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Article 1
TITLE AND PURPOSE

1.1 Title

Joyfield Township in accordance with the enabling legislation for Municipal Zoning as provided in Act 110 of 2006 (M.C.L. 125.3101 *et seq.*) and P.A. 33 of 2008 (M.C.L. 125.3801 *et seq.*) hereby provides as follows: a Zoning Ordinance which shall be known as and may be cited as the “Joyfield Township Zoning Ordinance” of Joyfield Township, as amended and is referred to as the “Zoning Ordinance.”

1.2 Area of Jurisdiction

The provisions of this Zoning Ordinance apply to all development, public and private, throughout the incorporated areas of Joyfield Township, Benzie County, Michigan, to the extent permitted by law.

1.3 Purpose

The purpose of this Zoning Ordinance is to promote the public health, safety, and general welfare of the residents of Joyfield Township. This Zoning Ordinance shall serve the general good of the community in accordance with the adopted Joyfield Township Master Plan and any additions and amendments as may be approved by Joyfield Township.

1.4 Interpretation and Relationship to other Regulations

In interpreting and applying the provisions of this Zoning Ordinance, these provisions shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Zoning Ordinance to interfere with or abrogate or annul any easements, covenants, restrictions established by other ordinances or statutes, or agreements between private parties. However, where this Zoning Ordinance imposes a greater restriction upon the use of buildings or lots or upon the height of buildings, or requires larger open spaces than are imposed or required by any other applicable rule, covenant or law, the provisions of this Zoning Ordinance shall govern. Joyfield Township has no responsibility or authority for enforcing private agreements or covenants.

1.5 Conflict with State or Federal Regulations

If the provisions of this Zoning Ordinance are inconsistent with those of the State or Federal government, the more restrictive provisions will control, to the extent permitted by law.

1.6 Repeal of Prior Zoning Ordinance

All prior zoning ordinances of Joyfield Township are hereby repealed and replaced with this Ordinance and such repeal shall be effective coincident with the effective date of this Ordinance.

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Article 2
DEFINITIONS

2.1 Rules of Interpretation

For the purpose of this Ordinance, certain terms and words are herein defined. Words used in the present tense include the future, words in the singular number include the plural number and words in the plural include the singular number. The word “shall” is always mandatory and not merely directory. The word “person” shall mean an individual, partnership, corporation, or other association or their agents. Terms not herein defined shall have the meanings customarily assigned to them.

2.2 Definitions

Accessory Structure: means a subordinate structure on the same lot or parcel of land as the principal structure, the uses of which are incidental or subordinate to the principal structure. Under no circumstances shall an attached carport, septic system, or tile field be considered an accessory structure. An accessory structure is not a dwelling unit.

Accessory Use: means a use naturally or normally incidental and subordinate to, and devoted exclusively to, the main use of the land or structure (premises).

Accounting, Auditing and Bookkeeping Services: includes establishments primarily engaged in furnishing accounting, bookkeeping and related auditing services. These establishments may use data processing and tabulating techniques as part of providing their services.

Administrator: means the Joyfield Township Zoning Administrator.

Adult Book and/or Video Store: means an establishment having, as a substantial or significant portion of its stock in trade, books, videotapes, computer services, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” hereinafter defined.

Adult Live Entertainment Establishments: means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity or semi-nudity;
- B. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

Agricultural Processing: means the commercial processing or handling of agricultural products which changes the naturally grown product for human food consumption or animal feed.

Agricultural Purposes: means those plants and animals useful to human beings produced by agriculture

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86 and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and
87 dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine,
88 fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers,
89 seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any
90 other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan
91 Department of Agriculture & Rural Development.

- 92
93 **Agricultural Related Industry:** includes the following:
- 94 1. Packaging plants: May include but are not limited to the following activities: washing,
95 sorting, crating and other functional operations such as drying, field-crushing or other
96 preparation in which the chemical and physical composition of the agricultural product remains
97 essentially unaltered. Does not include processing activities, slaughterhouses, animal
98 reduction yards and tallow works.
 - 99 2. Processing plants: A facility used for the cooking, dehydrating, refining, bottling, canning or
100 other treatment of agricultural products which changes the naturally grown product for
101 consumer use. May include warehousing and packaging as secondary uses. Does not include
102 slaughterhouses or rendering plants.
 - 103 3. Storage facilities: Includes controlled atmosphere and cold storage warehouses and
104 warehouses for the storage of processed and/or packaged agricultural products.

105
106 **Agricultural Worker Housing:** includes dwellings, duplexes, and apartment buildings for owners,
107 operators and employees of a farm.

108
109 **Agricultural Land:** means substantially undeveloped land devoted to the production of plants and
110 animals useful to humans, including, but not limited to, forage and sod crops, feed crops, field crops,
111 dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock,
112 fruits, vegetables, Christmas trees, and other similar uses and activities.

113
114 **Alteration:** means any change, addition or modification in use or type of occupancy; any change in the
115 structural members of a building, such as walls, partitions, columns, beams, girders; or any change
116 which will substantially change the appearance or size of the structure.

117
118 **Anemometer:** means an instrument for measuring and indicating the force or speed and sometimes
119 direction of the wind.

120
121 **Animal:** means a non-human zoological species.

122
123 **Animal (Domesticated):** means an animal that is commonly considered capable of being trained or is
124 capable of adapting to living in a human environment, and which is not likely to bite without
125 provocation nor cause death, maiming or illness to human beings.

126
127 **Article:** means the main divisions of this Ordinance, cited by the words “section XXX, et seq” ARTICLES
128 are further divided by sections.

129
130 **Automatic Timing Device:** means a device which automatically turns on and off outdoor light fixtures or
131 circuits. Photo-electric controls and motion detectors are not considered automatic timing devices for
132 the purposes of this Article.

133
134 **Automotive Repair Shops:** includes establishments primarily engaged in top, body, and upholstery
135 repair and paint; exhaust system repair; tire retreading and repair; automotive glass and replacement;
136 transmission repair; general automotive repair; and specialized repair shops not elsewhere classified.
137

138 **Automotive Sales:** means the use of any building or portion thereof, or other premises or portion
139 thereof, for the display, sale, rental, or lease of new motor vehicles, or used motor vehicles as an
140 ancillary use of a zoning lot, and any warranty repair work and other repair service conducted as an
141 accessory use.
142

143 **Basement or Cellar:** means that portion of a building all or partly underground but having at least
144 one-half of its height, the distance between the ceiling and floor, below grade. A basement shall not be
145 counted as a story.
146

147 **Bed and Breakfast:** means a home occupation in an owner occupied or resident manager occupied
148 dwelling unit wherein up to eight (8) bedrooms are used for transient guests and for compensation and
149 by pre-arrangement.
150

151 **Billboard or Advertising Sign:** means any structure or portion thereof upon which a sign or
152 advertisement is used as an outdoor display for the purpose of making anything known to the general
153 public, but not including bulletin boards used to display official court, church or public office notices.
154

155 **Blight:** means an unsightly condition including the accumulation of debris, litter, rubbish, or rubble;
156 fences characterized by holes, breaks, rot, crumbling, cracking, peeling, or rusting; landscaping that is
157 dead, characterized by uncontrolled growth or lack of maintenance, or damaged; and any other similar
158 conditions of disrepair and deterioration regardless of the condition of other properties in the
159 neighborhood.
160

161 **Boarding Kennel:** means any kennel where domesticated animals owned by another person are
162 temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided,
163 however, this definition shall not apply to zoos.
164

165 **Boat Dealers:** includes establishments primarily engaged in the retail sale of new and used motor boats
166 and other watercraft, marine supplies, and outboard motors.
167

168 **Buildable Area:** means an area of a lot which is of sufficient size and character so as to support a
169 principal structure and a reasonable use of the property without being in violation of any local, state or
170 federal environmental or other regulations adopted to protect the public health, safety or general
171 welfare. Buildable Area shall not include any recorded conservation easement, wetland, 199-year
172 floodplain, high risk erosion area, drainage way, lake or similar natural feature which poses an
173 impediment or hazard to safe construction or use of property without sufficient upland property to
174 meet ordinance requirements. Contour changes to create a Buildable Area are permissible only if not
175 contrary to this ordinance, or any other state or federal statute.
176

177 **Building:** means a combination of materials, whether portable or fixed, forming a structure affording a
178 facility, enclosure or shelter for use or occupancy by persons, animals, or property. The term does not
179 include a building incidental to the use for agricultural purposes of the land on which the building is

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180 located if it is not used in the business of retail trade. The term shall be construed as though followed
181 by the words "or part or parts of the building and all equipment in the building" unless the context
182 clearly requires a different meaning.

183
184 **Building Envelope:** means that portion of a parcel of land excluding the setbacks as applied to that
185 parcel by this "Ordinance".

186
187 **Building Height:** See *Height*.

188
189 **Business Services:** includes establishments primarily engaged in rendering services, not elsewhere
190 classified, to business establishments on a contract or fee basis, such as advertising, credit reporting,
191 collection of claims, mailing, reproduction, stenographic, news syndicates, computer programming,
192 photocopying, duplicating, data processing, services to buildings, and help supply services.

193
194 **Civic, Social, and Fraternal Associations:** includes membership organizations engaged in civic, social, or
195 fraternal activities.

196
197 **Clear Cutting:** see *Stripping*.

198
199 **Cluster Housing:** means a compact residential development of detached or attached dwelling units on a
200 parcel while preserving fifty percent (50%) or more of the property as open space pursuant to Section
201 506 of Public Act 110 of 2006. This provision allows for design flexibility to encourage the retention of
202 open space areas for recreation and preservation of natural features and agricultural land.

203
204 **Collocate:** To place or install wireless communications equipment on an existing wireless
205 communications support structure or in an existing equipment compound.

206
207 **Commercial Banks, Savings Institutions and Credit Unions:** includes institutions that are engaged in
208 deposit banking or closely related functions, including fiduciary activities.

209
210 **Communication Tower:** means a structure that supports a telecommunications antenna to transmit or
211 receive radio, television, pager, telephone or other electronic communications, operated for commercial
212 purpose above ground in a fixed location, freestanding, or on a building or other structure(s).

213
214 **Certificate of Completion (of Land Use Compliance Permit):** A certificate issued by the Zoning
215 Administrator, or other designated authority, to a Land Use Permit holder upon completion of work
216 permitted by said Land Use Permit.

217
218 **Concrete, Gypsum and Plaster Products:** includes establishments primarily engaged in manufacturing
219 concrete products, building block and brick from a combination of cement and aggregate;
220 manufacturing portland cement concrete manufactured and delivered to a purchaser in a plastic and
221 unhardened state; manufacturing quicklime, hydrated lime, and "dead-burned" dolomite from
222 limestone, dolomite shells, or other substances; engaged in manufacturing plaster, plasterboard and
223 other products composed wholly or chiefly of gypsum, except articles of plaster of paris and
224 paper-mâché.

225
226 **Conditional Use:** means a use which may be permitted by the Planning Commission. A conditional use

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227 may be granted in a zoning district only when there is a specific provision for such conditional use in this
228 Ordinance. A conditional use is also referred to as a special land use as provided in Act 110, PA 2006,
229 as amended, and the terms are intended to be used synonymously.

230
231 **Condominium:** means a site or any portion of a structure which is or will be used for commercial,
232 single-family residential and/or family residential purposes which is or will be a unit in a condominium
233 project lawfully established in accordance with the Michigan Condominium Act, as amended, being MCL
234 599.101 et seq. Each residential condominium shall be used solely as a home, residence, or living or
235 sleeping place for one or more human beings, either permanently or as transients, and shall be designed
236 to provide living space for one (1) family, which space will contain sleeping space and shall contain a
237 kitchen.

238
239 **Conservation Easement:** means that term as defined in Section 2140 of the Natural Resources and
240 Environmental Protection Act, 1994 PA 451, MCL 324.101 et seq.

241
242 **Conservation Subdivision:** means a housing development in a rural setting that is characterized by
243 compact lots and common open space, and where the natural features of the land are maintained to the
244 greatest extent possible.

245
246 **Construction Trade Contractors:** includes licensed and unlicensed trade contractors who undertake
247 activities of a type that are specialized either to building construction, including, but not limited to, work
248 on mobile homes, or to both building and non-building projects.

249
250 **Corner Lot:** means a lot which at least two (2) adjacent sides abut upon a street, provided that such two
251 (2) sides intersect at an angle of not more than one hundred and thirty-five (135) degrees.

252
253 **Corner Lots, Setbacks:** front yard setbacks for the respective zoning district shall be used for yards
254 adjacent to right-of-ways. Side yard setbacks for the respective zoning district shall be used from the
255 remaining lot lines.

256
257 **Cut-off Shielding:** means a technique or method of construction which causes light emitted from an
258 outdoor light fixture to be projected only below an imaginary horizontal plain passing through the
259 fixture below the light source.

260
261 **Dance Studios, Schools and Halls:** includes establishments primarily engaged in operating dance
262 studios, schools, and public dance halls or ballrooms.

263
264 **Deck:** means a roofless outdoor space built as an aboveground platform connected by structural
265 supports at grade or to the building structure.

266
267 **Density, Residential:** means the number of dwelling units in relation to the number of acres of the lot
268 on which such units are situated. The lot area to be used in the calculation shall be limited to the
269 portion of the lot zoned for the district for which said density regulation applies, and shall not include
270 any area in any street or other right-of-way, any area of such lot devoted to on-site sewage treatment
271 facilities, or any area required for, or allocated to, any other lot.

272
273 **DNRE:** means the Michigan Department of Natural Resources and Environment.

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275 **Driveway:** means a private road leading from the street to a house, garage or parking area. Driveway
276 shall not be construed as a “structure” and does not require a setback.
277
278 **Duplex:** means a structure containing two dwelling units, each of which has direct access to the outside.
279
280 **Dwelling or Dwelling Unit:** means any house, structure, or portion thereof which is occupied in whole or
281 in part as a home, residence, living or sleeping place for one (1) or more human beings, either
282 permanently or as transients designed to provide living, bathing, cooking and eating space. In no case
283 shall a garage, accessory building, garden shed, trailer coach, automobile chassis, tent or portable
284 structure be considered a dwelling.
285
286 **Dwelling, Multiple-Family:** means a building or portion thereof used for occupancy by three (3) or more
287 families living independently of each other and containing three (3) or more dwelling units.
288
289 **Dwelling, Single-Family:** means a structure, including a mobile home, designed or used for residential
290 occupancy by one family.
291
292 **Dwelling, Single-Family Attached:** means a building containing dwelling units, each of which has primary
293 ground floor access to the outside and which are attached to each other by party walls without
294 openings. The term is intended primarily for such dwelling types as townhouses and duplexes.
295
296 **Earth Change:** means an artificial change in the natural cover or topography of land, including cut and fill
297 activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state.
298 Prior to engaging in any earth change activity within five hundred (500) feet of a lake, river or stream, a
299 valid soil erosion and sedimentation control permit is necessary from the Benzie County Soil Erosion and
300 Sedimentation Control Officer.
301
302 **Easement:** means a legal interest in land, granted by the owner to the public, quasi-public, or persons
303 for specific purposes, which allows the use of all or a portion of the owner’s land, generally for a stated
304 purpose including but not limited to access or placement of utilities.
305
306 **Eating and Drinking Places:** includes retail establishments selling prepared foods and drinks for
307 consumption on the premises; and also lunch counters and refreshment stands selling prepared foods
308 and drinks for immediate consumption.
309
310 **Electrical Repair Shops:** includes establishments primarily engaged in repairs to radio and televisions,
311 refrigeration and air-conditioning service, and other electrical and electronic repair shops not elsewhere
312 classified.
313
314 **Equipment Compound:** means an area surrounding or adjacent to the base of a wireless
315 communications support structure and within which wireless communications equipment is located.
316
317 **Erected:** means built, constructed, reconstructed, moved upon, or any physical operation on the
318 premises required for the building.
319
320 **Erosion:** means the removal of soil particles from the land by the action of water, wind, ice, or other

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321 geological agents.

322

323 **Excavation or Cut:** means any act by which soil or rock is cut into, dug, quarried, uncovered, removed,
324 displaced, or relocated and shall include the conditions resulting there from.

325

326 **Existing Building:** means a building existing in whole or whose foundations are completed and whose
327 construction is being diligently prosecuted on the effective date of this Ordinance.

328

329 **Fabricated Metal Products:** includes establishments engaged in fabricating ferrous and nonferrous
330 metal products, such as metal cans, tinware, handtools, cutlery, general hardware, nonelectric heating
331 apparatus, fabricated structural metal products, metal forgings, metal stampings, ordnance (except
332 vehicles and guided missiles), and a variety of metal and wire products, not elsewhere classified.

333

334 **Family:** means,

335

336 An individual or group of two (2) or more persons related by blood, marriage or adoption,
337 together with foster children and servants of the principal occupants, with not more than one
338 (1) additional unrelated person, who are domiciled together as a single, domestic, housekeeping
339 unit in a dwelling unit, or

340

341 A collective number of individuals domiciled together in one (1) dwelling unit whose relationship
342 is of a continuing non-transient domestic character and who are cooking and living as a single
343 nonprofit housekeeping unit. This definition shall not include any society, club, fraternity,
344 sorority, association, lodge, coterie, organization, or group of students or other individuals
345 whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited
346 duration of a school term or terms or other similar determinable period.

347

348 **Farm:** means a tract of land in single ownership or single operation, on which agriculture is a principal
349 use and as described in the Right to Farm Act, Act 93 of 1981, as amended.

350

351 **Farm Building:** means any building or structure other than a dwelling, moved upon, maintained, used or
352 built on a farm which is essential to and customarily used on farms in the pursuit of agricultural
353 activities.

354

355 **Farm Product Warehousing and Storage:** includes establishments primarily engaged in the warehousing
356 and storage of farm products.

357

358 **Fence:** means a structure or planted hedgerow designed to restrict passage and/or vision through it;
359 and/or for purposes of decoration.

360

361 **Fill:** means clean material, such as sand, gravel, earth or other materials, required for on-site
362 construction and obtained from other locations.

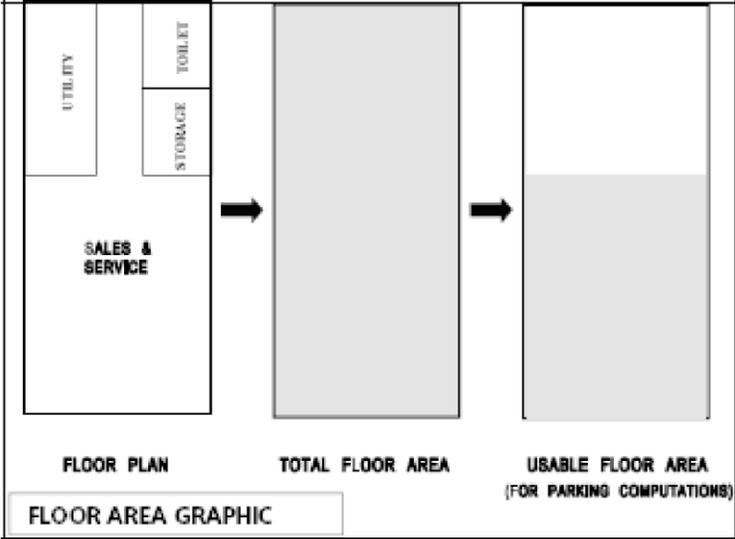
363

364 **Floor Area** of a Principle Structure: means the area a building covers on the ground; exclusive of garage,
365 breezeway, porch, patio and deck.

366

367 **Floor Area, Usable:** for the purposes of computing off-street parking requirements, means that area

368 used for or intended to be used for the sale of merchandise or services, or for use to serve patrons,
 369 clients or customers. Hallways, or rooms intended for or used for storage or for utilities or sanitary
 370 facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor
 371 area shall be the sum of the horizontal area of the several floors of the building, measured from the
 372 exterior faces of the exterior walls.
 373



374
 375
 376 **Food and Kindred Products:** includes establishments manufacturing or processing foods and beverages
 377 for human consumption, and certain related products, such as manufactured ice, chewing gum,
 378 vegetable and animal fats and oils, and prepared feeds for animals and fowl.
 379
 380 **Garage:** means any building or part thereof used principally for storage of motor vehicles or trailer
 381 coaches where no servicing for profit is conducted, which is accessory to a dwelling, duplex or
 382 apartment building.
 383
 384 **Gasoline Service Stations:** includes establishments primarily engaged in selling gasoline and lubricating
 385 oils that frequently sell other merchandise, such as tires, batteries, and other automobile parts, or
 386 perform minor repair work.
 387
 388 **General Merchandise Stores:** includes establishments primarily engaged in the retail sale of a general
 389 line of apparel, dry goods, hardware, housewares or home furnishings, groceries, and other lines in
 390 limited amounts.
 391
 392 **General Warehousing and Storage:** includes establishments primarily engaged in the warehousing and
 393 storage of a general line of goods.
 394
 395 **Grade Plane:** means a reference plane representing the average of finished ground level adjoining the
 396 building at exterior walls. Where the finished ground level slopes away from the exterior walls, the
 397 reference plane shall be established by the lowest points within the area between the building and lot
 398 line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet
 399 from the building.
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401 **Grading:** means any stripping, excavating, filling, stockpiling, or any combination thereof, and shall
402 include the land in its excavated or filled condition.

