenty (20) days of receipt thereof and shall report their findings and recommendations to the Township Board and Township attorney.
5. Mandatory Special Land Use Permit:
- If the application for special land use approval is approved at the public hearing, a signed special land use permit shall be a prerequisite to the opening of the seasonal attraction. The special land use permit shall contain all conditions imposed upon the approval. The special land use permit shall be valid for that year's seasonal attraction operation only.
6. Meaning of Special Land Use Permit:
- Approval of one seasonal use shall not be construed to constitute approval of a different seasonal use to occur separately or simultaneously.
7. Re-Approval of Seasonal Attraction Special Land Use Permits for Subsequent Years:
- If a seasonal attraction is granted special land use approval and desires re-approval for the following year, provided that all of the conditions for the initial special land use

approval have been strictly adhered to, the seasonal attraction does not have to submit a new site plan if the prior year's site plan is going to be used and adhered to. However, if the seasonal attraction changed the original site plan or adds any new structures, including temporary or seasonal structures or any new attractions, a new site plan is required. If there are no changes to the original site plan and the nature and extent of the attraction remains unchanged, the applicant may rely upon the original site plan and representations set forth in the original application for special land use approval and shall simply request re-approval in writing from the Township Clerk. If all of the conditions of special land use approval have been strictly adhered to in prior years and there have been no complaints or problems relating to the operation of the seasonal attraction, the Planning Commission may, in its discretion, waive the requirement for a new public hearing. However, if any of the prior requirements of the special land use approval were not adhered to, or if there were complaints or problems regarding the operation of the seasonal attraction, the Planning Commission shall schedule another public hearing. If all of the prior conditions of special land use approval were strictly adhered to, and there have been no complaints or problems regarding the operation of the seasonal attraction, the Planning Commission shall re-approve the special land use for a period of one (1) year.

8. Scope of Operations:

Seasonal attraction operations may take place not more than four (4) times per calendar year on a lot or parcel (i.e., four events per year per lot). The total duration of a sales event shall not exceed thirty (30) days. There shall be at least fifteen (15) days between any two seasonal events on a lot or parcel. Businesses exceeding these standards shall not be considered seasonal businesses and shall be subject to the same regulations as other permanent businesses. This provision is intended to prevent situations in which approved seasonal attractions become permanent business with rotating operations.

9. Minimum Requirements:

- a. **Security Personnel.** The licensee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the Township Board, in cooperation with the Law Enforcement Authority, is satisfied that proposed security is necessary and sufficient for the duration of the assembly.
- b. **Water Facilities.** The Licensee shall provide potable water sufficient in quantity and pressure to assure proper operation of all water using facilities under conditions of such demand. Such water shall be supplied from a public water system, if available, and if not available, then from a source constructed, located and approved in accordance with Act 368, Public Acts of 1978, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, or from source and delivered and stored in a manner approved by the Township Board.



- c. **Restroom Facilities.** The licensee shall provide separate enclosed flush-type water toilets as defined in Act 733, Public Acts of 2002, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable state or local ordinances. If such flush-type facilities are not available, the Township Board may permit the use of other facilities which are in compliance with Act 368, Public Acts of 1978, and rules and regulations adopted pursuant thereto and in accordance with any other applicable state or local law.
- d. The licensee shall provide lavatory and drinking water facilities constructed, installed and maintained in accordance with Act 733, Public Acts of 2002, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. All lavatories shall be provided with hot and cold water and soap and paper towels.
- e. The number and type of facilities required shall be determined, on the basis of the number of attendees in the following manner:

	<b>i. <u>Male</u></b>	<b><u>Female</u></b>
ii. Toilets	1:300	1:200
iii. Urinals	1:100	
iv. Lavatories	1:200	1:200
v. Drinking Fountains	1:500	
vi. Spouts or Faucets	1:500	

Where the assembly is to continue for more than twelve (12) hours and includes camping facilities, the licensee shall provide shower facilities on the basis of number of attendees, in the following manner:

	<b>i. <u>Male</u></b>	<b><u>Female</u></b>
vii. Shower Heads	1:100	1:100

All facilities shall be installed, connected and maintained free from obstructions and defects and shall at all times be in operable condition as determined by the Township Board.