403
404 **Greenbelt:** means a strip of land of definite width and location reserved for the planting of shrubs, trees,
405 or grasses to serve as an obscuring screen or buffer strip in carrying out the requirements of this
406 ordinance.

407
408 **Grocery Stores:** includes establishments commonly known as supermarkets, food stores, and grocery
409 stores, primarily engaged in the retail sale of all sorts of canned foods and dry goods, such as tea, coffee,
410 spices, sugar, and flour; fresh fruits and vegetables; and fresh and prepared meats, fish, and poultry.

411
412 **Habitable Ground Floor Area:** means, unless otherwise designated, the habitable main floor area,
413 exclusive of garage, breezeway or porches of a dwelling.

414
415 **Hard Surface:** means a surface paved with a material such as compacted stone, bituminous, and/or
416 concrete.

417
418 **Hardware Stores:** includes establishments primarily engaged in the retail sale of a number of basic
419 hardware lines, such as tools, builders' hardware, paint and glass, housewares and household
420 appliances, and cutlery.

421
422 **Hazardous Waste/Hazardous Substance:** includes but is not limited to flammable, corrosive, toxic
423 and/or reactive materials or chemicals such as insecticides, herbicides, paints, poisons, wood
424 preservatives, petroleum based materials or chemical solvents. Reference Public Law 96-510, 94 Stat
425 2767, and 1979 PA 64, being MCL 299.501 to MCL 299.551, the Hazardous Waste Management Act.

426
427 **Height:** means the vertical distance measured from grade plane to the average height of the highest
428 roof surface.

429
430 **Home Occupation:** means a use which is any activity carried out for gain by a resident and conducted as
431 an accessory use in the person's home, dwelling or accessory building, but not a hobby.

432
433 **Hotels and Motels:** includes commercial establishments, known to the public as hotels, motor hotels,
434 motels, or tourist courts, primarily engaged in providing lodging, or lodging and meals, for the general
435 public for less than one month. Hotels which are operated by membership organizations and open to
436 the general public are included in this industry.

437
438 **HUD:** means the United States Department of Housing and Urban Development.

439
440 **Impervious Area:** means those surfaces, such as paved driveways, concrete or paved walkways,
441 rooftops, parking areas, or roads which prevent the infiltration of water into the soil.

442
443 **Impervious Surface:** means developed portions of a parcel that preclude or inhibit the infiltration of
444 precipitation or storm water runoff. Impervious surfaces are typically covered by roofs, asphalt or
445 concrete, compacted gravel, or compacted soil, and include but are not limited to building
446 envelopes/footprints, parking areas, driveways, walkways, pathways, patios, etc. Impervious surfaces do
447 not include such areas covered with pervious surfaces such as pervious pavements, pavers, block, etc.

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

Junk: means,

1. Old scrap ferrous or nonferrous material, rubber, cloth, paper, rubbish, refuse, litter;
2. Materials from demolition, waste building materials; and
3. Unlicensed vehicles; junked, abandoned, scrapped, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, farm equipment, boats, trailers, mobile homes, appliances and all other machines.

But shall not include,

1. Items being held for a customer while parts are being sought for its repair;
2. Items that are classic or antiques kept and collected for their antique or collectable value, and
3. Items and junk kept at a licensed Type I, II, or III landfill for purposes of disposal of solid waste, incineration, recycling and resource recovery.

Junkyard: means a business enterprise, or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion, or recovery of junk.

Kitchen: means any room in a building which is used, intended, or designed to be used for cooking or preparation of food.

Landfill: means a lot or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or nontoxic waste material of any kind.

Land Development Options: see *Cluster Housing, Conservation Subdivision, and Planned Unit Development.*

Land Use Compliance Permit: means a standard form issued by the Administrator or his agent or the Zoning Board of Appeals pursuant to this ordinance, upon application by an owner or his agent, for the proposed construction of a structure and/or the use or change in use of land in compliance with the provisions of this ordinance.

Lawn, Garden and Landscape Maintenance Businesses: means a business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds. Such a business may engage in the installation and construction of underground improvements but only to the extent that such

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495 improvements (e.g., drainage facilities) are accessory to the principal business and are necessary to
496 support or sustain the landscaped surface of the ground.

497
498 **Legal Services:** see *professional offices*

499
500 **Legislative Body:** means the Joyfield Township Board.

501
502 **Licensed Contractors:** includes contractors licensed in the State of Michigan who are primarily engaged
503 in any aspect of the construction of residential, farm, industrial, commercial, or other buildings.

504
505 **Light Pollution:** means artificial light which causes a detrimental effect on the environment,
506 astronomical observation, enjoyment of the naturally illuminated night sky or causes undesirable glare
507 or unnecessary and/or unwanted illumination of adjacent or even distant properties.

508
509 **Light Source:** means the bulb which creates the light.

510
511 **Livestock and Dairy Farms:** includes establishments primarily engaged in the production or feeding of
512 livestock. Also includes production of cows' milk and other dairy products and in raising dairy heifer
513 replacements.

514
515 **Lot:** means any portion, piece or division of land, excluding any portion in a street or other right-of-way,
516 of at least sufficient depth and size as to comply with the district setback requirements and minimum
517 size requirements provided for in this ordinance. Such lot may consist of:

- 518
- 519 1. A single lot of record;
 - 520
 - 521 2. A portion of a lot of record;
 - 522
 - 523 3. Any combination of complete and/or portions of contiguous lots of record;
 - 524
 - 525 4. A lot of land described by metes and bounds; or
 - 526
 - 527 5. Any parcel of land which constitutes or is treated as a condominium unit in accordance with the
528 Michigan Condominium Act, being P.A. 1978, No. 59, as amended, shall be defined and treated
529 as a lot for all purposes of this ordinance provided that in no case of division or combination
530 shall the area of any lot or parcel created, including residuals, be less than that required by this
531 Ordinance.
 - 532

533 In no case of a lot division or combination shall the depth of any lot created, including residuals, be less
534 than that necessary to comply with the setback requirements of this ordinance. See also the definition
535 of "PARCEL".

536
537 **Lot Area:** means the total area within the lot lines, as defined, of a lot. For lots fronting or lying adjacent
538 to private streets, lot area shall be that area within lot lines separating the lot from the private street
539 and not measuring from the centerline of said private street.

540
541 **Lot Depth:** means the mean horizontal distance from the front street line to the rear lot line.

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Lot Lines: means the property lines bounding the lot as identified below:

1. “Front lot line” in the case of a lot abutting upon one (1) public or one (1) private street means the line separating such lot from such street right-of-way. In the case of any other lot, the Planning Commission shall, for the purpose of this ordinance, determine the street lot line as the front lot line, providing that such choice will not be injurious to the existing or the desirable future development of adjacent properties.
2. In the case of water frontage (riparian) lots, the lake “front lot line” shall be the ordinary high water mark (defined as a contour line 580.5 feet above sea level). In the case of a lot that is contiguous to a riparian road right-of-way, the lake “front lot line” shall be the line separating the lot from the road right-of-way.
3. A “rear lot line” is ordinarily that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular or gore-shaped lot for the purpose of determining depth of rear yard, a rear lot line shall be considered to be a line ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot. Where none of these cases apply, the Administrator shall designate the rear lot line.
4. A “side lot line” is any lot line that is not a front lot line or a rear lot line.

Lot of Record: means a lot which is part of a subdivision and is shown on a plat or map thereof which has been recorded in the office of the Register of Deeds of Benzie County prior to the effective date of this ordinance, or amendment thereto, or a parcel of land described by survey or metes and bounds, the deed or land contract of which has been recorded in said office prior to said date.

Lot Width: means the mean horizontal distance between the side lot lines, measured at right angles to those lines. Where side lot lines are not parallel, the lot width shall be considered as the average of the width throughout the lot between such lot lines. The minimum lot width, at any point in the lot, shall not be less than the required road frontage of the respective land use district.

Lumber and Other Building Materials Dealers: includes establishments engaged in selling primarily lumber, or lumber and a general line of building materials, to the general public.

Lumber and Wood Products: includes establishments engaged in cutting timber and pulpwood; merchant sawmills, lath mills, shingle mills, cooperage stock mills, planing mills, and plywood mills and veneer mills engaged in producing lumber and wood basic materials; and establishments engaged in manufacturing finished articles made entirely or mainly of wood or related materials.

Mobile Home (Manufactured Home): means a dwelling, transportable in one or more sections which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan Public Act 419 of 1976 and administrative rules promulgated thereunder.

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589 **Mobile Home Park:** means a use which is a site, lot, field or tract of land upon which two (2) or more
590 occupied mobile homes are harbored, or which is offered to the public for that purpose, regardless of
591 whether a charge is made thereof, together with any building, structure, enclosure, street, equipment or
592 facility used or intended for use incidental to the harboring or occupancy of mobile homes. Mobile
593 home parks shall be constructed, operated, and maintained in accordance with the Mobile Home
594 Commission Act, Public Act 419 or 1976, as amended, and the rules and regulations promulgated
595 thereunder.

596
597 **Modular Homes:** means a dwelling unit constructed on-site in accordance with the Michigan Building
598 Code and composed of components substantially assembled in a manufacturing plant and transported
599 to the building site for final assembly on a permanent foundation.

600
601 **Motion Detector:** means a device triggered by motion and used to energize incandescent lights.

602
603 **Moveable Structure:** means a building certified for the purpose of this ordinance to be moveable by a
604 registered engineer or architect or a structure which is of such design in size that facilitates moving. The
605 structure must be of sufficient structural design to withstand the stress associated with moving and no
606 structure shall be considered moveable if the lot on which it is placed is not accessible to moving
607 equipment.

608
609 **Municipality:** means Joyfield Township.

610
611 **Museums and Art Galleries:** includes establishments primarily engaged in the operation of museums
612 and art galleries.

613
614 **Nonconforming Structure:** means a structure or portion thereof lawfully existing at the effective date of
615 this Ordinance, or any amendments thereto, and which does not conform to the requirements of this
616 Ordinance on the date it became effective.

617
618 **Nonconforming Lot:** means a lot of record or a lot described in a deed or land contract executed and
619 delivered prior to the effective date of this Ordinance, or an amendment thereto, which does not meet
620 the minimum requirements of the land use district in which it is located, and also means lots which
621 become substandard due to natural processes provided each lot was created with sufficient depth to
622 accommodate a principal structure and meet ordinance setback requirements after this ordinance or
623 amendment became effective.

624
625 **Nonconforming Use:** means a use which lawfully occupies a building or land at the effective date of this
626 Ordinance, or any amendments thereto, and which does not conform to the use regulations of the
627 zoning district in which it is located.

628
629 **Nudity:** for purposes of this Ordinance means exposure in a public place of male or female genitalia,
630 female breasts, or attire meant to call attention to such anatomy.

631
632 **Nuisance:** means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source
633 of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or
634 use across a property line which can be perceived by or affects a human being, or the generation of an
635 excessive or concentrated movement of people or things, such as: noise, dust, smoke, odor, glare,

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636 fumes, flashes, vibration, shock, waves, heat, electronic or atomic radiation, objectionable effluent,
637 noise due to congregation of people, passenger traffic, invasion of non-abutting street frontage by
638 traffic.

639
640 **Nurseries, Lawn and Garden Supply Stores:** includes establishments primarily engaged in selling trees,
641 shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and
642 other garden supplies to the general public.

643
644 **Outdoor Light Fixture:** means an illuminating device which is permanently installed outdoors, including,
645 but not limited to, devices used to illuminate signs.

646
647 **Parcel of Land:** means any tract or contiguous tracts of land in the same ownership, whether one or
648 more platted lots or parts of lots, identified by a single property number in the assessment role.

649
650 **Parking Space:** means one (1) unit of parking facility provided for the parking of one (1) vehicle.

651
652 **Personal Services:** includes establishments primarily engaged in providing services generally to
653 individuals, such as laundries, portrait photographic studios, and beauty and barber shops.

654
655 **Phasing:** means when a project is proposed for development in phases or stages, planning and design
656 shall be such that upon completion, each phase shall be capable of standing on its own in terms of the
657 presence of services, facilities, and open space, and shall contain the necessary components to insure
658 protection of the natural resources and the residents of the surrounding area.

659
660 **Planned Unit Development or P.U.D.:** means a specific parcel of land or several contiguous parcels of
661 land, for which a comprehensive physical plan, establishing functional use areas, density patterns, a
662 fixed network of streets (where necessary), provisions for public utilities, drainage and other essential
663 services will be developed under the approved plan.

664
665 **Planning Commission:** means the Joyfield Township Planning Commission created under authority of PA
666 33 of 2008.

667
668 **Plot Plan:** means a diagram showing the proposed or existing use of a specified parcel of land.

669
670 **Porch:** means a covered but unenclosed projection from the main wall of a building that may or may not
671 use columns or other ground supports for structural purposes.

672
673 **Pottery and Related Products:** includes establishments primarily engaged in manufacturing vitreous
674 china plumbing fixtures and china and earthenware fittings and bathroom accessories; vitreous china
675 table and kitchen articles for use in households and other commercial institutions; fine (semi vitreous)
676 earthenware table and kitchen articles; porcelain electronic and other electrical insulators, molded
677 porcelain parts for electrical devices, spark plug and steatitic porcelain, and electronic and electrical
678 supplies from clay and other ceramic materials; and establishments primarily engaged in firing and
679 decorating white china and earthenware for the trade and manufacturing art and ornamental pottery,
680 industrial and laboratory pottery, stoneware and coarse earthenware table and kitchen articles,
681 unglazed red earthenware florists' articles, and other pottery products, not elsewhere classified.

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683 **Principal Structure:** means the main or permanent structure on a lot, which may include but is not
684 limited to a residential, commercial, industrial, institutional, mobile home, or modular home structure,
685 and attached garages.

686
687 **Principal Use:** means the main use for which the premises is devoted and the main purpose for which
688 the premises exists.

689
690 **Private Road:** means a road or street, serving two or more parcels, which has been constructed and will
691 be maintained, by the owners of the parcels being served by such road or street.

692
693 **Professional Offices:** means professional services which include services rendered by certified public
694 accountants, engineers, chiropractors, dentists, osteopaths, physicians and surgeons, podiatrists,
695 chiropodists, architects, veterinarians, attorneys at law, physical therapists, real estate and life insurance
696 agents.

697
698 **Public and Private Conserved Land:** means a conservation covenant or conservation restriction which is
699 an encumbrance that creates a legally enforceable land preservation agreement between a landowner,
700 a non-governmental agency or a government agency (municipality, county, state, federal) or a qualified
701 land protection organization. It restricts real estate development, development and uses, and certain
702 other activities on a property to a mutually agreed upon level.

703
704 **Public Road:** means a road or street dedicated to the Benzie County Road Commission or the State of
705 Michigan which provides vehicular access to abutting thoroughfares, roads or streets.

706
707 **Real Estate:** includes real estate operators, owners and lessors of real property, as well as buyers,
708 sellers, developers, agents, and brokers.

709
710 **Recreational Equipment and Trailer:** means equipment designed and used primarily for recreational use
711 which includes, but is not limited to boats, small utility trailers, trailers, travel trailers, motor homes, or
712 removable campers.

713
714 **Recreational Vehicle (RV):** means a vehicular unit, which is designed as a temporary dwelling for
715 travel, recreational, and vacation use, and which is either self-propelled, mounted on, or pulled by
716 another vehicle. Examples include but are not limited to a travel trailer, camping trailer, truck camper,
717 motor home, fifth-wheel trailer, or van.

718
719 **Recreational Vehicle Dealers:** includes establishments primarily engaged in the retail sale of new and
720 used motor homes, recreational trailers, and campers (pickup coaches).

721
722 **Refrigerated Warehousing and Storage:** includes establishments primarily engaged in the warehousing
723 and storage of perishable goods under refrigeration.

724
725 **Religious Organizations:** includes establishments of religious organizations operated for worship,
726 religious training or study, government or administration of an organized religion, or for promotion of
727 religious activities.

728
729 **Research, Development and Testing Services:** includes establishments engaged in commercial, physical

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730 and biological research and development; commercial business, marketing, opinion, and other
731 economic, sociological, and educational research on a contract or fee basis. Also includes establishments
732 primarily engaged in performing noncommercial research into and dissemination of, information for
733 public health, education, or general welfare and primarily operate on funds from endowments,
734 contributions and grants. Also includes testing services.

735

736 **Reupholstery and Furniture Repair:** includes establishments primarily engaged in furniture reupholstery
737 and repair.

738

739 **Riding Stable:** means a stable used or to be used by an individual for the housing of horses for hire and
740 to be located not less than one hundred (100) feet from any adjoining property.

741

742 **Right-of-Way (ROW):** means an area of land not on a lot that is dedicated for public or private use to
743 accommodate a transportation system and necessary public utility infrastructure (including but not
744 limited to water lines, sewer lines, power lines, gas lines, curbs, sidewalks, lighting, drainage facilities,
745 bike paths, walkways, etc.). In no case shall a right-of-way be construed to mean an easement.

746

747 **Riparian Setback:** means the minimum horizontal distance between a building setback line and the top
748 of the river bank.

749

750 **River:** means as used in this Ordinance the definition of rivers, streams, creeks, etc. found within the
751 Michigan Inland Lakes and Streams Act, Part 301 of P.A. 451 of 1994, as amended.

752

753 **River Bank:** means the line along rivers, streams, creeks between an upland and river bottomland which
754 persists through successive changes in water levels below which the presence and action of the water is
755 so common or recurrent that the character of the land is marked distinctly from the upland and is
756 apparent in the soil itself, the configuration of the surface of the soil, and vegetation.

757

758 **Roadside Stand:** means a use which is a temporary or permanent structure operated for the purpose for
759 the sale of products primarily grown or raised on the same premises by the proprietor of the stand or his
760 family.

761

762 **Sand and Gravel Quarries:** includes establishments primarily engaged in quarrying or exploring for
763 nonmetallic minerals, except fuels.

764

765 **Seasonal Use:** means a use requiring occupancy of less than six (6) consecutive months.

766

767 **Security Brokers and Dealers:** includes establishments primarily engaged in the purchase, sale, and
768 brokerage of securities; and those, generally known as investment banks, primarily engaged in
769 originating, underwriting, and distributing issues of securities.

770

771 **Security Lighting:** means lighting fixtures and/or practices intended to discourage intrusion on the
772 premises by unwanted persons.

773

774 **Sediment:** means solid particulate matter, mineral or organic, that has been deposited in water, is in
775 suspension in water, is transported, or has been removed from its site of origin by the processes of soil
776 erosion.

777
778 **Sensitive Ravine Areas:** means a steep slope which abuts and rises from the valley floor of a creek or
779 stream and which was created by the wearing action of the water. Due to the presence of steep
780 slopes, these areas are susceptible to erosion.

781
782 **Setback:** means the minimum distance, measured toward the center of a parcel from the property lines,
783 waterfront line, road right-of-way or road easement in which no portion of a structure, including any
784 steps, eaves, decks or unenclosed porches may be erected or permanently maintained. Side, rear, front
785 and waterfront setbacks correspond to the requirements of the particular land use district. (See also the
786 definition of “Yards” in this Section.)

787
788 **Setback Line:** means lines established adjacent to streets or highways for the purpose of defining limits
789 within which no structure or any part thereof shall be erected or permanently maintained. “Within a
790 setback line” means between the setback line and the nearest lot line.

791
792 **Shielding:** means a permanently installed, non-translucent shade, cowl, hood, baffle or other
793 construction which limits, restricts or directs light or the visibility of a light source.

794
795 **Shoe Stores:** includes establishments primarily engaged in the retail sale of men’s, women’s, and
796 children’s footwear, including athletic footwear, and frequently carry accessory lines, such as hosiery,
797 gloves, and handbags.

798
799 **Site Plan:** means the documents and drawings required by Section 11 of the zoning ordinance to insure
800 that a proposed land use or activity is in compliance with local ordinances and state and federal
801 statutes.

802
803 **Slope:** means the deviation of a surface from the horizontal, expressed in percent (rise divided by run),
804 in degrees or as a ratio (rise: run).

805
806 **Soil Erosion:** means the wearing away of land by the action of wind, water, gravity or a combination
807 thereof.

808
809 **Soil Erosion and Sedimentation Control Act Agency:** means the Soil Erosion and Sedimentation Control
810 Officer, Benzie County, appointed by the Benzie County Building Department to enforce the provisions
811 of Part 91: Soil Erosion and Sedimentation Control Act; Michigan’s Natural Resources and Environmental
812 Protection Act (NREPA), P.A. 451 of 1994, as amended.

813
814 **Specified Anatomical Areas:** means human genitals less than completely or opaquely covered including
815 the pubic region, buttocks, or anus, or female breasts below a point immediately above the top of the
816 areola; or human male genitals in a discernible state of tumescence, even if opaquely covered.

817
818 **Specified Sexual Activity:** means and includes any of the following:

- 819
820 1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or
821 female breasts;
- 822
823 2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;

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- 824
825 3. Masturbation, actual or simulated;
826
827 4. The display of human genitals in a state of sexual stimulation, arousal or tumescence;
828
829 5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions
830 (1) through (4) of this subsection.
831

832 **State Licensed Facilities:** means a structure constructed for residential purposes that is licensed by the
833 state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or the child
834 care organizations act, 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or
835 fewer individuals under 24-hour supervision or care.
836

837 **Steep Slope:** means land with a slope angle of 20% or greater for a minimum of 30 feet horizontally.
838

839 **Street or Road:** means a private or public thoroughfare which affords the principal means of access to
840 abutting property.
841

842 **Stripping:** means any activity which removes or significantly disturbs the vegetative surface cover
843 including clearing and grubbing operations.
844

845 **Structure:** means anything constructed or erected which requires permanent location on the ground or
846 attached to something having a permanent location on the ground.
847

848 **Structurally Altered:** means significant and fundamental change in the configuration or framework of a
849 building or system, resulting in essentially a different building or system.
850

851 **Substantial Completion:** means the work, or a specified portion thereof, that has been sufficiently
852 completed in accordance with the contract documents, and can be utilized for the purposes for which it
853 is intended, subject to the approval of the Zoning Administrator or other designated lawful authority.
854

855 **Sweetening Plant:** means a facility or plant which is designed for the removal of sulfur compounds from
856 natural gas from gas wells.
857

858 **Temporary Structure or Use:** means a structure or use permitted by the Administrator to exist during
859 periods of construction of the main use or for special events. The Zoning Administrator shall review and
860 extend or revoke a temporary structure or use permit at the end of each one hundred and eighty (180)
861 day period.
862

863 **Timber Tracts and Forest Nurseries:** includes establishments primarily engaged in the operation of
864 timber tracts, tree farms, forest nurseries, and related activities such as reforestation services and the
865 gathering of gums, barks, balsam needles, maple sap, Spanish moss, and other forest products.
866

867 **Trailer:** means any house car, house trailer, trailer home, travel trailer, utility trailer, trailer coach or
868 similar vehicle used or so constructed as to permit its use as a conveyance upon the public streets or
869 highways, and duly licensed as such, including any self-propelled vehicles so designed, constructed, or
870 added to by means of accessories in such manner as will permit the occupancy thereof as dwelling or

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871 sleeping place by one or more persons.

872

873 **Use:** means the purpose for which land or premises or a structure thereon is designed, arranged, or
874 intended, or for which it is occupied or maintained, let or leased.

875

876 **Value-Added Agriculture:** means any activity an agricultural producer performs outside of traditional
877 commodity production to receive a higher return per unit of commodity sold. This includes activities
878 such as agritourism and entertainment agriculture. Such uses could include: wineries, jams & jellies, fruit
879 baskets, bed & breakfasts, agritourism (e.g. farm tours, festivals, picnics, catered parties), bird watching,
880 direct sales to restaurants and retailers, farmer’s markets, U-pick, or pick-your-own, & roadside markets.

881

882 **Variance:** means a relaxation of the terms of the Zoning Ordinance where such will not be contrary to
883 the public interest and where, owing to conditions peculiar to the property and not the result of the
884 action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue
885 hardship.

886

887 **Veterinary Services:** includes establishments of licensed practitioners primarily engaged in the practice
888 of veterinary medicine, dentistry, and/or surgery.

889

890 **Waterbody:** means any lake or pond.

891

892 **Watercourse:** means any natural stream or creek, with continuous running water.

893

894 **Wetlands:** means areas defined by degree of soil wetness, generally including those soils classified by
895 the Michigan Natural Resources & Environmental Protection Act, PA 451 of 1994, Part 303, Section
896 324.30301 et seq. (formerly, the Goemere-Anderson Wetlands Act , PA 203 of 1979) as being able to
897 support aquatic vegetation regardless of whether it has standing water or not. No activity shall be
898 permitted on a site with regulated wetlands, unless a wetlands permit has been obtained by the
899 applicant from the Michigan Department of Environmental Quality.

900

901 **Wind Energy Conversion System:** means a machine that, powered by the energy of the wind, generates
902 mechanical energy that can be used to directly power machinery (mill, pump, ...) or to power an
903 electrical generator for making electricity. The term can thus refer to windmills, wind pumps, as well as,
904 wind turbines.

905

906 **Wireless Communications Equipment:** means a set of equipment and network components used in the
907 provision of wireless communications services, including, but not limited to, antennas, transmitters,
908 receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables and
909 coaxial and fiber optic cables, but excluding wireless communications support structures.

910

911 **Wireless Communications Support Structure:** means a structure that is designed to support, or is
912 capable of supporting, wireless communications equipment, including a monopole, self-supporting
913 lattice tower, guyed tower, water tower, utility pole, or building.

914

915 **Wireless Communication Facility:** means all structures and accessory facilities, and improvements
916 thereto, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving
917 radio signals; including, but not limited to, equipment compounds, wireless communications equipment

918 and wireless communications support structures. Not included in this definition are: citizen band radio
919 facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite
920 dishes; federally licensed amateur (HAM) radio facilities; towers for personal communications only; and
921 governmental facilities that are subject to state or federal law or regulations that preempt municipal
922 regulatory authority.

923
924 **Yard:** means the space open to the sky between a building and the lot line of the premises on which it is
925 located, unoccupied and unobstructed by an encroachment or structure except as otherwise provided
926 by this Ordinance. In measuring a yard as hereinafter provided, the lines of a building shall be deemed
927 to mean a line parallel to the nearest lot line drawn through the point of the building nearest to such lot
928 line.

929
930 **Yard, Front:** means a yard extending across the full width of the lot and lying between the front lot line
931 and the nearest part of the principal structure.

932
933 **Yard, Rear:** means a yard extending across the full width of the lot and lying between the rear line of the
934 lot and the nearest line of the principal structure. In the case where there is a lot with a lakefront lot
935 line, the rear yard shall be the yard extending across the full width of the lot lying between the lot line
936 separating the road from the lot and the nearest part of the principal structure.

937
938 **Yard, Side:** means a yard between the side lot line and the nearest line of the principal structure and
939 extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or
940 rear lot line, as the case may be, except that on a corner lot the side yard adjacent to a street shall
941 extend the full depth of the lot.

942
943 **Yard Lighting:** means lighting fixtures and/or practices intended for the convenience, enjoyment and
944 safety of a property owner or tenant or guest.

945
946 **Zoning Jurisdiction:** means the area encompassed by the legal boundaries of Joyfield Township, Benzie
947 County, Michigan.

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Article 3
PURPOSE AND ESTABLISHMENT OF DISTRICTS

3.1 Relationship of Zoning Ordinance to Community Master Plan

The zoning ordinance is enacted to regulate the use of private and public property and structures with the purpose of protecting public health, safety and welfare. Standards and regulations within the ordinance regulate the amount, type and use of a building allowable on a piece of land. The zoning ordinance is a tool used by the community to effectuate the recommendations of the Joyfield Township Master Plan, which is a guide for the long-term physical development of Joyfield Township.

3.2 Districts Established

Joyfield Township is hereby divided into districts, which shall be known as: Rural and Commercial Districts.

- A. Rural District
 “R” Rural District
- B. Commercial District
 “C” Commercial

3.3 Rural District

The Rural designation includes residential uses, agricultural uses, ag-related industry, agricultural processing and home occupations. The coexistence of these uses creates the rural and scenic character of Joyfield Township, and all are encouraged and supported within the Rural District.

3.4 Commercial

The Commercial category encompasses land near the US- 31/M-115 intersection and is intended for retail, service, office, and light industrial facilities. The area is condensed primarily to a small section of the US-31 corridor to discourage commercial corridor sprawl, a continuation of the pattern prescribed by the Benzie County Zoning Ordinance before its dissolution.

3.4.1 C, Local Commercial: Areas for general commercial activities serving the entire community primarily located at the convergence of M-115 and US-31 intersection.

3.5 Compliance with District Regulations

Compliance with District regulations shall be required as follows:

- A. No building or structure shall be erected, converted, enlarged, reconstructed, relocated or structurally altered, nor shall any building or land be used, except for a purpose or use permitted in the district in which the building or land is located, nor in excess of the height and bulk limits established for such district.
- B. No building or structure intended for a dwelling use shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the floor area regulations of the district in which it is located.

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- 996 C. No building or structure shall be erected, converted, enlarged, reconstructed, relocated or
997 structurally altered except in conformity with the yard and lot area regulations and the
998 off-street parking and loading regulations of the district in which such building is located.
999
- 1000 D. The minimum yards, parking space and other open spaces, including lot area per family,
1001 required by this Zoning Ordinance for any building hereafter erected or structurally altered,
1002 shall not be encroached upon or considered open space or lot area requirement for any
1003 other building, nor shall any other lot area be reduced beyond the district requirements of
1004 this Zoning Ordinance.
1005
- 1006 E. Every building or structure hereafter erected or structurally altered shall be located on a lot
1007 as defined, and in no case shall there be more than one (1) main building on one (1) lot,
1008 except as provided in parts of this ordinance.
1009

1010 **3.6 Properties with Multiple Zoning Designations**

1011 When an individual recorded parcel, which exists at the time of adoption of this ordinance, has more
1012 than one zoning classification, the zoning designation which comprises the majority of the parcel area
1013 shall be applied to the entire parcel.
1014

1015 **3.7 Uses Contrary to Federal, State or Local Statutes, Laws, and/or Ordinances**

1016 Uses for enterprises or purposes that are contrary to Federal, State, and Township statutes, laws, and/or
1017 ordinances are prohibited.
1018

1019 **3.8 Official Zoning Map**

1020 The boundaries of the zoning districts established by the Zoning Ordinance are shown on a map or series
1021 of maps designated the "Official Zoning Map". The Official Zoning Map, including all notations,
1022 references, data and other information shown therein, is adopted and made a part of this Zoning
1023 Ordinance as fully as if it were contained within the pages of this Zoning Ordinance.
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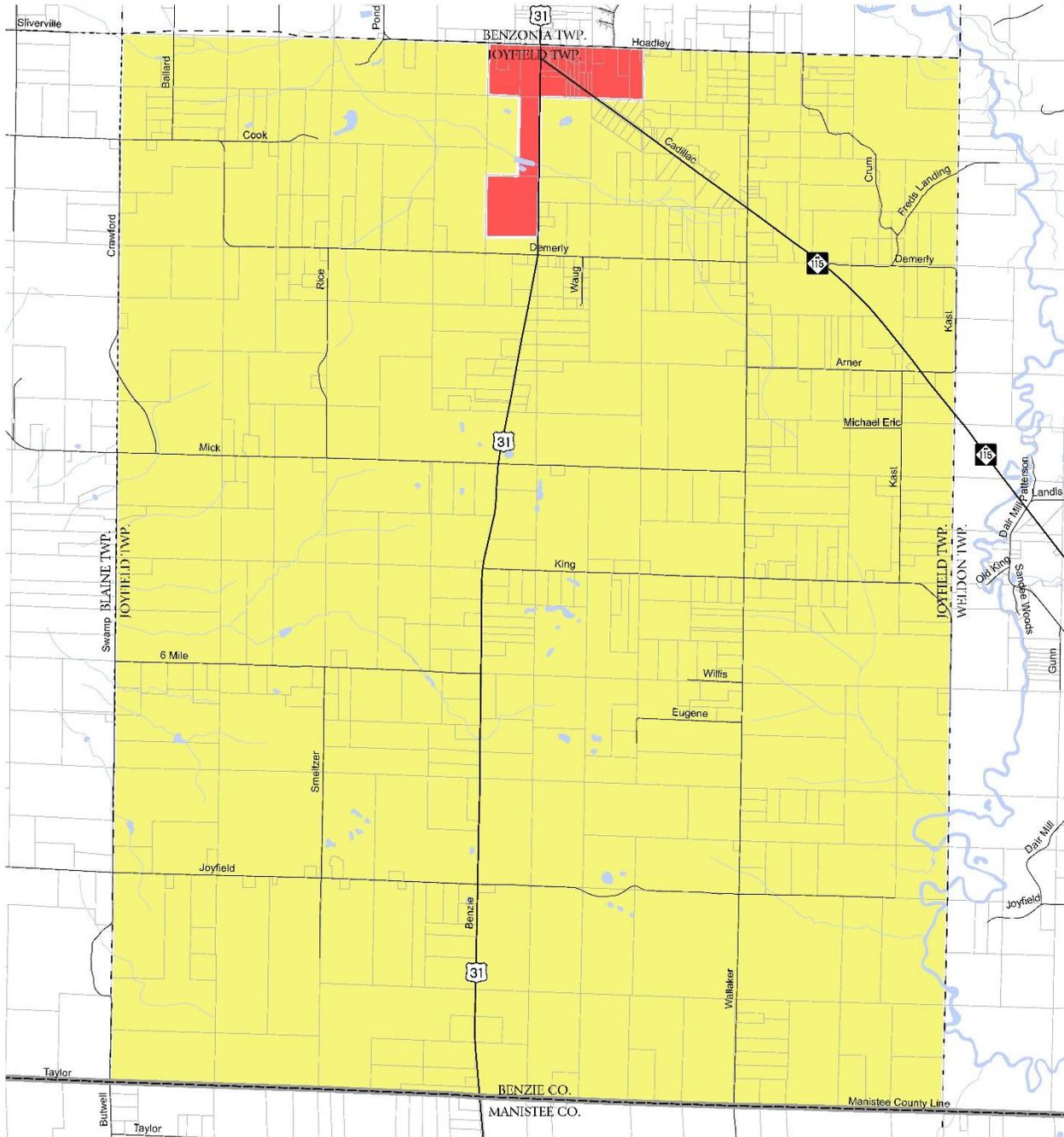
- 1025 A. Location: The Official Zoning Map is filed in the office of the Joyfield Township Clerk.
1026
- 1027 B. Updates: The Joyfield Township Planning Commission is responsible for updating the
1028 Official Zoning Map to reflect amendments adopted by the Township Board.
1029
- 1030 C. Zoning District Boundaries: Where uncertainty exists with respect to the boundaries of
1031 the various districts, the following rules shall apply:
1032
 - 1033 1. The district boundaries are public rights-of-way including either streets, places or
1034 alleys unless otherwise shown; where the districts designated on the Official Zoning
1035 Map are approximately bounded by street, road, place or alley lines, the same shall
1036 be construed to be the boundary of the district.
1037
 - 1038 2. Where the district boundaries are not otherwise indicated and where the property
1039 has been or may hereafter be divided into blocks and lots, the district boundaries
1040 shall be construed to be the lot lines; where districts designated on the Official
1041 Zoning Map are approximately bounded by lot lines, the same shall be construed to

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be the boundary of the districts, unless otherwise indicated on the Official Zoning Map.

3. Whenever any street, road, alley, place or other public way is officially vacated by the Township or Benzie County Road Commission, the district adjoining each side thereof shall be automatically extended to the center of such vacation and all area included in the vacation shall thereafter be subject to all appropriate regulations of the extended districts.
4. Where physical or natural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by rules "1" through "3" above, the Zoning Administrator shall interpret the boundaries.
5. Any dispute in the determination of the Zoning District boundaries shall be heard by the Board of Zoning Appeals pursuant to Article 13.

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Joyfield Township Zoning

Data Sources: State of Michigan Geographic Data Library, Benzie and Manistee County Equalization

- Parcel Boundary
- County Boundary
- Township Boundary
- Road
- Commercial
- Rural



ARTICLE 4
REGULATED USES AND DIMENSIONAL REGULATIONS

4.1 Land Use and Zoning District Table

The Land Use Table in this Article lists by Land Use Type (i.e. residential, commercial, etc.) where a particular land use is allowed in a zoning district and rural character zone. Due to the rural character of Joyfield Township, property has historically developed in response to the agricultural needs of Joyfield Township. Each rural road has similar land uses such as, operable farms, orchards, and housing, but the locations of where these uses occur along the road and on the respective property differs. As a result, the two zoning districts each have four character sub-zones. These are identified as sub-zone “A,” “B,” “C,” and “D” and each has a varied number of land uses that occur within the sub-zone. The Land Use Table in Section 4.8 categorizes the uses by land use type (Agricultural, Residential, Commercial and Industrial), zoning district (Rural or Commercial) and then by sub-zone (A, B, C and D).

Lastly, depending on the County road where the parcel is located, the established development pattern will vary depending on how property has developed along that corridor. Section 4.9 notes the dimensions of the character zones by road segment based on a review of the properties as built out in 2015.

4.2 Permitted Uses [P]

If a land use is permitted by right in a Base Zoning District, it is identified by the symbol “P.”

4.3 Special Land Use [S]

The symbol “S” is noted if a land use is permitted after review and approval as a Special Land Use in accordance with this Zoning Ordinance.

4.4 Uses Not Allowed

If a land use type is not allowed in a Base Zoning District, it is blank without a “P,” or “S.”

4.5 Site-Specific Standards

Land use types that are further regulated with site-specific standards are identified in Article 5, Special Land Uses.

4.6 Unlisted Uses

If an application is submitted for a use type that is not classified in the Land Use and Base Zoning District Table of this Article, the Planning Commission is authorized to classify the new or unlisted use type into an existing land use category that most closely fits the new or unlisted use. If no similar use determination can be made, the Planning Commission may initiate an amendment to the text of the Zoning Ordinance.

4.7 Land Use Type

Land use types listed in the Land Use and Base Zoning District Table are defined in Definition Article 2: Definitions of this Zoning Ordinance.

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Agricultural	Zone							
	Rural				Commercial			
	A	B	C	D	A	B	C	D
Agricultural Purposes	P	P	P	P	P	P	P	P
Agricultural Worker Housing		P	P			P	P	
Boarding Kennel		S	P	P		P	P	P
Farm Product Warehousing & Storage	S	S	P	P		S	P	P
Livestock & Dairy Farms	P	P	P	P			P	P
Refrigerated Warehousing & Storage	S	S	P	P		S	P	P
Retail Nurseries and Fruit and Vegetable Markets	S	P	P	P	S	P	P	P
Riding Stable		S	P	P		P	P	P
Sand & Gravel Quarries			S	S				
Sweetening Plants				S				
Timber Tracts & Forest Nurseries	P	P	P	P	P	P	P	P
Value Added Agriculture	S	P	P	P	S	P	P	P
Residential								
	Zone							
	Rural				Commercial			
	A	B	C	D	A	B	C	D
Single Family Residential		P	P	P		P	P	
Duplex (2-Family Attached)		P	P			P	P	
Bed & Breakfast		P	P			P	P	
Home Occupation		P	P	S		P	P	S
Mobile Home Parks			S	S				S
Multiple Family Dwelling						P	P	
Accessory Structure		P	P	P		P	P	
Commercial								
	Zone							
	Rural				Commercial			
	A	B	C	D	A	B	C	D
Accounting Auditing & Bookkeeping Services						P	P	
Adult Book and/or Video Store						P	P	
Adult Entertainment Establishments						P	P	
Automotive Repair Shops			S			P	P	
Automotive Sales						P	P	
Boat Dealers & Repair Shops						P	P	
Business Services			S			P	P	
Civic, Social & Fraternal Associations						P	P	
Commercial Banks, Savings Institutions & Credit Unions						P	P	
Communication Towers			S	S			P	P
Dance Studios, Schools & Halls						P	P	
Dry Cleaning & Industrial Laundries						P	P	
Eating & Drinking Places						P	P	
Gasoline Service Stations						P	P	
General (Retail) Merchandise (new and used)						P	P	
Grocery Stores and Markets (includes retail bakeries and liquor stores)						P	P	
Hardware Stores						P	P	
Hotels & Motels						P	P	
Lawn, Garden & Landscape Maintenance Businesses			P	S		P	P	
Lumber & Other Building Materials Dealers						P	P	
Museum & Art Galleries			S			P	P	
Nurseries, Lawn and Garden Supply Stores						P	P	S
Personal Services			S			P	P	
Physical Fitness Facilities						P	P	
Recreational Vehicle Dealers						P	P	
Religious Organizations		P	P			P	P	
Reupholstery & Furniture Repair						P	P	
Security Brokers & Dealers						P	P	
Sexually Oriented Businesses						P	P	
State Licensed Facilities		S	S			P	P	
Veterinary Services			S			P	P	

Industrial	Zone							
	Rural				Commercial			
	A	B	C	D	A	B	C	D
Agricultural Processing	S	P	P	P		P	P	P
Construction Special Trade Contractors			S			P	P	P
Electrical Repair Shops			S			P	P	P
Fabricated Metal Products			S			P	P	P
Food & Kindred Products			S	S		P	P	P
General Warehousing & Storage			S	P		P	P	P
Lumber & Wood Products			S	S		P	P	P
Pottery & Related Products			S	S		P	P	P
Printing, Publishing & Allied Industries			S			P	P	P
Refrigerated Warehousing and Storage:	S	P	P	P		P	P	P
Research, Development & Testing Services			S	S		P	P	P

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4.9 Sub-Zone Dimensions by County Road Frontage

The placement of land uses (permitted or special use) are regulated by the zoning district and then their location within the character zone of the road that they are or will be located on. Each public and private road is segmented into four (4) character zones which reflect the current and historic development pattern of land use and building placement. The character zones are generally described as:

Zone A: Typically the open area between the road right-of-way and the first principal building on the property. This zone typically is either open grass, farm field, or orchards with an occasional roadside stand or accessory building.