- f. **Food Service.** If food service is made available on the premises, it shall be covered only through concessions licensed and operated in accordance with the provisions of Act 368, Public Acts of 1978, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable state or local law.
- g. **Medical Facilities.** If the assembly attracts greater than 1,000 patrons at one time and is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff strength, medical and other supplies and equipment of such facilities shall be prescribed by the Township Board.
- h. **Liquid Waste Disposal.** The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the Township Board. If such rules and regulations are not available or if they are

inadequate, then liquid waste disposal shall be in accordance with the United States Public Health Service Publication No. 526, entitled "Manual of Septic Tank Practice." If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with any other applicable state or local law, and prior to issuance of any license, the licensee shall provide the Township Board with a true copy of an executed agreement in force and effect with a true copy of an executed agreement will assure proper, effective and frequent removal of liquid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

- i. **Solid Waste Disposal.** The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered, fly tight and rodent proof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the Township Board with a true copy of an executed agreement in force and effect with a licensed refuse collector, which agreement will assure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.
- j. **Public Bathing Beaches.** The licensee shall provide or make available or accessible public bathing beaches only in accordance with Act 368, Public Acts of 1978 and the rules and regulations adopted pursuant thereto and in accordance with any other applicable provision of state or local law.
- k. **Public Swimming Pools.** The licensee shall provide or make available public swimming pools only in accordance with Act 299, Public Acts of 1980, and the rules and regulations adopted pursuant thereto and in accordance with any other applicable provision of state or local law.
- l. **Access and Traffic Control.** The licensee shall provide for ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the State of Michigan. Traffic lanes for access by ambulance, fire equipment, helicopter and other emergency vehicles.
- m. **Parking.** The licensee shall provide a parking area sufficient to accommodate all motor vehicles but in no case shall be provide less than one (1) automobile space for every four (4) attendants.
- n. **Camping and Trailer Parking.** A licensee who permits attendants to remain on the premises between the hours 2:00 A.M. and 6:00 A.M. shall provide for camping and trailer parking and facilities in accordance with Public Act 368 of 1978 Part 125, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision by state or local law. Temporary campground permits are issued by the county health department.
- o. **Illumination.** The licensee shall provide electrical illumination of all occupied areas sufficient to insure the safety and comfort of all attendants. The licensee's lighting

plan shall be approved by the Township Board.

- p. **Signs.** Each temporary use may have one sign attached to a tent or other structure on the site. The sign area shall not exceed fifty (50) square feet. For corner lots, one additional sign of up to fifty (50) square feet may be permitted. In addition, signs required by law designating fire routes, tent entrances and exits shall be permitted. Also, directional signs up to four (4) square feet in area and not greater than three (3) feet in height may be permitted at driveways serving the site. Additional directional signs may be placed at locations within the site if necessary for wayfinding and/or traffic safety. No balloons, festoons, inflatables or other similar devices designed to attract attention to the site or use shall be permitted. Signs shall not be posted more than ten (10) days prior to the opening of the attraction and must be removed within five (5) days of the attraction's closing. Temporary signs erected for Seasonal Retail Sales shall comply with the Lenox Township Sign Ordinance.
- q. **Other Conditions.** The Planning Commission may impose other conditions for the special land use approval based upon the uniqueness of the seasonal attraction and/or special consideration regarding the uniqueness of the location of the proposed seasonal attraction.

**SECTION 1840. CREMATORIUMS:**

Crematoriums may be approved as a permitted use in the Controlled Industrial (IC) Zoning District and as special land use in the Restricted Industrial (IR) Zoning District. When reviewing the application for a crematorium, the Planning Commission shall determine that the application complies with the following factors for approval:

1. Definition:
  - A. An enclosed facility wherein human remains are cremated in a cremation retort.
  - B. As applied to pets: A dedicated area within a building approved for animal cremation service or an accessory building of an approved animal cremation service wherein animal remains are cremated in a cremation retort.
2. No crematorium shall be located within three hundred (300') feet of any adjacent residentially zoned or used parcel or within one hundred (100') from a parcel zoned or utilized for office or commercial.
3. The crematorium shall emit no visible emissions or odors.
4. Noise emitted from the crematorium shall not exceed maximum sound levels set forth in this Zoning Ordinance.
5. All activity relating to the dead shall be handled discretely and be screened from public view to the maximum extent possible, including delivery and storage of the remains.
6. The crematorium shall not be used for the disposal of any waste materials.
7. Prior to the issuance of a certificate of occupancy for any crematorium, the operator shall provide documentation to the Township that all applicable federal, state and local permits have been obtained and provide to the Township all of the equipment manufacturers' specifications for construction, installation, operation, and maintenance.
8. Crematoriums shall be constructed, installed, operated and maintained in accordance with all manufacturers' specifications and all applicable federal, state and local permits, as amended. The Township shall have the right to enter and inspect the operations of a crematorium to determine compliance with this provision.

**SECTION 1841. FRATERNAL ORGANIZATIONS, LODGE HALLS, AND CLUBS**

Non-profit clubs are permitted as a special land use in the AG district, subject to the following standards:

1. The facility shall not be rented for commercial purposes, including, but not limited to receptions, banquets, or parties.
2. No residential facilities of any kind shall be a part of the premises.
3. Off-street parking shall be screened from adjacent residential properties and uses, in compliance with Section 300.
4. Off-street parking and access drives shall be paved.
5. All activities shall be located entirely within a fully enclosed structure, unless otherwise authorized by the Planning Commission as part of the special land use approval.
6. The facility shall not have a liquor license, except that the Planning Commission may approve a facility with an LCC "Club" license provided it

shall not be used in violation of item 1 above.