Zone B: This area is where the principal residence or farmhouse is located and occasionally a farm related accessory building. In commercial areas along US-31 and M-115, this is where the commercial business building is located.

Zone C: Many accessory buildings such as barns, farm-related accessory structures, small pole barns, and some small businesses like building contractor buildings and yards are located.

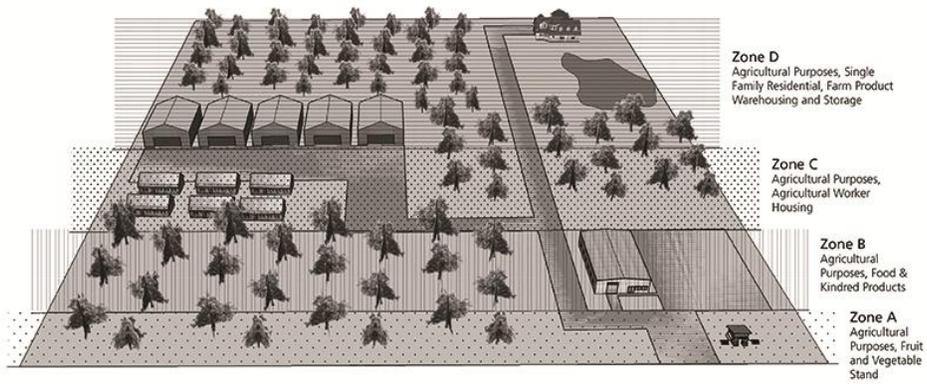
Zone D: This area typically includes crop, pasture, and orchards, and some occasional single family residential dwellings.

The illustrations below provide an example of the how the sub-zones (A, B, C and D) relate to the respective zoning districts.

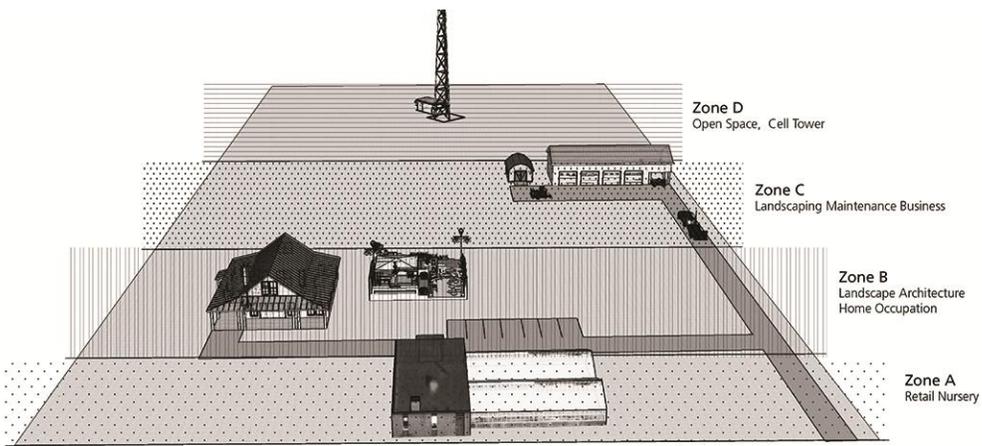
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74 **Figure 4.1 Illustration of the Rural District Sub-Zone**
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76 **Figure 4.2 Illustration of the Commercial District Sub-Zone**
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Zoning District Typology	Distance from Road Right-of-Way			
	A	B	C	D
Arner Road	0 - 55 ft	55 - 135 ft	135 - 195 ft	195 ft +
Ballard Road	0 - 85 ft	85 - 240 ft	240 - 310 ft	310 ft +
Benzie Highway (US-31)	0 - 70 ft	70 - 230 ft	230 - 380 ft	380 ft +
Cadillac Highway (M-115)	0 - 80 ft	80 - 180 ft	180 - 275 ft	275 ft +
Cook Road	0 - 70 ft	70 - 200 ft	200 - 335 ft	335 ft +
Crawford Road	0 - 90 ft	90 - 345 ft	345 - 445 ft	455 ft +
Crum Road	0 - 50 ft	50 - 150 ft	150 - 500 ft	500 ft +
Demerly Road	0 - 70 ft	70 - 200 ft	200 - 335 ft	335 ft +
Eugene Drive (PVT)	0 - 50 ft	50 - 185 ft	185 - 315 ft	315 ft +
Fred's Landing	0 - 70 ft	70 - 200 ft	200 ft +	
Hoadley Road	0 - 75 ft	75 - 185 ft	185 - 285 ft	285 ft +
Joyfield Road	0 - 65 ft	65 - 180 ft	180 - 310 ft	310 ft +
Kast Road	0 - 55 ft	55 - 160 ft	160 - 280 ft	280 ft +
King Road	0 - 70 ft	70 - 160 ft	160 - 400 ft	400 ft +
Michael Eric Lane (PVT)	0 - 55 ft	55 - 160 ft	160 - 280 ft	280 ft +
Mick Road	0 - 70 ft	70 - 220 ft	220 - 345 ft	345 ft +
Rice Road	0 - 85 ft	85 - 240 ft	240 - 360 ft	360 ft +
Ridgeley Road Road	0 - 75 ft	75 - 185 ft	185 - 285 ft	285 ft +
Six Mile Road	0 - 70 ft	70 - 200 ft	200 - 375 ft	375 ft +
Smeltzer Road	0 - 75 ft	75 - 205 ft	205 - 255 ft	255 ft +
Swamp Road Segment #1	0 - 90 ft	90 - 185 ft	185 - 800 ft	800 ft +
Swamp Road Segment #2	0 - 85 ft	85 - 150 ft	150 - 500 ft	500 ft +
Swamp Road Segment #3	0 - 90 ft	90 - 680 ft	680 ft +	
Taylor Road (County Line Road)	0 - 70 ft	70 - 200 ft	200 - 375 ft	375 ft +
Wallaker Road North #1	0 - 70 ft	70 - 165 ft	165 - 320 ft	320 ft +
Wallaker Road North #2	0 - 90 ft	90 - 215 ft	215 - 335 ft	335 ft +
Wallaker Road South	0 - 90 ft	90 - 350 ft	350 - 530 ft	530 ft +
Waug Road (PVT)	0 - 65 ft	65 - 130 ft	130 - 200 ft	200 ft +
Willis Road (PVT)	0 - 95 ft	95 - 150 ft	150 - 200 ft	200 ft +

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 93 Swamp Road and Wallaker Road have segments that reflect different development patterns. The
 94 segments for each road are noted below:

95 Swamp Road Segment #1: Mick Road to 6 Mile Road
 96 Swamp Road Segment #2: 6 Mile Road to County Road 602
 97 Swamp Road Segment #3: County Road 602 to the southernmost extent of Swamp Road; Swamp
 98 Road ends along with the southern extent of Joyfield Township at the intersection of Swamp,
 99 Taylor, and Butwell Roads

100
 101 Wallaker Road North #1: South of Hoadley Road to Route 115
 102 Wallaker Road North #2: South of Route 115 to Arner Road
 103 Wallaker Road South: South of Arner Road to North County Line Road

104
 105 **4.10 Setbacks from Property Line**

106 In addition to the placement of land uses within the proper sub-zone based on Section 4.9, dimensional
 107 setbacks from the property line for the side yard and rear yard are required as follows:
 108

- 109 A. Side Yard – the side yard setback shall be determined by the width of the property along the
110 front property line multiplied by 8% for lots less than 300 feet in width and 30 feet for lots
111 greater than 300 feet.
112
- 113 B. Rear Yard – the rear yard setback shall be at least 25 feet from the rear property line
114 regardless of property width or depth.

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Article 5
SPECIAL LAND USES

5.1 Purpose

The formulation and enactment of this Ordinance is based upon the division of Joyfield Township into districts, each of which may permit specific uses, which are mutually compatible, and special land uses. Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this section is to establish equitable procedures and criteria, which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this section shall be in addition to others required elsewhere in this Ordinance and at the same time provide to Joyfield Township Planning Commission and the property owner some latitude to address site issues in an innovative manner.

5.2 General Provisions

- A. Authority to Grant Permits: Joyfield Township Planning Commission as hereinafter provided shall have the authority to approve, deny, or approve with conditions as specified in Section 5.3, special land uses.
- B. Application: Application for any special land use permit permissible under the provision of this Ordinance shall be made to the Joyfield Township Planning Commission through the Zoning Administrator by filing an official special land use permit application form and submitting a site plan in accordance with Article 11.
- C. Public Hearing for Special Land Uses: After a preliminary review of the site plan and an application for a special land use permit, the Joyfield Township Planning Commission shall hold a hearing on the site plan and special land use permit in accord with the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3103 and MCL 125.3502.

5.3 Required Standards and Findings for Making Determinations

The Joyfield Township Planning Commission shall review the particular circumstances of the special land use request under consideration in accordance with the requirements of Article 11, Site Plan Review, and any additional standards set forth in this Article and shall approve the special land use request only upon approval of the site plan and finding of compliance with the following standards:

A. Standards for Approval

- 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.

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- 49 3. Be necessary to meet the intent and purpose of the zoning requirements, be related
- 50 to the standards established in the zoning ordinance for the land use or activity
- 51 under consideration, and be necessary to ensure compliance with those standards.
- 52
- 53 4. Be consistent with the intent, purpose and recommendations in the Joyfield
- 54 Township Master Plan.
- 55
- 56 5. The proposed use will not be hazardous or disturbing to existing or future
- 57 neighboring uses.
- 58
- 59 6. The proposed use will not create excessive additional requirements at public cost
- 60 for public facilities, utilities and services.
- 61
- 62 7. Meet the standards of other governmental agencies where applicable, and that the
- 63 approval of these agencies has been obtained or is assured.
- 64
- 65 8. The proposed use will be served adequately by essential public facilities and
- 66 disposal, or that the persons or agencies responsible for the establishment of the
- 67 proposed use shall be able to provide adequately any such services.
- 68
- 69 9. If requested by the Joyfield Township Planning Commission, the applicant shall
- 70 submit the following:
 - 71 a. Market Study – components of the study should include a definition of
 - 72 the market, analysis of data pertaining to the market problem, the type
 - 73 and amount of market supportable real estate, and absorption rate(s)
 - 74 needed to sell and/or occupy the property within the project.
 - 75 b. Traffic Impact Study – components of this study should include an
 - 76 assessment of existing traffic counts and movements, forecast of
 - 77 additional traffic based on ITE traffic/trip generation manual, and
 - 78 improvements necessary to accommodate and/or mitigate the increased
 - 79 traffic resulting from the proposed project.
 - 80 c. Environmental Impact Assessment – components of the study should
 - 81 include a statement of the purpose and need of the proposed project,
 - 82 description of the affected environment, range of alternatives to the
 - 83 proposed action, analysis of environmental impacts such as threatened or
 - 84 endangered species, air and water quality impacts, impacts to historic and
 - 85 cultural sites, and social and economic impacts.
 - 86
 - 87
- 88 B. Notification: Joyfield Township shall provide notice of the request and public hearing on the
- 89 special land use application in accordance with the Michigan Zoning Enabling Act, PA 110 of
- 90 2006, MCL 125.3101 et seq. The notice of public hearing shall:
 - 91 1. Describe the nature of the special land use request.
 - 92 2. Describe the property which is the subject of the request.
 - 93 3. State the date, time and place of the public hearing.
 - 94 4. Indicate when and where written comments will be received concerning the
 - 95 request.

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C. Public Hearing: On the appointed date and time the Joyfield Township Planning Commission shall conduct the public hearing on the proposed special use. The hearing may be adjourned to a date certain within a reasonable time for additional fact finding.

D. Action of the Planning Commission: Upon completion of the Joyfield Township Planning Commission's review and upon completion of the public hearing, the Planning Commission may consider a motion for approval, approval with conditions, or denial of the special use application and site plan request.

The Planning Commission may postpone a request to a date certain to allow verification, compilation or submission of additional or supplemental information or to address other concerns or issues. Announcement of the date for the Planning Commission to decide upon the matter shall be announced in accord with the provisions of this Article and the Open Meeting Act, PA 267 of 1976, as amended.

E. 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 remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of conditions which are changed. Unchanged provisions shall run with the parcel in the approval and shall be binding upon all successors and assigns.

F. The Township Planning Commission may recommend the imposition of the conditions in approving special uses that it deems necessary to fulfill the purpose and requirements of this Article. The conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating any increased service and facility loads caused by the special land use or any activity connected with it, to protect the natural environment, conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the arrangement of the use of land in a socially and economically desirable manner.

G. The discontinuance of a special use, after a specified period of time or by a specified date as determined by the Planning Commission, may be a condition placed upon the issuance of the approved special use. Renewal of a special use may be granted after a review and determination by the Joyfield Township Planning Commission that continuing private need and public benefit will be served by such renewal, provided that the renewal application shall be in accord with Article provisions, standards and requirements in effect at the time the renewal is requested.

H. Any special use which was approved or which existed prior to the effective date of this Ordinance shall be deemed a use permitted in the district in which it is located and is not to be considered a non-conforming use.

5.4 Amendments, Denial or Appeal of a Special Land Use

A. Determination and Imposition of Conditions: A review of an application and site plan requesting a special land use permit shall be made by the Joyfield Township Planning

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143 Commission in accordance with the procedures and standards specified in this Ordinance. If
144 a submitted application and site plan does not meet the requirements of the Ordinance,
145 they shall not be approved. However, if the applicant agrees to make changes to the site
146 plan and application in order to bring them into compliance with the Ordinance, such
147 changes shall be allowed and shall be either noted on the application or site plan itself, or
148 attached to it, or these documents shall be resubmitted incorporating said changes. If the
149 facts in the case do not establish competent, material and substantial evidence that the
150 standards set forth in this Ordinance will apply to the proposed special land use, the
151 Township Planning Commission shall not grant a special land use permit. The Commission
152 may impose conditions with the approval of a special land use permit application and site
153 plan which are necessary to ensure compliance with the standards for approval stated in this
154 section and any other applicable standards contained in this or other applicable ordinances
155 and regulations. Such conditions shall be considered an integral part of the special land use
156 permit and approved site plan and shall be enforced by the Zoning Administrator. These
157 conditions may include conditions necessary to ensure that public services and facilities
158 affected by a proposed land use or activity will be capable of accommodating increased
159 service and facility loads caused by the land use or activity to protect the natural
160 environment and conserve natural resources and energy, to ensure compatibility with
161 adjacent uses of land, and to promote the use of land in a socially and economically
162 desirable manner.

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164 B. Approval, Granting of Permit: Upon holding a public hearing and the finding that the
165 requirements of this Ordinance have been satisfactorily met by the applicant, the
166 Township Planning Commission shall approve, disapprove, or approve with conditions the
167 special land use permit. Approval and issuance of a special land use permit by the Township
168 Planning Commission shall signify prior approval of the application and site plan, therefore
169 including any modifications and any conditions imposed where necessary to comply with this
170 Ordinance. The site plan, as approved, and any statements of conditions and modifications
171 shall become part of the special land use permit and shall be enforceable as such. The
172 decision to approve or deny a request for a special land use permit shall be retained as a part
173 of the record of action on the request and shall incorporate a statement of conclusions
174 which specify: the basis for the decision, any changes to the originally submitted application
175 and site plan necessary to ensure compliance with the ordinance, and any conditions
176 imposed with approval. Once a special land use permit is issued, all site development and
177 use of land on the property affected shall be consistent with the approved special land use
178 permit, unless a change conforming to Ordinance requirements receives the mutual
179 agreement of the landowner and the Joyfield Township Planning Commission and is
180 documented as such. When the Commission gives final approval, a special land use permit
181 shall be issued to the applicant. The Commission shall forward a copy of the permit to the
182 applicant, Zoning Administrator, and the Zoning Board of Appeals. The Zoning Administrator
183 shall not issue a land use compliance permit until he or she has received a copy of the special
184 land use permit approved by the Joyfield Township Planning Commission.

185
186 C. Voiding of Special Land Use Permit: Any special land use permit granted under this
187 Ordinance shall become null and void and fees forfeited:

188
189 1. Where actual physical construction of a substantial nature of structures authorized
190 by a special use permit has not commenced within one (1) year of issuance, and a
191 written application for extension of the approval has not been filed as provided
192 below, the permit shall become null and void and all rights thereunder shall
193 terminate. (note: It is the responsibility of the applicant to request such an
194 extension.)

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2. Upon written application, by the original or successor developer, filed prior to the termination of the one (1) year period as provided above, the Planning Commission may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall be granted only based on evidence from the applicant that the development has a reasonable likelihood of commencing construction during the one (1) year extension period.
- D. Appeal: Any party aggrieved by a decision of the Joyfield Township Planning Commission resulting from the approval or denial of a special land use permit may appeal to the Circuit Court. The Appeal may be taken by any person, firm or corporation and must be in writing and filed with the Zoning Administrator.
- E. Amendments and/or Modifications to a Special Land Use Permit.
1. The Zoning Administrator may authorize insignificant deviations in special use permits if the resulting use will still meet all applicable standards and requirements of this ordinance. A deviation is insignificant if the Zoning Administrator determines it will result in no discernible changes to or impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and will not noticeably change or relocate the proposed improvements to the property.
 2. The Planning Commission may permit minor modifications in special use permits if the resulting use will still meet all applicable standards and requirements of this ordinance. The Planning Commission may decide minor modifications without a formal application, public hearing, or payment of an additional fee. For purposes of this section, minor modifications are those the Zoning Administrator determines have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
 3. All other requests for amendments to special use permits shall be processed in the same manner as new special use permit applications. Joyfield Township may impose new conditions on the approval of an amendment request if such conditions are warranted. The holder of the special use permit may reject such additional conditions by withdrawing the request for an amendment and proceeding under the existing special use permit.
 4. The holder of a special use permit may request changes under this section by making the request in writing to the Zoning Administrator. Approval of all changes must be given in writing.
- F. Any use for which a special use permit has been granted and which ceases to continuously operate for a one (1) year period shall be considered abandoned, and the special use permit shall become null and void.
- G. Revocation of a special land use may occur if its recipient fails to continuously abide by its terms and conditions.

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1. The revocation procedure is as follows:
 - a. The Planning Commission shall notify the recipient in writing of any violations of Township codes or provisions of the special land use.
 - b. The recipient shall have thirty (30) days to correct all deficiencies to the satisfaction of the Planning Commission.
 - c. If after thirty (30) days any deficiencies remain, the Planning Commission shall conduct a public hearing following the same notification procedures for special land use requests as provided in Section 5.3 and in the Michigan Zoning Enabling Act. Following the public hearing, the Planning Commission may then revoke the special land use, or if the conditions warrant, allow a specified amount of additional time for the use to be brought into compliance.
2. A repeat violation shall be grounds for immediate revocation of the special land use by the Planning Commission following a public hearing.
3. The Administrator has the authority to issue a cease and desist order, until such time as a public hearing can be conducted, upon finding that the violation constitutes a serious threat to public health, safety, and welfare.

5.5 Land Uses Requiring Additional Standards

The following land uses have been determined to be those that serve an area larger than Joyfield Township and as a result require additional standards for approval in addition to those addressed in Sec. 5.3.A.

5.6 Reserved for future use

5.7 Reserved for future use

5.8 Sand or Gravel Pits, Quarries

- A. All uses shall be established and maintained in accordance with all applicable State of Michigan Statutes.
- B. The applicant shall be required to file a cash bond, performance bond or irrevocable letter of credit of sufficient amount, or other guarantees, to assure reclamation of the site following excavation, as required by item (J) of this Section.
- C. The minimum allowable lot size shall be twenty (20) acres. No machinery shall be erected, maintained, or operated within two hundred (200) feet of any property line.
- D. All uses shall be enclosed by a fence or suitable plantings six (6) feet or more in height for the entire periphery of the property.

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- 291 E. All slopes and banks shall be graded and treated to prevent erosion or any other potential
292 deterioration.
- 293
- 294 F. No building shall be erected on the premises except as temporary shelter for machinery or
295 field office.
- 296
- 297 G. Routes shall be established for truck movement to and from the site in order to minimize the
298 wear on public streets and to prevent hazards and damage to properties in Joyfield
299 Township. That portion of access roads within the area of operation shall be constructed or
300 treated to minimize dust.
- 301
- 302 H. All installations shall be maintained in a neat, orderly condition so as to prevent injury to
303 property, any individual, or Joyfield Township in general.
- 304
- 305 I. Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock.
306 Such measures may include limitations upon the practice of stock-piling excavated materials
307 on the site.
- 308
- 309 J. When excavation and removal operations are completed, the excavated area shall be graded
310 so that no gradients in disturbed earth shall be steeper than a slope of three (3) to one (1) in
311 horizontal-vertical gradient. A layer of arable top soil shall be spread over the excavated
312 area, in accordance with an approved contour plan furnished by the applicant. The area shall
313 be seeded with a perennial grass, or other similar soil-holding material, and maintained by
314 the applicant until the area is stabilized.
- 315
- 316 K. Joyfield Township shall be entitled to make periodic inspection to determine compliance
317 with this Ordinance.

318
319 **5.9 Sewage Treatment and Disposal**

- 320
- 321 A. All uses shall be established and maintained in accordance with all applicable State of
322 Michigan statutes.
- 323
- 324 B. All operations shall be completely enclosed by a wire link fence not less than six (6) feet high.
- 325
- 326 C. All operations and structures shall be surrounded on all sides by a transition strip at least
327 two hundred (200) feet in width within which grass, plant materials and structural screens
328 shall be placed to minimize the appearance and odors of the installation.
- 329

330 **5.10 Airports and Heliports**

331
332 All airports shall be constructed or expanded in conformance with all F.A.A. regulations and PA 23 of
333 1950.

334
335 **5.11 Wind Energy Conversion Systems (Commercial)**

- 336
- 337 A. Purpose.
- 338 The purpose is to define specific regulations to protect the public health, safety and general
339 welfare of the residents of the Township through regulations governing the installation and

340 operation of all Wind Energy Conversion Systems (WECS). The purpose behind the standards
 341 and procedures necessary to ensure this are as follows:

- 342 1. Ensure that the location, scale and design of WECS within Joyfield Township are
 343 protective of public health, safety, welfare, and individual's use and quiet and peaceful
 344 enjoyment of their properties to maintain the current quality of life;
- 345 2. Protect all areas of Joyfield Township and Joyfield Township's natural resources from
 346 potential adverse impacts of WECS, including adverse visual, wildlife, avian, bat, and
 347 environmental impacts;
- 348 3. Avoid potential damage to adjacent property from hazards associated with and/or
 349 failure of wind energy conversion systems;
- 350 4. Ensure the compatibility of adjacent land uses;
- 351 5. Protect property values;
- 352 6. Protect aesthetics, scenic views and viewsheds, and tourism based economy;
- 353 7. Protect sensitive receptors and wildlife habitat;
- 354 8. Define regulatory requirements and procedures for;
- 355 a. Permit application and review
- 356 b. Monitoring and compliance
- 357 c. Revocation and/or decommissioning

358 B. Applicability.

359
 360 WECS shall not be regulated or permitted as essential services, public utilities or private utilities.
 361 WECS are allowed as SLUP provided that they meet all requirements of this Ordinance.

362
 363 C. General Application Requirements.

364
 365
 366 **Table 5.1**

367
 368 **Permit Requirements**

Zoning permit required	Roof-Mounted WECS. Small onsite WECS less than 95ft. for residential use in all districts.
Zoning permit required	Anemometers 95ft. or less
Special land use permit Plot plan	WECS not designed to supply energy to the power grid with a tower over 95ft. but less than 199 ft.
Special land use permit Plot plan	Anemometers 199ft. or less.
Special land use permit Site plan	WECS over 95ft. but less than 199 ft. designed primarily to supply energy to the power grid.

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417
1. Access: All ground mounted electrical and control equipment of structures shall be labeled and secured to prevent unauthorized access. All anemometer and WECS towers shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground. Lattice-type or guyed towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
 2. Access Roads: A private road or drive shall be constructed according to applicable Zoning Ordinance requirements. Such regulations or standards provide for adequate access, egress, and protection of emergency service vehicles and personnel. Further regulations may restrict construction of private drives or roads in environmentally sensitive areas such as those in identified wetlands or steep slopes. These standards apply to all WECS requiring SLUP. Where these standards apply, these roads will conform to the above standards and other regulations or standards for private road construction specified in the Joyfield Township Zoning Ordinance and all County Road Commission requirements.
 3. Anemometer Requirements: The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements. Three years of data is required prior to the permit application for WECS designed primarily to supply energy to the power grid and requiring SLUP. Joyfield Township Planning Commission or its designee shall have access to the anemometer data. Anemometers shall be removed when there is no longer a need for meteorological data. The time limitations can be waived by the Zoning Administration if the anemometer also serves as Supervisory Control and Data Acquisition (SCADA) System for on-going operations for the WECS.
 4. Appearance, Color, and Finish: WECS requiring SLUP, the wind generator and tower shall be non-reflective and shall be non-obtrusive, neutral color that is compatible with the natural environment. No advertising or markings other than the manufacturer and model shall be anywhere on the tower, nacelle or blades. The Joyfield Township Planning Commission must approve the color.
 5. Blade Clearance: For towers 95 feet or greater in height, blade clearance shall conform to the manufacturer's standard. For towers of less than 95 feet in height or for any towers without a manufacturer's standard, blade clearance shall be no less than 15 feet from ground level and a safe distance from walkways and common areas.
 6. Blade Shadow, Flicker and Glint: A WECS shall be designed to minimize shadow flicker from moving blades or reflected blade glint. Shadow flicker or blade glint shall not fall on any land beyond the Lease Unit boundary line. On participating property, the system may be operated within the following conditions:
 - a. If flicker or glint falls one hundred (100) feet or more from the existing residence.
 - b. If the flicker or glint falls closer than one hundred (100) feet to an occupied home it will not exceed thirty (30) hours per year.

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- 418 c. The property owner must sign a written agreement with the
419 applicant/owner/operator and sign a hold harmless agreement to indemnify
420 Township for adverse impacts from the flicker or glint.
421
- 422 7. Braking System: All WECS shall be equipped with an automatic braking, governing or
423 feathering system to prevent uncontrolled rotation, over-speeding, and excessive
424 pressure on the tower structure, rotor blades and other wind energy components.
425
- 426 8. Engineering Safety: The structural integrity of the WECS shall conform to the design
427 standards of the International Electro Technical Commission; specifically, IEC 61400-1
428 "Wind Turbine Safety and Design," IEC 61400-2 and IEC 61400-23 "Blade Structural
429 Testing," as amended or succeeded.
430
- 431 9. Environmental Protection Requirements: Before a permit can be issued for WECS
432 requiring a Special Land Use Permit, the site plan documents and drawings shall include
433 the following environmental studies:
434
- 435 a. Environmental Impact Study for the entire project footprint area. It shall
436 include all environmentally sensitive areas identified in Township Zoning
437 Ordinance. The studies must demonstrate that the minimum setbacks in this
438 Ordinance, Section 5.11 - SETBACKS FOR WECS and ANEMOMETER TOWERS
439 REQUIRING A SLUP, are sufficient to protect the wildlife and the
440 Environmentally Sensitive Areas. The Study shall determine the environmental
441 and wildlife impact of construction activities, operation through all four seasons
442 and decommissioning. The Environmental Impact Study must include wildlife
443 refuges, other areas where birds and/or bats are highly concentrated, such as
444 wooded ridge tops that attract birds and bats, sites that are frequented by
445 federally and/or state endangered species of birds and bats, significant bird
446 migration pathways, and areas that have landscape features known to attract
447 large numbers of raptors. If there are environmental impacts, the Study must
448 identify mitigation efforts, estimated impact of mitigation and what will be done
449 if mitigation efforts are not effective. The analysis shall include the potential
450 effects on species listed under the federal Endangered Species Act and
451 Michigan's Endangered Species Protection Law.
452
- 453 b. 1-3 year Bat and Avian Study which follow "Guidelines for Conducting Bird and
454 Bat Studies at Commercial Wind Energy Projects" New York State DEQ, 2009 or
455 US Fish and Wildlife Service Guidelines to Avoid and Minimize Wildlife Impacts
456 from Wind Turbine, (2003), the US Fish and Wildlife Service Wind Turbine
457 Guideline Advisory Committee, 2010 recommendation. Mitigation design
458 must be identified for impacts on birds and bats if mortality estimates exceed 2
459 birds or bats per month for all turbines in Joyfield Township. A one year post
460 construction mortality study shall be conducted to determine if the
461 pre-construction mortality estimates were accurate. Based on the one year
462 post construction mortality study the Joyfield Township Planning Commission
463 may require an extension of the mortality study.
464
- 465 c. Permit Applicants shall also submit a complete Life Cycle Assessment compliant
466 with ISO 1440 for the wind project including infrastructure. Environmental
467 Impact Studies will adhere to ASTM Guidelines.

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- 465 d. All environmental and wildlife study plans shall be approved by the MI DEQ.
466 Any additional study recommended by the DEQ shall be required to be included
467 in the Environmental Impact Study.
468 e. Groundwater water quality study to demonstrate the installation of the
469 industrial wind turbines will not impact the quality or volume of the
470 groundwater. The study plan must be approved by a qualified hydro-geologist
471 approved by the Joyfield Township Planning Commission.
472

473 All environmental and wildlife study designs must be reviewed and approved by a qualified
474 Wildlife Biologist, Ornithologist, or Chiropterologist. All completed studies must be reviewed
475 by a Wildlife Biologist, Ornithologist, or Chiropterologist approved by the Joyfield Township
476 Planning Commission and US Fish and Wildlife Service and the MI DEQ. All fees for the Wildlife
477 Biologist, Ornithologist, or Chiropterologist, MI DEQ and US Fish and Wildlife Service will be paid
478 for by the applicant/owner/operator.
479

480 All WECS requiring a SLUP must comply with the guidelines included in the US Fish and Wildlife
481 letter to Citizens for Responsible Wind Development (March 30, 2011) which includes a three (3)
482 mile setback from the Lake Michigan shoreline and a five (5) mile setback from nesting eagles.
483

484 All WECS requiring a SLUP must be in compliance with Article 10 of Joyfield Township Zoning
485 Ordinance.
486

- 487 10. Guy Wires: Anemometer towers may not exceed 199 feet. Visible and reflective
488 objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire
489 anchor points and along the outer and innermost guy wires up to a height of eight (8)
490 feet above the ground. This must be reflected in the site plan drawing.
491
- 492 11. Ice Throw: The ice throw or ice shedding of the WECS shall not cross the Lease Unit
493 Boundary/property line of the participating site on which the facility is located and shall
494 not impinge on any public right-of-way, overhead utility line or occupied structure.
495 Maximum ice throw in compliance with this section shall be provided in the application.
496
- 497 12. Lighting: No WECS shall exceed the height which requires lighting to be in compliance
498 with Federal Aviation Administration requirements, the Michigan Airport Zoning Act
499 (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act
500 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone
501 regulations, as amended or succeeded by FAA. Night time lighting shall not be
502 permitted. Lighting shall be used only as needed for maintenance, inspection or
503 emergencies.
504
- 505 13. Maintenance Facility: A WECS may include a maintenance facility for storing trucks,
506 service equipment, spare parts, lubricants, and other supplies. The maintenance facility
507 may be located in appropriate zoned districts. Turbine control and maintenance
508 functions may be in one building. Maintenance facilities built in Joyfield Township
509 require building and zoning permits and must meet all other applicable requirements.
510

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- 511 14. Maximum Total WECS Height: The maximum height of any WECS is 199 feet. See
512 table 5.11.C.
513
- 514 15. Safety: All WECS requiring a SLUP shall be designed to prevent unauthorized access to
515 electrical and mechanical components and shall have access doors that are kept
516 securely locked at all times when service personnel are not present. All spent
517 lubricants and cooling fluids shall be properly and safely removed in a timely manner
518 from the WECS site. Applicant/owner/operator must demonstrate compliance with
519 RCRA (Resource Conservation and Recovery Act) if hazardous waste is generated.
520 Applicant/owner/operator must have an emergency plan, acceptable to the
521 Township or its third party expert for fire to prevent the discharge of hazardous air
522 pollutants, hazardous waste, to prevent the spread of fire to the surrounding
523 environment and remediation of all hazardous material generated from the fire. The
524 emergency plan will also address tower collapse, blade disintegration and other
525 emergency situations associated with WECS. Each turbine must have a fire
526 suppression system adequate to extinguish all fires. All of the provisions above shall
527 be provided for and depicted in the application.
528
- 529 16. Spacing: Adjacent WECS: All WECS requiring an SLUP must be spaced a minimum of
530 2640 feet apart. This must be depicted on the site plan with the application.
531
- 532 17. Setbacks for WECS and Anemometer Towers Requiring a SLUP: The setbacks set forth
533 herein are minimum setbacks for single and multi-tower WECS. These setbacks may
534 be greater based upon the noise regulatory standards set forth within this Ordinance,
535 but in no case may they be less than set forth herein.
- 536 a. Property line and road setback: The setback of a WECS and anemometer
537 tower requiring a SLUP from a Lease Unit Boundary property line or any public
538 or private road shall be no less than or five (5) times the tower height.
- 539 b. Wetland setback: The setback of an anemometer tower or a WECS from the
540 delineated boundary of wetlands shall be 2640 feet.
- 541 c. Setbacks to other sensitive areas: The setback of an anemometer tower or a
542 WECS from other sensitive areas, including conserved lands owned publicly or
543 privately when funded publicly or lands that contain a conservation easement
544 shall be no less than 2640 feet.
- 545 d. Upper and Lower Herring Lakes setback: The setback of a WECS from the
546 boundary of Upper and Lower Herring Lakes shall be a minimum of two miles.
547 The Herring Lakes are part of a migratory flyway for birds and waterfowl that
548 extends from the Platte Lakes to Crystal Lake, Betsie Bay, Betsie River, Arcadia
549 Lake, Herring Lakes, Bear Lake and Portage Lake.
- 550 e. Active eagles nest(s) setback: The setback of an anemometer tower or wind
551 energy system from a known active eagle's nest shall be five (5) miles in
552 accordance with the recommendations of the US Department of the Interior,
553 Fish & Wildlife letter of recommendation to Citizens for Responsible Wind
554 Development (March 30, 2011).
555
- 556 18. Signage: WECS requiring SLUP shall have only one sign, not to exceed four (4) square
557 feet in area posted at the base of the tower and on a security fence, if applicable. The

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558 sign shall contain: a) Warning of high voltage; and b) Address and telephone number
559 that allows a caller to directly contact an individual to deal with emergencies at any time
560 during or after business hours, on weekends and holidays, 24/7. Signage must be
561 depicted on the site plan in the application. Signs no more than four (4) feet square in
562 area without advertising or promotional material shall be posted at each WECS tower
563 and at substations. Proper signage addressing warnings or safety issues shall be
564 displayed per this Ordinance.

565 Signs shall display:

- 566 a. Address and telephone numbers that allows a caller to directly contact a
567 responsible individual to deal with emergencies at any time during or after
568 business hours, on weekends and holidays, 24/7.
- 569 b. Warns about the dangers of ice throw and falling ice.

570
571 19. Signal Interference: Operation of a WECS shall not interfere with communication
572 systems such as, but not limited to, radio, telephones, cell phones, television (both
573 broadcast and satellite), internet, satellite or emergency communication systems. The
574 applicant/owner/operator must demonstrate no interference will occur with the
575 communications listed.

576
577 20. Soil Conditions: A proposal for any WECS requiring a SLUP shall be accompanied by a
578 hydrologic study and report prepared by a qualified professional. A soil erosion plan
579 must be submitted with the SLUP application. The soil erosion plan must be approved
580 before the construction can start. Any soil erosion into the Herring Lakes Watershed
581 must be mitigated within five (5) working days.

582
583 21. Pre-Construction Background Noise Survey: A pre-construction background noise
584 survey is required for each proposed wind turbine location conducted per procedures
585 provided in 5.11.F (Noise Measurement Protocols) showing long-term background
586 sound levels. This must be completed and accepted prior to approval of the final
587 layout and issuance of project permits.

588
589 The pre-construction baseline studies shall be conducted by a Qualified Acoustical
590 Consultant/Engineer.

591
592 At his or her discretion, the Joyfield Township Zoning Administrator, or its consultant,
593 may refer the application to a qualified acoustical consultant for further review and
594 comparison of the long-term background sound levels against the predicted sound
595 levels reported for the model. The reasonably necessary costs associated with such a
596 review shall be the responsibility of the applicant, in accordance with the terms of this
597 Ordinance.

598
599 All WECS requiring a SLUP shall provide in the application evidence of compliance with
600 the following maximum sound levels:

- 601 a. Audible Noise Standard: From 9:00 a.m. until 9:00 p.m. for wind speeds from
602 cut-in to cut-out power for the WECS the A scale equivalent noise level due to
603 WECS at the Lease Unit Boundary property line and beyond shall not exceed the

- 604 established outdoor background (residual) sound level LA90 by more than five
605 (5) dBA.
- 606 b. From 9:00 p.m. until 9:00 a.m. for wind speeds from cut-in to cut-out power of
607 the WECS the A scale equivalent noise level due to WECS at the Lease Unit
608 Boundary property line and beyond shall not exceed the established outdoor
609 residual sound level LA90. Background sound levels shall be established
610 separately for daytime (9:00 a.m. to 9:00 p.m.) and nighttime (9:00 p.m. to 9:00
611 a.m.) values.
- 612 c. Low Frequency Noise or Infrasound: No low frequency noise or infrasound
613 noise from WECS operations shall exceed pre-construction noise levels and 50
614 dBC maximum beyond the Lease Unit Boundary property line.
- 615 d. Tonality and/or Repetitive, Impulsive Tone penalty: In the event the audible
616 noise due to WECS operation exhibits tonality between 20-60 Hz, contains a
617 pure tone and/or repetitive, impulsive noise, the Audible Noise Standard shall
618 be reduced by a total of five (5) dBA at the Lease Unit Boundary property line.
619
- 620 22. Documentation for Wind Energy Systems Requiring SLUP:
- 621 a. Site Plan: Each application for Site Plan Review shall contain the requirements
622 set forth in Article 11. The required quantity of drawings is set forth in Article
623 11. The following documentation must also be included in the application:
- 624 i. The site plan shall show locations of equipment identified as a source of
625 sound, how that equipment is placed, and the sound levels based on the
626 analysis, so that the WECS will not exceed the maximum permitted
627 sound levels. Measurements, modeling and analysis shall follow the
628 "Noise Measurement Protocols" and shall conform to the most current
629 version of ANSI S12.18, IEC 61400 and ISO 9613. All sound models and
630 studies must be reviewed and approved by Joyfield Township Planning
631 Commission and their Acoustical Engineering Consultant. A copy of a
632 sound modeling analysis report must be submitted with the application.
- 633 ii. The shadow flicker and glint analysis report for each turbine.
- 634 iii. Final reports for all Environmental Protection Studies.
- 635 iv. A copy of that portion of the applicant's lease(s) with the lessee(s)
636 granting authority to install the anemometer tower and/or WECS; legal
637 description of the property(ies); Lease Unit(s); and the site plan showing
638 the boundaries of the lessees as well as the boundaries of the Lease
639 Unit Boundary(ies).
- 640 v. Phases, or parts, of construction, along with a construction schedule.
- 641 vi. The project area boundaries, including Lease Unit Boundaries.
- 642 vii. The location (including GPS coordinates), grades, average cross-section
643 and dimensions of all temporary and permanent on-site and access
644 roads from the nearest county or state maintained road.
- 645 viii. Any new infrastructure above or below ground related to the project
646 not specified in Section 14 of the Ordinance.
- 647 ix. A copy of the Manufacturers' Material Safety Data Sheet(s) which shall
648 include the type and quantity of all materials used in the operation of all
649 equipment including, but not limited to, all lubricants and coolants.

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- 650 x. The contact information of owners/operators as well as contact
651 information for all property owners on which the WECS are located.
652 xi. If any information, studies, or data submitted by the
653 applicant/owner/operator in support of the permit is found to be
654 misrepresented or fraudulent, the application shall be denied or the
655 permit shall be revoked.
656 xii. Engineering data concerning the construction of the WECS and its
657 foundation which will include but not be limited to soil boring data and
658 hydrological study.
659 xiii. Verification that a Michigan Certified Engineer has certified that the
660 WECS meets or exceeds the manufacturer's construction and
661 installation requirements.
662 xiv. A copy of a microwave analysis of possible interference with aeronautic
663 and/or cell phone, internet, local broadband networks, WiFi, TV (both
664 broadcast and satellite) and emergency communication signals shall be
665 submitted.
666 xv. Property value and economic impact study on Joyfield Township.
667 xvi. Documented compliance with all applicable local, state and federal
668 regulations.
669 xvii. A description of the traffic logistics associated with transportation and
670 construction of the WECS components and equipment including
671 construction transport routes.
672 xviii. Written description of how the applicant/owner/operator will meet
673 decommissioning requirements of this Ordinance.
674 xix. Power Purchase Agreement with a Michigan Public Utility Company.
675 xx. Interconnectivity Agreement.
676 b. A copy of an Environmental Analysis by a qualified professional to identify and
677 assess any potential impacts on the natural environment, including but not
678 limited to, wetlands and other fragile ecosystems, historical and cultural sites,
679 antiquities following the guidelines in Section 5.11.C.9. The
680 applicant/owner/operator shall take appropriate measures to minimize,
681 eliminate or mitigate adverse impacts identified in the analysis and shall show
682 those measures on the site plan. If mitigation efforts are required to minimize
683 adverse impacts the applicant/owner/operator must obtain approval of the
684 mitigation plan from the Joyfield Township Planning Commission and their
685 independent environmental consultant. The applicant/owner/operator shall
686 identify and evaluate the significance of any net effects or concerns that will
687 remain after mitigation efforts. After WECS operations commence, the
688 applicant/owner/operator must demonstrate the mitigation efforts provided
689 the effects modeled. If mitigation does not eliminate the adverse effects, the
690 WECS may be shut down until further mitigation is evaluated and implemented.
691 c. A one to three year Avian and Wildlife Impact Analysis by a qualified
692 professional to identify and assess any potential impacts on wildlife and
693 endangered species that must be completed, reviewed and approved by Joyfield
694 Township Planning Commission and their independent environmental
695 consultant. If the applicant/owner/operator identifies adverse impacts they
696 must develop an appropriate plan to minimize, eliminate or mitigate adverse

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697 impacts identified in the analysis, and shall show those measures on the site
698 plan. The mitigation plan must be approved by Joyfield Township Planning
699 Commission and their independent environmental consultant. After WECS
700 operations commence, the applicant/owner/operator must demonstrate the
701 mitigation efforts provided the effects modeled. The
702 applicant/owner/operator shall identify and evaluate the significance of any net
703 effects or concerns that will remain after mitigation efforts. If mitigation does
704 not eliminate the adverse effects, the WECS may be shut down until further
705 mitigation is evaluated and implemented. Post operation monitoring
706 programs shall be established for the impact on birds and bats, bird migration
707 for a minimum of one (1) year and may be extended by the Joyfield Township
708 Planning Commission.

709 d. Sites requiring special scrutiny include wildlife refuges, other areas where birds
710 and/or bats are highly concentrated, such as wooded ridge tops that attract
711 birds and bats, sites that are frequented by species listed under the federal
712 Endangered Species Act and Michigan's Endangered Species Protection law, bird
713 migration pathways, and areas that have landscape features and inland lakes
714 known to attract large numbers of raptors shall be specifically identified.
715 Setbacks shall be strictly followed in order to protect these areas and species.
716 The analysis shall include the potential effects on all wildlife, birds and bats,
717 migration and sound impact on wildlife.

718 e. The Township Zoning Administrator, or, as applicable, Joyfield Township
719 Environmental Consultant, and the applicant/owner/operator and their
720 environmental consultant shall develop and implement a post construction
721 wildlife mortality study based on the Environmental Impact Study. The post
722 construction monitoring shall be a minimum of one (1) year or until adequate
723 mitigation has been proven.

724 f. The applicant/owner/operator must submit interactive digital 3-D modeling
725 showing:

- 726 i. Each WECS location.
- 727 ii. Substations.
- 728 iii. Underground or overhead infrastructure.
- 729 iv. All topography.
- 730 v. General tree lines at proper heights throughout project to a radius of 5
731 miles from each turbine.
- 732 vi. Existing roads and manmade structures to a radius of 5 miles from each
733 turbine.

734 The project modeling shall demonstrate the visual impact of the wind turbines
735 on the landscape. The wind turbines must be accurately scaled and represent
736 the true visual impact to the project area. The project area model shall be
737 viewed interactive and viewable from any position with five (5) miles.

738 g. In addition to site plan requirements, the applicant/owner/operator shall
739 provide the following:

- 740 i. Documentation confirming manufacturer's specifications for each
741 WECS.
- 742 ii. GPS coordinates for each WECS.
- 743 iii. A copy of the maintenance and operation plan.

- 744 iv. Description of the procedures for lowering or removing nacelle or blade
745 for maintenance.
746 v. A description of the traffic logistics associated with transportation and
747 construction of the WECS components and equipment including
748 construction transport routes, intersection reconstruction, restoration
749 of roads, curbing, culverts, signage, land features, buildings or other
750 infrastructure, construction timetable and description of at least one
751 alternative transport route and the rationale for the one chosen.
752

- 753 23. Post Construction Sound Requirements: Background sound pressure level
754 measurements and post-construction sound pressure level measurements must be
755 made after installation of the WECS and shall be done by a qualified professional at the
756 applicant/owner/operator's expense and shall follow Noise Measurement Protocols
757 specified in the ordinance. Documentation of the sound pressure level measurements
758 shall be provided to Joyfield Township Zoning Administration within 60 days of the
759 commercial operation for the project.
760

761 D. Review and Approval Standards, Additional Requirements for WECS Development
762

- 763 1. Approval Standards. The Joyfield Township Planning Commission shall not approve a
764 Special Land Use Permit (SLUP) for a WECS unless it finds that the
765 applicant/owner/operator has demonstrated compliance with the Purpose and Intent,
766 General Provisions, Performance and Regulatory Standards, Application Requirements
767 and Provisions for Granting Site Plan Review under the Joyfield Township Zoning
768 Ordinance and shall meet all of the following standards:
769 a. The WECS will not pose a risk to the health, safety and welfare of Joyfield
770 Township residents.
771 b. The WECS will not pollute, impair or destroy Joyfield Township's natural
772 resources and environment.
773 c. The WECS will not cause damage or harm to any sensitive area within the
774 Township as defined and set forth herein based upon the reports of qualified
775 experts and the recommendations of the US Fish and Wildlife Service and/or
776 other State or federal agencies.
777 d. The WECS will not destroy or impair the aesthetics and vistas of the community.
778 e. The WECS will not destroy or impair the current and future tourism-based
779 economy.
780 f. The WECS will not have a negative impact on non-participating land or
781 residential property values within a two (2) mile radius of a turbine.
782 g. All required studies have been completed and the project meets with findings of
783 the studies and this Ordinance.
784

785 Issuance of Special Land Use Permit (SLUP) for Construction and Operation: If Joyfield Township
786 Planning Commission finds that the applicant/owner/operator has met the approval standards, it shall
787 issue a Special Land Use Permit (SLUP) for construction of a wind energy system.
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789 Upon completion of construction, the applicant/owner/operator shall submit to Joyfield Township
790 Zoning Administrator proof of compliance with all requirements of the Ordinance. If such submission
791 does not occur within two (2) years, the SLUP shall be revoked.
792

793 2. Construction Activities. Construction activities shall be organized and timed to
794 minimize impacts on township residents and wildlife from noise disruption (including
795 disruption of wildlife habitat) and the presence of vehicles and people. Construction
796 activities shall not take place from sun down to sun up or between the hours of 9:00
797 p.m. and 7:00 a.m. No roads or highways shall be closed for more than one (1) hour
798 without providing limited access to residents or providing a detour route. The
799 applicant/owner/operator must coordinate with Benzie County Emergency Officials to
800 insure emergency vehicles have access to residents, businesses and the construction site
801 at all times including during construction activities.
802

803 3. Construction Codes: Towers & Interconnection Standards. All WECS shall comply with all
804 applicable state construction and electrical codes and local building permit
805 requirements. All electrical components of the wind energy facility shall conform to
806 relevant and applicable local, state and federal codes, and relevant and applicable
807 international standards. All on-site WECS expected to engage in net-metering or some
808 version of a feed-in tariff, utility grid WECS, and community WECS will comply with
809 Michigan Public Service Commission and Federal Energy Regulatory Commission
810 standards. All Off-grid WECS are exempt from compliance with MPSC and FERC
811 requirements.
812

813 All WECS requiring a SLUP shall comply with Federal Aviation Administration
814 requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et
815 seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481, et seq.),
816 and local jurisdiction airport overlay zone regulations, as amended or succeeded.
817

818 4. Disposal of Hazardous Materials. All spent lubricants, cooling fluids, and any other
819 hazardous materials shall be properly and safely removed in a timely manner. All
820 hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA)
821 must be disposed in compliance with all appropriate regulations.
822

823 5. Engineering Safety: The structural integrity of the WECS shall conform to the design
824 standards of the International Electro Technical Commission; specifically IEC 61400-1
825 "Wind Turbine Safety and Design," IEC 61400-2 and IEC 61400-23 "Blade Structural
826 Testing," as amended or succeeded.
827

828 6. Post Construction Permits. Construction codes, towers and interconnection standards
829 shall comply with all applicable State construction and electrical codes and local building
830 permit requirements.
831

832 7. Sound Regulations Compliances. A WECS shall be considered in violation of the use
833 permit unless the applicant/owner/operator demonstrates that the project complies
834 with all the sound level limits using the procedures specified in this Ordinance. Sound
835 levels in excess of the limits established in this Ordinance shall be grounds for the

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836 Joyfield Township Board to order immediate shut down of all noncompliant wind
837 turbine units.

838
839 8. Survival Speed. Neither the turbine nor tower shall be erected unless the survival
840 speed as certified by the manufacturer is 10% greater than the highest winds on record
841 for the area.

842
843 9. Utilities. Power lines between WECS and substations must be placed underground.
844 After substations all above ground lines, transformers or conductors should comply with
845 the Avian Power Line Interaction Committee published standards to prevent avian
846 mortality.

847
848 10. Complaint Resolution. For WECS requiring a SLUP the applicant/owner/operator of the
849 WECS shall provide a 24/7 Complaint Hotline to document and respond to complaints.
850 The applicant/owner/operator shall notify the Joyfield Township Zoning Administrator
851 in writing of the complaint within two (2) business days. The
852 applicant/owner/operator will attempt to mitigate the complaint within two (2)
853 business days after being notified of a complaint by any property owner.

854 a. A non-participating property owner shall be allowed four (4) complaints
855 assumed to be valid. After the fourth invalid complaint, the non-participating
856 property owner may have to share in fifty percent (50%) of the cost of the
857 complaint investigation.

858 b. Operational Complaints: Township shall undertake an investigation of the
859 alleged operational violation by a qualified individual acceptable to Joyfield
860 Township.

861 c. Noise Complaints: Joyfield Township shall undertake an investigation of the
862 alleged noise violation. All required testing shall be performed by a qualified
863 independent acoustical consultant acceptable to the complainant and Joyfield
864 Township.

865 d. For all complaints;

866 i. Any testing required for the complaint resolution shall commence
867 within ten (10) business days of the request. If required testing cannot
868 be initiated within ten (10) business days, the WECS(s) in question shall
869 be shut down until testing can be started.

870 ii. A copy of any required test results shall be sent to the
871 applicant/owner/operator of the WECS, the property owner, the
872 Township Zoning Administrator, or Joyfield Township's designee within
873 ten (10) days of test completion.

874 iii. The reasonable cost and fees incurred by Joyfield Township in retaining
875 said qualified individual shall be reimbursed by the
876 applicant/owner/operator of the WECS or complainant as designated in
877 paragraph 1 above.

878 iv. Funds for this assessment/investigation shall be withdrawn from the
879 administrative escrow account prior to the complaint investigation and
880 payment shall be independent of the investigation findings.

881 v. After the investigation, if Joyfield Township reasonably concludes that
882 noise violations are shown to be caused by the WECS, the

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- 883 applicant/owner/operator shall use every effort to mitigate such
884 problems on a case-by-case basis. The applicant/owner/operator shall
885 take measures such as not operating during the night time or other
886 noise sensitive periods if such operation was the cause of the
887 complaint(s). If the WECS is in violation and both night and day and
888 mitigation efforts are not successful, Joyfield Township may require the
889 WECS be shut down and decommissioned.
- 890 vi. If such resolutions cannot be obtained, Joyfield Township may take
891 action as authorized by Article 14 of this Ordinance. If mitigation
892 efforts are not successful, Joyfield Township may require the WECS be
893 shut down and decommissioned.
- 894 e. The applicant/owner/operator shall document each complaint by maintaining a
895 record including at least the following information:
- 896 i. Name of the WECS and the applicant/owner/operator.
897 ii. Location of the WECS.
898 iii. Name of complainant, address and telephone number.
899 iv. Date and time of the complaint.
900 v. Date and time of response to complaint.
901 vi. Date and time complaint mitigated.
902 vii. Copy of the written complaint.
903 viii. Specific property description (if applicable) affected by complaint.
904 ix. Nature of the complaint including weather conditions, if germane.
905 x. Name of the person receiving the complaint.
906 xi. Person/company responding to complaint.
907 xii. Person/company investigating complaint.
908 xiii. Date reported to Joyfield Township Zoning Administrator.
909 xiv. Initial response, testing if applicable, action plan or mitigation.
910 xv. Final resolution, date and signature of complainant, and signature of
911 Township Zoning Administrator.
- 912 f. Applicant/owner/operator must maintain a chronological log of complaints
913 received summarizing the above information. A copy of the log shall be
914 submitted April 15, July 15 and October 15 to the Zoning Administrator. An
915 annual summary shall be submitted on or before January 15.
- 916 g. Joyfield Township may designate a person to seek a complaint resolution that is
917 acceptable to complainant, Joyfield Township and the
918 applicant/owner/operator. If such a resolution cannot be obtained, Joyfield
919 Township may: a) seek arbitration or b) take action as authorized by the
920 enforcement section of this Ordinance.
- 921 h. Joyfield Township may at any time determine the complaint is subject to
922 enforcement and penalties as defined in this Ordinance.
- 923
- 924 11. Discontinuation, Decommissioning and Abandonment.
- 925
- 926 a. Removal Cost Guarantee: The cost of removal and site restoration is the full
927 responsibility of the applicant/owner/operator and property owner of record.
928 In order to provide the greatest possible financial assurance that there will be

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929 sufficient funds to administrate the removal of the WECS and to restore the site,
930 the following steps shall be followed:

- 931 i. For each WECS, the applicant/owner/operator and property owner of
932 record shall determine an amount of money equal to the estimated
933 removal and restoration costs plus 50%. Recycle or salvage value
934 cannot be included as a credit in the estimate.
- 935 ii. The Planning Commission shall require independent verification of the
936 adequacy of this amount.
- 937 iii. This money shall be deposited in an escrow account specified by Joyfield
938 Township which may be an interest bearing account. There shall be no
939 alternative to such account. For administration of the Escrow Account,
940 see Article 14.
- 941 iv. Withdrawals from the Escrow Account will be monitored and approved
942 by Joyfield Township or its designee, only to pay for removal and site
943 restoration of the WECS as provided for in this Ordinance.
- 944 v. If the applicant/owner/operator abandons, goes into bankruptcy or is
945 unable to fund the decommissioning, the property owner of record
946 and/or property owner will be responsible for the decommissioning.
- 947 vi. If the applicant/owner/operator defaults, the property owner of record
948 with the approval of Joyfield Township, or Joyfield Township, will use
949 the Escrow Account to fund the WECS removal and restoration of the
950 land.

951
952 b. Separation and Management of each Removal Cost Account: If more than one
953 WECS is owned by the same applicant/owner/operator or landowner, the
954 removal/restoration guarantee accounts may be joined together by
955 Township into a single account for that applicant/owner/operator or landowner.
956 However, accounts for different applicant/owner/operators or landowners shall
957 be kept separate. Joyfield Township may, from time to time, change the
958 financial institution in which such accounts are deposited.

959
960 After the WECS has been removed and site restoration has been completed, as
961 defined in this Ordinance, any balance remaining in this account shall be
962 returned to the applicant/owner/operator or landowner.

963
964 c. Insufficiency of Removal and Administrative Cost Accounts: During the useful
965 life and operation of the WECS, every three (3) years, Joyfield Township shall
966 determine whether the amounts deposited for removal, site restoration and
967 administration costs are adequate for these purposes. (Costs of removal,
968 restoration and administration may change due to technology, environmental
969 considerations, inflation and many other causes.) If Joyfield Township
970 determines that these amounts, including any interest earned to date, are not
971 adequate, Joyfield Township shall require the applicant/owner/operator or
972 landowner to make additional deposits to the escrow accounts. Joyfield
973 Township shall consider the WECS in violation of the Ordinance if the
974 applicant/owner/operator fails to cure the inadequacy within sixty (60) days of
975 notification.

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- d. Abandoned, Inoperable and Unsafe WECS(s) and Adverse Impacts:
 - i. Abandoned: Any WECS or anemometer tower that is not operated for a continuous period of six (6) months shall be considered abandoned and subject for removal.
 - ii. Unsafe: Any WECS or anemometer tower that is found to present an imminent physical threat of danger to life, health or a significant threat of damage to property shall be shut down immediately and removed or repaired or otherwise made safe. A third party Michigan professional engineer selected by Joyfield Township shall certify its safety prior to resumption of operation. The applicant/owner/operator or landowner shall notify the Joyfield Township Zoning Administrator or Joyfield Township's designee within twenty-four (24) hours of an occurrence of tower collapse, turbine failure, fire, thrown blade or hub, collector or feeder line failure or injury.

 - e. Removal and Site Restoration:
 - i. Within ninety (90) days of receipt of written notification from Joyfield Township, the applicant/owner/operator and landowner shall begin to remove any WECS or anemometer tower. The following shall be cause for removal of WECS and site restoration:
 - * if the applicant/owner/operator and landowner determines the system is at the end of its useful life; or
 - ** if Joyfield Township determines that the system is subject for removal because it is unsafe or abandoned; or
 - *** if Joyfield Township determines the SLUP is expired or has been revoked.
 - ii. Failure to begin to remove a WECS or anemometer tower within the ninety (90) day period provided in this subsection shall be grounds for either the Property Owner of Record or Township to remove the wind turbine generator or anemometer tower at the applicant/owner/operator and/or landowner's expense.
 - iii. All equipment associated with the WECS or anemometer tower including all materials above and below ground shall be removed and the site shall be restored to a condition that reflects the specific character of the site, including topography, vegetation, soils, drainage and any unique environmental features. The restoration shall include: road repair, if any, and all re-grading, soil stabilization, and re-vegetation necessary to return the subject property to a stable condition consistent with conditions existing prior to establishment of the WECS. The restoration process shall comply with all State, county, or local erosion control, soil stabilization and/or runoff requirements or ordinances and shall be completed within one (1) year of removal notification.
12. Certification of Insurance. The applicant/owner/operator and landowner shall indemnify and hold harmless Joyfield Township Trustees, Planning Commission

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members, Zoning Administrator and the non-participating township residents. All of the aforementioned shall be named as additional insureds against any and all claims arising out of the existence and installation, operation and decommissioning of the WECS. Applicant/owner/operator, lessee, and property owner of record shall procure comprehensive general liability, casualty, wrongful acts insurance policies, and any other policies customary to the wind energy system industry. This insurance shall be in the amount of \$3,000,000.00 (Three Million and 00/100 Dollars) per wind energy system, but not to exceed \$100,000,000.00 (One Hundred Million and 00/100 Dollars) in the aggregate if the applicant/owner/operator owns more than one wind energy system in Joyfield Township. The Joyfield Township Board may adjust these amounts periodically to reflect inflation. The applicant/owner/operator, lessee, and property owner of record shall maintain these insurance coverages for the duration of the construction, operation, decommissioning, removal and site restoration of the WECS. The insurance carrier shall be instructed to provide Joyfield Township with certificates of the existence of such insurance coverages (annually), and shall be instructed to notify Joyfield Township if such insurances expire for any reason. The applicant/owner/operator, lessee, and property owner of record shall continuously meet the conditions of the insurance policy (policies) to ensure that any future claims on the insurance policy will be paid in full. Failure of the applicant/owner/operator, lessee, and property owner of record to maintain these insurance coverages at all times and to meet the conditions to ensure full reimbursement of a claim shall result in termination of the permit. A copy of the full insurance policy (policies) including all attachments, endorsements, waivers, or other special conditions associated with the policy (policies) shall be provided to Joyfield Township Zoning Administrator (or other Township designee) upon request.

E. Small Roof-Mounted or Single Tower WECS less than 95ft in Height. (refer to Section 5.12)

F. Noise Measurement Protocols

- 1. Purpose

The potential impact of sound and sound induced building vibration associated with the operation of wind powered electric generators is often a primary concern for citizens living near proposed wind energy conversion systems (WECS). This is especially true of projects located near homes, residential neighborhoods, businesses, schools, and hospitals in quiet residential and rural communities. Determining the likely sound and vibration impacts is a highly technical undertaking and requires a serious effort in order to collect reliable and meaningful data for both the public and decision makers.
- 2. Sites with no existing Wind Energy Systems (Baseline Sound Study)
 - a. All properties within the proposed WECS project boundaries will be considered for this study. One test shall be conducted during the period defined by the months April through November with the preferred time being the months of June through August. These months are normally associated with more contact with the outdoors and when homes may have open windows during the evening and night. Unless directed otherwise by the Joyfield Township Planning

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- Commission, the season chosen for testing will represent the background soundscape for other seasons.
- b. All measurement points (MPs) shall be located with assistance from the Township Planning Commission property owner(s) and Joyfield Township’s Acoustical Consultant and positioned such that no significant obstruction (buildings, trees, etc.) blocks sound and vibration from the nearest proposed WECS site.
 - c. Sound level managements shall be taken as designated by Joyfield Township Acoustical Consultant.
 - d. Duration of measurements shall be a minimum of ten (10) continuous minutes for all criteria at each location. The duration must include at least six (6) minutes that are not affected by transient sounds from near-by and non-nature sources. The measurements shall consist of the metrics specified in Section 5.12.F.3.a.ii and Section 5.12.F.3.b.ii. Multiple ten (10) minute samples over longer periods such as 30 minutes or one (1) hour may be used to improve the reliability of the LA90 and LC90 values. For any sample to be valid, both LA10 minus LA90 and LC90 cannot be greater than 10dB and the maximum wind speed at the microphone must be less than 2 m/s during the same ten (10) minute period as the acoustic data. Of the valid samples, the ten (10) minute sample with the lowest valid L90 values will be used to define long term background sound.
 - e. The tests at each site selected for this study shall be taken during the expected 'quietest period of the day or night' as appropriate for the site. For the purpose of determining long term background sound characteristics, the preferred testing time is from 10 p.m. until 4 a.m. If circumstances indicated that a different time of the day should be sampled, the test may be conducted at the alternate time if approved by Joyfield Township.
 - f. Sound level measurements shall be made on a weekday of a non-holiday week. Weekend measurements may also be taken at selected sites where there are weekend activities that may be affected by wind turbine sound.
 - g. Measurements must be taken with the microphone at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface following ANSI S12.9-Part 3 protocol including selected options and other requirements outlined later in this Section.
 - h. The results of the model showing the predicted worst case LAeq and LCEq sound emissions of the proposed WECS project will be overlaid on a map (or separate LAeq and LCEq maps) of the project area.
 - i. The test points shall be located at the property line bounding the property of the turbine’s host closest to the wind turbine. Additional sites may be added if appropriate.
 - j. A grid comprised of one (1) mile boundaries (each grid cell is one (1) square mile) should be used to assist in identifying two (2) to ten (10) measurement points per cell. The grid shall extend to a minimum of two (2) miles at the discretion of the Joyfield Township Planning Commission. The measurement points shall be selected to represent the noise sensitive receptor sites based on the anticipated sound propagation form the combined wind turbines in the project.

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- 1116 3. Reporting
- 1117 a. For each Measurement Point and for each qualified measurement period,
- 1118 provide each of the following measurements:
- 1119 i. LAeq, LA10, and LA90, and
- 1120 ii. LCeq, LC10, and LC90
- 1121 b. A narrative description of any intermittent sounds registered during each
- 1122 measurement. This may be augmented with video and audio recordings.
- 1123 c. A narrative description of the steady sounds that form the background
- 1124 soundscape. This may be augmented with video and audio recordings.
- 1125 d. Wind speed and direction at the microphone (Measurement Point), humidity
- 1126 and temperature at time of measurement shall be included in the
- 1127 documentation. Corresponding information from the nearest 10 meter weather
- 1128 reporting station may also be obtained. Measurements taken only when wind
- 1129 speeds are less than 2 m/s (4.5 mph) at the microphone location will be
- 1130 considered valid for this study. A windscreen of the type recommended by the
- 1131 monitoring instrument's manufacturer must be used for all data collection.
- 1132 e. Provide a map and/or diagram clearly showing (using plot plan provided by
- 1133 Township or Applicant):
- 1134 i. The layout of the project area, including topography, the project
- 1135 boundary lines, and property lines.
- 1136 ii. The locations of the Measurement Points.
- 1137 iii. The distance between any Measurement Points and the nearest wind
- 1138 turbine(s).
- 1139 iv. The location of significant local non-WECS sound and vibration sources.
- 1140 v. The distance between all measuring points and significant local sound.
- 1141 vi. The location of all sensitive receptors including but not limited to:
- 1142 schools, day-care centers, hospitals, residences, residential
- 1143 neighborhoods, places of worship, and elderly care facilities.
- 1144
- 1145 4. Sound Level Estimate for Proposed Wind Energy Conversion Systems (When Adding
- 1146 More Wind Turbines to an Existing Project)
- 1147 a. In order to estimate the sound impact of the proposed WECS project on the
- 1148 existing environment, an estimate of the sound produced by the proposed
- 1149 WECS under the worst-case conditions for producing sound emissions must be
- 1150 provided. The estimate shall be developed using a computer sound
- 1151 propagation model using algorithms such as those specified in ISO 9613-2
- 1152 Acoustics-Attenuation of sound during propagation outdoors. General method
- 1153 of calculation with the following requirements:
- 1154 i. The reported sound pressure levels shall include the 3 dB tolerance
- 1155 (confidence limits) of the ISO 9613-2 procedure and the tolerance for
- 1156 the measurements and/or calculations used to derive the sound power
- 1157 level information for the wind turbine under IEC 61400-11. This is
- 1158 generally accepted to be an increase of 3.6 dB over the predicted sound
- 1159 pressure levels.
- 1160 ii. Sound power levels used to represent the wind turbine sound emissions
- 1161 shall represent operation during a stable atmospheric condition at night
- 1162 with a wind shear of 0.4 or higher above the temperature inversion

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boundary layer and/or other sources of in-flow turbulence. These conditions increase the wind turbine sound emissions above those reported by the IEC 61400-11 test procedure which test sound emissions during operation in a neutral atmosphere with wind shear of 0.2 or lower, very low in-flow turbulence, and a steady gradient of wind speed from ground level to a height greater than the top of the blades at their highest point of rotation. If this data is not available, a correction of five (5) dB shall be added to the predicted overall sound levels (dBA, dBC and dBLinear/unweighted) using the IEC data to account for the higher sound emissions.

- iii. The sound propagation of low frequency sounds in the 125 Hz octave band and below shall be assumed to be at a rate of 3 dB per doubling of distance to account for atmospheric conditions. Sound propagation of sounds above the 125 Hz octave band may be either at 3 dB or 6 dB per doubling of distance depending on the arrangement of the wind turbines. If the arrangement is generally linear, then all frequencies shall be calculated using a 3 dB per doubling decay rate.

- b. The qualifications of the firm should be presented along with details of the procedure that will be used, software applications, and any limitations to the software or prediction methods as required elsewhere in this Ordinance for models.

- c. Provide the manufacturer's sound power level (L_{Aw}) and (L_{ew}) characteristics for the proposed WECS operating at full load utilizing the methodology in IEC 61400-11 Wind Turbine Noise Standard. Provide one-third octave band sound power level information from 6.3 Hz to 10,000 Hz or 1/1 octave band sound power levels from 8Hz to 10,000 Hz. Furnish the data in tabular format using no frequency weighting including the summation of the sound pressure levels in the individual frequency bands (e.g. dB linear). A-weighted and C-weighted data is optional. Provide sound pressure levels predicted for the WECS in combination and at full operation and at maximum sound power output for all areas where the predictions indicate LA_{eq} levels of 30 dBA and above. The same area shall be used for reporting the predicted LC_{eq} levels. Contour lines shall be in increments of 5 dB.

- d. Present tables with the predicted sound levels for the proposed WECS as LA_{eq} and LC_{eq} and at all octave band centers (8 Hz to 10,000 Hz) for distances of 500, 1000, 1500, 2000, 2500 and 5000 feet from the center of the area with the highest density of WECS. For projects with multiple WECS, the combined sound level impact for all WECS operating at full load must be estimated.

- e. The above tables must include the impact (increased dBA and dBC (L_{eq}) above baseline L90 long term background sound levels measured according to the procedures above) of the WECS operations on all residential and other noise sensitive receiving locations within the project boundary. To the extent possible,

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1209 the tables should include the sites tested (or likely to be tested) in the
1210 background study.

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1212 f. Provide a contour map of the expected sound level from the new WECS using 5
1213 dB and LAeq and LCEq increments created by the proposed WECS extending out
1214 to a distance of two (2) miles from the project boundary, or other distance
1215 necessary, to show the 25 LAeq and 50 LCEq boundaries.

1216
1217 g. Provide a description of the impact of the proposed sound from the WECS
1218 project on the existing environment. The results should anticipate the receptor
1219 sites that will be most negatively impacted by the WECS project and to the
1220 extent possible provide data for each measuring points (MPs) that are likely to
1221 be selected in the background sound study (note the sensitive receptor
1222 measuring points):

1223 i. Report expected changes to existing sound levels for LAeq and LA90.

1224 ii. Report expected changes to existing sound levels for LCEq and LC90.

1225 iii. Report the expected changes to existing sound pressure levels for each
1226 of the 1/3 or 1/1 octave bands in tabular form from 6.3/8 Hz to 10,000
1227 Hz octave band centers.

1228 iv. Report all assumptions made in arriving at the estimate of impact, any
1229 limitations that might cause the sound levels to exceed the values of the
1230 estimate, and any conclusions reached regarding the potential effects
1231 on people living near the project area. If the effects of coherence, worst
1232 case weather, or operating conditions are not fully reflected in the
1233 model, a discussion of how these factors could increase the predicted
1234 values is required.

1235 v. Include an estimate of the number of hours of operation expected from
1236 the proposed WECS and under what conditions the WECS would be
1237 expected to run. Any differences from the information filed with the
1238 application should be addressed.

1239 vi. The over-all values shall be presented as overlays to the Applicant's
1240 ISO-level plot plan graphics and, for 1/1 or 1/3 octave data, in tabular
1241 form with location information sufficient to permit comparison of the
1242 baseline results to the predicted levels.

1243
1244 5. Post Construction Measurements.

1245 Within twelve months of the date when the project is fully operational, preferably
1246 within four (4) weeks of the anniversary date of the pre-construction background sound
1247 measurements, repeat the measurements. Post construction sound level measurements
1248 shall be taken both with all the WECS running and with all the WECS off except as
1249 provided in this ordinance. Joyfield Township shall identify specific locations that shall
1250 be included based on formal or informal complaints. The post construction tests shall
1251 also include the locations used for the long-term background sound level tests.
1252 Additional sites may also be included at the discretion of the Acoustical consultant
1253 conducting the study. These studies must include measurements during nighttime
1254 conditions of stable atmosphere with high wind shears and/or turbulence at the
1255 elevation of the blades and all other weather or operating conditions that may have

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been reported as high noise conditions by formal or informal complaints. The post construction tests must include specific tests for all conditions that result in high wind turbine noise either outside or inside homes of non-participating residential property owners.

Report post-construction measurements to the Joyfield Township Planning Commission using the same format as used for the background study.

6. Instrumentation/Measurement Standard/References.

All instruments and other tools used to measure audible, inaudible and low frequency sound shall meet the requirements for ANSI or IEC Type 1 Integrating Averaging Sound Level Meter Standards. The principle standard reference for this Ordinance is ANSI S12.9-Part 3 with important additional specific requirements for the measuring instrumentation and measurement protocol.

1.5 Windscreen: Required

5.1 Background sound: Use definition (1) 'long-term'

5.2 Long-term background sound: The L90 excludes short-term background sounds

5.3 Basic measurement period: Ten (10) minutes L90 (10 minutes)

5.6 Sound Measuring Instrument: Type 1 Integrating Meter meeting ANSI S1.43 or IEC 61672-1. The sound level meter shall cover the frequency range from 6.3 Hz to 20,000 Hz and simultaneously measure dBA LN and dBC LN. The instrument must also be capable of accurately measuring low-level background sounds down to 20 dBA.

6.6(a) An anemometer accurate to $\pm 10\%$ at 2 m/s (4.5 mph) to full scale accuracy. The anemometer shall be located 1.5 to 2 meters above the ground and oriented to record the maximum wind velocity. The maximum wind velocity, wind direction, temperature and humidity shall be recorded for each ten (10) minute sound measurement period observed within five (5) meters of the measuring microphone.

7.1 Long-term background sound.

7.2 Data Collection Methods: Second method with observed samples to avoid contamination by short-term sounds (purpose: to avoid loss of statistical data).

8. Source(s) Data Collection: All requirements in ANSI S12.18 Method #2 precision to the extent possible while still permitting testing of the conditions that lead to complaints. The meteorological requirements in ANSI S 12.18 may not be applicable for some complaints. For sound measurements in response to a complaint, the compliance sound measurements should be made under conditions that replicate the conditions that caused the complaint without exceeding instrument and windscreen limits and tolerances.

8.1(b) Measuring microphone with windscreen shall be located 1.2 meters to 1.8 meters (1.5 meters preferred) above the ground and greater than 8 meters from large sound reflecting surface.

8.3(a) All meteorological observations required at both (not either) microphone and nearest 10 meters weather reporting station.

8.3(b) For a 10 minute background sound measurement to be valid, the wind velocity shall be less than 2 m/s (4.5 mph) measured less than 5 meters from the

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1302 microphone. Compliance sound measurements shall be taken when winds shall
1303 be less than 4 m/s at the microphone.

1304 8.3(c) In addition to the required acoustic calibration checks, the sound measuring
1305 instrument internal noise floor, including microphone, must also be checked at
1306 the end of each series often minute measurements and no less frequently than
1307 once per day. Insert the microphone into the acoustic calibrator with the
1308 calibrator signal off. Record the observed dBA and dBC reading on the sound
1309 level meter to determine an approximation of the instrument self-noise.
1310 Perform this test before leaving the background measurement location. This
1311 calibrator covered microphone test must demonstrate the results of this test
1312 are at least 5 dB below the immediately previous ten-minute acoustic test
1313 results, for the acoustic background data to be valid.

1314
1315 This test is necessary to detect undesired increase in the microphone and sound
1316 level meter internal self-noise. As a precaution, sound measuring
1317 instrumentation should be removed from any air conditioned space at least an
1318 hour before use. Nighttime measurements are often performed very near the
1319 meteorological dew point. Minor moisture condensation inside a microphone or
1320 sound level meter can increase the instrument self-noise and void the measured
1321 background data.

1322 8.4 The remaining sections starting at 8.4 in ANSI S12.9 - Part 3 Standard do not
1323 apply.

1324
1325 G. Other Applicable Standards

1326
1327 ***Supplemental - ANSI S12.18 -1994 (R2004) American National Standard Procedures for Outdoor***
1328 ***Measurement of Sound Pressure Level***

1329
1330 This American National Standard describes procedures for the measurement of sound pressure levels in
1331 the outdoor environment, considering the effects of the ground, the effects of refraction due to wind
1332 and temperature gradient, and the effects due to turbulence. This standard is focused on measurement
1333 of sound pressure levels produced by specific sources outdoors. The measured sound pressure levels
1334 can be used to calculate sound pressure levels at other distances from the source or to extrapolate to
1335 other environmental conditions or to assess compliance with regulation.

1336
1337 This standard describes two methods to measure sound pressure levels outdoors. METHOD NO.1:
1338 general method; outlines conditions for routine measurements. METHOD NO.2: precision method;
1339 describes strict conditions for more accurate measurements. This standard assumes the measurement
1340 of A-weighted sound pressure or time-averaged sound pressure level or octave, 1/3-octave or
1341 narrowband sound pressure, but does not preclude determination of other sound descriptors.

1342
1343 ***Supplemental - ANSI S1.43-1997 (R2007) American National Standard Specifications for Integrating***
1344 ***Averaging Sound Level Meters***

1345
1346 This standard describes instruments for the measurement of frequency weighted and time-average
1347 sound pressure levels. Optional, sound exposure levels may be measured. This standard is consistent
1348 with the relevant requirements of ANSI S1.4 - 1983 (R 1997) American National Standard Specification

1349 for Sound Level Meters, but specifies additional characteristics that are necessary to measure the
1350 timeaverage sound pressure level of steady, intermittent, fluctuating, and impulsive sounds.

1351
1352

1353 ***Supplemental - ANSI S1.11 - 2004 American National Standard 'Specification for Octave-Band and***
1354 ***Fractional-Octave-Band Analog and Digital Filters'***

1355

1356 This standard provides performance requirements for analog, sampled-data, and digital
1357 implementations of band-pass filters that comprise a filter set or spectrum analyzer for acoustical
1358 measurements. It supersedes ANSI S1.11 - 1986 (R1998) American National Standard Specification for
1359 Octave-Band and Fractional Octave-Band Analog and Digital Filters, and is a counterpart to International
1360 Standard IEG 61260: 1995 Electroacoustics – Octave-Band and Fractional-Octave-Band Filters. Significant
1361 changes from ANSI S1.11 - 1986 have been adopted in order to conform to most of the specifications of
1362 IEG 61260: 1995. This standard differs from IEG 61260:1995 in three ways: (1) the test methods of IEG
1363 61260 clause 5 n is moved to an informative annex, (2) the term 'band number,' not present in IEC
1364 61260, is used as in ANSI S1.11 - 1986, (3) references to American National Standards are incorporated,
1365 and (4) minor editorial and style differences are incorporated.

1366

1367 ***Supplemental - ANSI S1.40 - 2006 American National Standard Specifications and Verification***
1368 ***Procedures for Sound Calibrators***

1369

1370 ***Supplemental - IEC 61400-11***

1371

1372 Second edition 2002-12, Amendment 1 2006-05

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1374 ***Supplemental - IEC 61400-11***

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1376 Second edition 2002-12, Amendment 1 2006-0

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1378 ***Supplemental - Wind turbine generator system-Part 11: Acoustic noise measurement techniques***

1379

1380 The purpose of this part of IEC 61400 is to provide a uniform methodology that will ensure consistency
1381 and accuracy in the measurement and analysis of acoustical emissions by wind turbine generator
1382 systems. Its purpose is to standardize testing of wind turbine sound emissions so that the purchasers
1383 can compare noise emissions. It also provides the data needed to construct noise models. It is not
1384 intended as a community noise standard and should not be used or referenced as such.

1385

1386 ***Supplemental - End of Measurement Procedure***

1387

1388 This procedure may be modified as recommended by the qualified/certified acoustical specialist if a
1389 more recent ANSI or other method is available and accepted by the Township Planning Commission.

1390

1391 **5.12 Private Wind Energy Conversion Facilities (Private WECF)**

1392

1393 A. Authorization: Private WECFs shall be construed as accessory structures, as defined in this
1394 Ordinance, and are permissible in all districts.

1395

1. Approval Procedures.

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- 1396 a. Zoning Administrator Approval. A private WECF that meets the
1397 conditions of subsection (1) or (2) below is subject to Zoning
1398 Administrator approval. The applicant shall submit a plot plan
1399 containing the information required by Section 11.4 and any
1400 additional information necessary to demonstrate conformance with
1401 the standards of subsection (B) below. The Zoning Administrator shall
1402 approve such application upon finding that the WECF application
1403 complies with the standards and regulations of this Section and
1404 Ordinance.
- 1405 b. The private WECF is no greater than sixty (60) feet in height,
1406 measured from the ground elevation below to the highest point of
1407 the wind turbine including to a blade tip in its highest vertical position
1408 if such tip is the highest point, and is to be located a minimum of
1409 one-hundred fifty (150) feet from an existing building on another lot.
- 1410 c. The private WECF is no greater than twenty (20) feet in height,
1411 measured from the ground elevation below to the highest point of
1412 the wind turbine including to a blade tip in its highest vertical position
1413 if such tip is the highest point, and is to be no closer to a lot line than
1414 two (2) times the height of the WECF.
- 1415 d. Planning Commission Approval. A private WECF that is not subject to
1416 Zoning Administrator approval according to subsection (a) above shall
1417 be subject to Planning Commission approval. The applicant shall
1418 submit a plot plan containing the information required by Section
1419 14.3 and any additional information necessary to demonstrate
1420 conformance with the standards of subsection (B) below. The
1421 Planning Commission shall approve such application upon finding that
1422 the WECF application complies with the standards and regulations of
1423 this Section and Ordinance, and that the WECF is sited to maximize
1424 compatibility with surrounding conditions to the greatest extent
1425 practical.

1426 **B. Standards:**

1427 **1. Visual Appearance.**

- 1428 a. A private WECF shall be a non-reflective, non-obtrusive color (e.g.
1429 white, gray, black). The appearance of the turbine, tower and any
1430 ancillary facility shall be maintained throughout the life of the WECF.
- 1431 b. A private WECF shall not be artificially lighted, except to the extent
1432 required by the FAA or other applicable authority, or otherwise
1433 necessary for the reasonable safety and security thereof.
- 1434 c. A private WECF shall not be used for displaying any advertising
1435 (including flags, streamers, or decorative items), except for
1436 identification of the turbine manufacturer.

1437
1438 **2. Ground Clearance.**

- 1439 a. The lowest extension of any exposed blade or other exposed moving
1440 component of a private WECF shall be at least twenty (20) feet above
1441 the ground, at the highest point of the natural grade within fifty (50)
1442 feet of the WECF, and at least twenty (20) feet above any outdoor

- 1443 surfaces intended for human use including balconies or roof gardens,
1444 that are located below the WECF.
- 1445 b. There shall be required no minimum clearance for any exposed blade
1446 or other moving component where the movement is of a horizontal
1447 nature and the design and construction of the WECF does not permit
1448 access below such moving features or the moving features are a
1449 minimum of five (5) feet above the ground below. Noise: Noise
1450 emanating from the operation of a private WECF shall not exceed the
1451 lowest ambient sound level that is present between the hours of 9:00
1452 p.m. and 9:00 a.m. at any property line of a residential or agricultural
1453 used parcel or from the property line of parks, schools, hospitals and
1454 churches. Noise emanating from the operation of a private WECF
1455 shall not exceed, at any time, the lowest ambient noise level plus 5
1456 dBA that is present between the hours of 9:00 p.m. and 9:00 a.m. at
1457 any property line of a non-residential or non-agricultural use parcel.
1458
- 1459 3. Vibration.
- 1460 a. Vibrations shall not be produced which are humanly perceptible
1461 beyond the lot on which the WECF is located.
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- 1463 4. Guy Wires. Guy wires are prohibited.
1464
- 1465 5. Electrical System. All electrical systems shall comply with all state, county and
1466 National Electrical Codes.
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- 1468 6. Design. The design of a private WECF shall conform to industry standards.
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- 1470 7. Height. A private WECF shall not exceed a height of eighty (80) feet, measured from
1471 the normal ground elevation below to the highest point of the wind turbine including
1472 to a blade tip in its highest vertical position.
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- 1474 8. Setbacks.
- 1475
- 1476 9. A private WECF and test tower shall be set back from all lot lines, public right-of-ways,
1477 public easements, occupied buildings and overhead utility lines, a distance equal to the
1478 height of the wind turbine, as measured from the normal ground elevation at the wind
1479 turbine base to the highest point of the wind turbine including to a blade tip in its
1480 highest vertical position.
- 1481 a. If mounted directly on a roof or other elevated surface of an existing
1482 structure, the setback for a private WECF shall be a minimum of fifteen (15)
1483 feet from all lot lines, public right-of-ways, public easements, occupied
1484 buildings and overhead utility lines.
- 1485 b. If a private WECF is affixed by any extension to the side, roof, or other
1486 elevated surface, then the minimum fifteen (15) foot setback in (b) above
1487 shall be increased by the same dimension as the extension.
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1489 10. Shadow Flicker. A private WECF shall be sited in such a manner to minimize shadow
1490 flicker from the blades on any road or on any building on an adjacent property existing
1491 at the time the application is considered. The approving body may require the applicant
1492 to submit a shadow report illustrating or otherwise delineating the projected shadow
1493 pattern of the WECF on June 21 and December 21, specific to the Joyfield Township,
1494 including the source and basis for such projections.
1495

1496 **5.13 Wireless Communication Facilities**
1497

1498 A. Class One Wireless Communication Facility.

1499 Any wireless communication facility and modifications thereto that meet all of the following
1500 requirements:

- 1501 1. No construction or other improvements provide for the erection of a new wireless
1502 communications support structure, but may provide for an increase in height of an
1503 existing tower as provided by subsection (c)(1) below.
 - 1504 a. All proposed wireless communications equipment will be collocated on an existing
1505 wireless communications support structure or in an existing equipment compound.
 - 1506 b. The existing wireless communications support structure or existing equipment
1507 compound is in compliance with this Ordinance or was previously approved by the
1508 municipality in which it is located.
 - 1509 c. The proposed collocation of equipment shall not do any of the following:
 - 1510 i. Increase the overall height of the wireless communications support
1511 structure by more than 20 (twenty) feet or 10% (ten percent) of its
1512 original height, whichever is greater.
 - 1513 ii. Increase the width of the wireless communications support structure by
1514 more than the minimum necessary to permit collocation.
 - 1515 iii. Increase the area of the existing equipment compound to greater than
1516 2,500 square feet.
 - 1517 iv. Be in violation of the terms and conditions of any previous final approval
1518 of the wireless communications support structure or equipment
1519 compound by the then-designated approving body.

1520 B. Class Two Wireless Communication Facility:. The erection of a new wireless
1521 communications support structure, or any modification of an existing wireless communication
1522 facility that is not classified as Class One Wireless Communication Facility.

1523 C. Application, Review and Approval for Class One Wireless Communication Facility.

1524 A Class One Wireless Communication Facility constitutes a use permitted by right in any district,
1525 subject to site plan approval according to Article 11.

- 1526 1. Application Review Time Frame and Fees
 - 1527 a. After a Class One application for a wireless communication facility is
1528 filed with the Planning Commission, the Planning Commission shall determine
1529 whether the application is administratively complete. Unless the Planning
1530 Commission proceeds as provided under subsection (b) below, the
1531 application shall be considered to be administratively complete when the
1532 Planning Commission makes that determination or the passing of fourteen
1533 (14) business days after the Planning Commission receives the application,
1534 whichever occurs first.

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- 1535 b. If, before the expiration of the fourteen (14) day period under subsection (a)
- 1536 above, the Planning Commission notifies the applicant that the application is
- 1537 not administratively complete, specifying the information necessary to make
- 1538 the application administratively complete, or notifies the applicant that a fee
- 1539 required to accompany the application has not been paid, specifying the
- 1540 amount due, the running of the 14-day period under subsection (a) above is
- 1541 tolled until the applicant submits to the body or official the specified
- 1542 information or fee amount due. The notice shall be given in writing or by
- 1543 electronic notification. A fee required to accompany any application shall not
- 1544 exceed actual, reasonable costs to review and process the application or
- 1545 \$1,000.00, whichever is less.
- 1546 c. The Planning Commission shall approve or deny the application not more
- 1547 than sixty (60) days after the application is considered to be administratively
- 1548 complete. If the Planning Commission fails to timely approve or deny the
- 1549 application, the application shall be considered approved and the Planning
- 1550 Commission shall be considered to have made any determination required for
- 1551 approval.

1552 D. Application, Review and Approval for Class Two Wireless Communication Facility:

1553 A Class Two Wireless Communication Facility constitutes a special land use and shall be subject to
1554 this Ordinance’s provisions addressing the same including compliance with Article 11, Article 5
1555 (Special Land Uses) and the following provisions:

- 1556 1. Application Review Time Frame and Fees: The provisions of subsection (C)(1) above
- 1557 shall apply to Class Two applications for wireless communication equipment except
- 1558 that the Planning Commission shall approve or deny the application not more than
- 1559 ninety (90) days after the application is considered to be administratively complete.
- 1560 2. Additional Application Requirements: In addition to submitting the information
- 1561 required for all special land use applications, including a site plan pursuant to Article
- 1562 11, each applicant for a Class Two wireless communication facility shall provide the
- 1563 following additional information. Any information of an engineering nature that the
- 1564 applicant submits, whether civil, mechanical, electrical, or structural, shall be
- 1565 certified by a licensed professional engineer of applicable expertise registered in the
- 1566 State of Michigan.
 - 1567 a. An inventory of its existing towers, antennas, or sites approved for towers
 - 1568 or antennas, that are within Joyfield Township and one (1) mile of the
 - 1569 border thereof, including specific information about the location, height
 - 1570 and design of each tower, the distance from the proposed tower, the
 - 1571 owner(s)/operator(s) of the existing tower(s), and any additional
 - 1572 information that is relevant in terms of potential collocation or in
 - 1573 demonstrating the need for the proposed facility.
 - 1574 b. Elevation drawings of the proposed tower and any other structures.
 - 1575 c. The distance between the proposed tower to dwellings within a one-half
 - 1576 (1/2) mile radius, and the distance to Residential districts and platted and
 - 1577 similar neighborhood developments.
 - 1578 d. Method of fencing and finished color and, if applicable, the method of
 - 1579 camouflage.

- 1580 e. A written statement by the applicant as to whether construction of the
- 1581 tower will accommodate collocation of additional antennae for future
- 1582 users.
- 1583 f. Identification of the entities providing the lines that connect a provider's
- 1584 towers/cell sites to one or more cellular telephone switching offices, long
- 1585 distance providers, and/or the public switched telephone network
- 1586 (backhaul routes) for the tower(s) described in the application, and other
- 1587 cellular sites owned or operated by the applicant in Joyfield Township.
- 1588 g. A description of the suitability of the use of existing towers, other
- 1589 structures, or alternative technology not requiring the use of towers or
- 1590 structures, to provide the services of the proposed new tower.
- 1591 h. A certification by a professional engineer of applicable expertise licensed
- 1592 in Michigan that all construction features of the tower comply with the
- 1593 requirements of all agencies having jurisdiction and the State Construction
- 1594 Code.

1595 E. Compliance with Table 5.2:

1596 See Table 5.2 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and

1597 maximum building height and lot coverage, except as follows:

- 1598 1. The lot on which a tower is located shall be equal to or exceed 2 acres in size.
- 1599 2. Class Two towers and antennas shall be set back from lot lines a minimum distance
- 1600 equal to the tower's height, including antennas, except where the application
- 1601 documents that the tower is designed to fall upon itself, in which case the minimum
- 1602 setback shall be one-half the height of the tower but not less than one-hundred
- 1603 (100) feet.
- 1604 3. No tower shall exceed one hundred ninety five (195) feet in height, measured from
- 1605 the base of the tower to the highest point of the tower including antennae. All
- 1606 towers and antenna shall comply with the height restrictions of any airport
- 1607 management plan filed with and approved by the Michigan Aeronautics
- 1608 Commission.

1609 F. Additional Standards:

- 1610 1. Separation Distances: The following separation distances shall apply to Class Two
- 1611 wireless communication facilities except that the approving body may reduce the
- 1612 standard separation distance by no greater than twenty-five percent (25%) upon a
- 1613 finding that there exist on-site or surrounding conditions that mitigate the need for
- 1614 such separation distances and that the purpose of this Ordinance will be preserved.
- 1615 Separation distances shall be measured from the base of the tower to the lot line of
- 1616 the off-site use except where otherwise noted.
- 1617

1618 **Table 5.2**

Off-Site Use or Designated Area	Separation Distance
Rural	300 feet or 150% of the tower's height, whichever is greater.

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Commercial	200 feet or 100% of the tower's height, whichever is greater.
Another communication tower	1 mile, measured by a straight line between the base of the existing and proposed tower.

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2. Fencing and Lighting
 - a. The base of a tower shall be fenced with a minimum six (6) foot high fence with anti-climbing measures.
 - b. Towers and antenna shall not be artificially lighted unless required by the Federal Aviation Administration or Federal Communications Commission. If lighting is required, the lighting plan shall cause the least disturbance to surrounding uses.
3. Tower Construction
 - a. Towers shall be of monopole construction. Guy wires are prohibited.
 - b. Towers shall be of a white, light gray, silver or other similar color that blends with the background sky, and shall be constructed of or treated with corrosive resistant material.
 - c. All towers and antennas including all support systems, antenna mounts, structural and electrical components, and wind load resistance, shall comply with the most current standards and regulations of the Federal Aviation Authority, Federal Communications Commission, State Construction code and all other codes and agencies having jurisdiction, and shall be maintained in compliance.
 - d. All new communication towers shall be designed and constructed so as to accommodate collocation of a minimum of three (3) wireless communication facilities.
4. Landscaping and Signage
 - a. Signage shall be limited to emergency information only except as may be required bylaw.
 - b. Trees shall be established, if not already present, that effectively screen the view of the tower facility from nearby residential properties, and shall provide for coniferous plantings spaced at no greater than fifteen (15) feet apart and located within forty (40) feet of the perimeter of the tower facility and within any leased land area comprising the tower facility.
5. Presence of Personnel: No persons shall be located on a communication tower site except for the occasional presence of personnel associated with periodic maintenance or emergency conditions.
6. General Design: The design of buildings and structures shall, to the greatest extent practical, use materials, colors, textures and screening that will encourage their compatibility with surrounding buildings. Where an antenna is installed on a structure other than a tower, the antenna and supporting equipment shall be of a color to make the antenna and equipment as visually unobtrusive as reasonably practical.
7. Collocation

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- 1660 a. Statement of Policy: It is the policy of Joyfield Township to minimize the
- 1661 overall number of newly established locations for communication towers
- 1662 within the community, and encourage the use of existing structures or
- 1663 towers while promoting the public health, safety and welfare and
- 1664 minimizing negative impacts of such sites. If a provider fails or refuses to
- 1665 permit collocation on a facility owned or otherwise controlled by it, where
- 1666 collocation is feasible, the result will be that a new and unnecessary
- 1667 additional structure will be compelled, contrary to Joyfield Township's
- 1668 policy for collocation. The provisions of this subsection are designed to
- 1669 carry out and encourage conformity with this policy.
- 1670 b. Feasibility of Collocation: Collocation shall be deemed to be feasible and
- 1671 practical for purposes of this subsection (7) except where satisfactory
- 1672 evidence is submitted demonstrating that no existing tower, structure or
- 1673 alternative technology can accommodate the applicant's proposed
- 1674 antenna. Such evidence may consist of any of the following:
- 1675 i. No existing towers or structures are located within the geographic
- 1676 area that meets applicant's engineering requirements.
- 1677 ii. Existing towers or structures are not of sufficient height to meet
- 1678 applicant's engineering requirements.
- 1679 iii. Existing towers or structures do not have sufficient structural strength
- 1680 to support applicant's proposed antenna and related equipment.
- 1681 iv. The applicant's proposed antenna would cause electromagnetic
- 1682 interference with the antenna on the existing towers or structures, or
- 1683 the antenna on the existing towers or structures would cause
- 1684 interference with the applicant's proposed antenna.
- 1685 v. The fees, costs, or contractual provisions required by the owner in
- 1686 order to share an existing tower or structure or to adapt an existing
- 1687 tower or structure for sharing are unreasonable. Costs exceeding new
- 1688 tower development are presumed to be unreasonable.
- 1689 vi. The applicant demonstrates that there are other limiting factors that
- 1690 render existing towers and structures unsuitable.
- 1691 vii. The applicant demonstrates that an alternative technology that does
- 1692 not require the use of towers or structures, such as a cable micro cell
- 1693 network using multiple low-powered transmitters/receivers attached
- 1694 to a wire line system, is unsuitable. Costs of alternative technology
- 1695 that exceed new tower or antenna development shall not be
- 1696 presumed to render the technology unsuitable.
- 1697 c. Requirements for Collocation:
- 1698 i. A permit for the construction and use of a communication tower shall not
- 1699 be granted unless and until the applicant demonstrates that a feasible
- 1700 collocation is not available for the coverage area and capacity needs.

1701 G. Discontinuation, Decommissioning, and Abandonment:

1702 Refer to Section 5.18.d.11 for compliance standards.

1703

1704 H. Removal

- 1705 1. Any tower that is not operated for a continuous period of 365 days shall be
- 1706 considered abandoned, and the owner of such tower shall remove the same
- 1707 and the site shall be restored to the condition it existed prior to the

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placement of the tower within ninety (90) days of receipt of notice from the zoning administrator for such removal. In the case where there are multiple users of a single tower, removal of the tower shall be not be required until all users cease use of the tower for a continuous period of 365 days.

- 2. If the required removal of a facility has not been completed within ninety (90) days of the condition specified in subsection (a) above, the facility may be removed with reliance on the security posted at the time application was made for establishing the facility.

I. Nonconforming Towers/Antenna:

Nonconforming towers and antennas shall be subject to the provisions of Article 12, Nonconforming Lots, Uses and Structures, except that a nonconforming tower or antenna that is damaged or destroyed may be rebuilt provided the new tower is of the same type, height and location of the original tower, and the tower facility is of no greater intensity than the original facility. This provision shall apply provided all building permits for the new tower are acquired within 180 days of the damage date. If such permits are not acquired within this time frame or said permits expire, the tower or antenna shall be deemed abandoned and subject to the removal provisions of subsection (8) above.

5.14 Reasonable Conditions

- A. Site plans for Special Land Uses, Planned Unit Developments, Condominium Projects, variances or other discretionary decisions may be approved with reasonable conditions.
- B. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet the following requirements:
 - 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 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 to the proposed use or activity.
 - 3. Be necessary to meet the intent and purpose of the zoning requirements ;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.
 - 4. Be in compliance with the conditions of any permits and approvals issued for the project by other jurisdictions or agencies.
- C. Recording Conditions with the Register of Deeds .At the direction of the body or official making the final decision to approve or approve with conditions a Planned Unit Development, Special Land Use, variance or other discretionary approval authorized by this Ordinance, or as otherwise may be specified by this Ordinance or at the discretion

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of the Zoning Administrator, an approval or approval with conditions may be recorded with the County Register of Deeds. The following requirements shall be met with each recording :

1. The applicant shall record an affidavit which has received the approval of Joyfield Township's Attorney with the County Register of Deeds containing the full legal description of the project site, containing the approved site plan, the specific terms of any permit, any documents that pertain to permanent preservation of open space, the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by Joyfield Township. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds of the County in which the property is located and copies of all recorded documents shall be presented to the Zoning Administrator. These documents shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. The applicant shall submit proof to the Zoning Administrator that these documents have been recorded with the County Register of Deeds within ninety (90) calendar days of project approval or the approval shall be rendered invalid. Once the proper documents have been recorded with the County Register of Deeds, the applicant may proceed, consistent with the approved Site Plan and Permit, to develop the land.
2. A copy of any agreement between joint users of parking areas shall be filed with the application for a Zoning Permit and recorded with the Register of Deeds. The agreement shall include a guarantee for continued use of the parking facility by each party. A copy of all recorded documents shall be presented to the Zoning Administrator.
3. All documents to be recorded with the County Register of Deeds at the initiative of Joyfield Township, shall be first reviewed and approved as to form and content by Joyfield Township Attorney or other legal representative of Joyfield Township retained for that purpose.

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**Article 6
RESERVED**

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Article 7
GENERAL REGULATIONS

7.1 Purpose

It is the purpose of this Article of the Ordinance to provide regulations for miscellaneous and other requirements that apply in all zoning districts to all permitted uses and special uses.

7.2 Scope

Zoning applies to all lots of land and to every building, structure or use. No lot of land, no building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, altered, occupied or used except in conformity with this Ordinance.

7.3 General Provisions

No lot, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided that any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements:

- A. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved as is required by applicable provisions of the State Construction Code and rules promulgated hereunder and/or the State Fire Marshal.
- B. No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.
- C. No vibration shall be permitted which is discernible without instruments on any adjoining lot or property.
- D. No malodorous gas, vapor or matter shall be permitted which is offensive or as to produce a public nuisance or hazard on any adjoining lot or property.
- E. No pollution of air by fly-ash, dust, or other substances shall be permitted in excess of the applicable state or federal air pollution statutes or regulations promulgated by rule hereunder.
- F. Pollution of water shall be subject to such requirements and regulations as are established by State, County or Federal water pollution statutes or regulations promulgated by rule hereunder.
- G. Audible noise shall refer to Section 10.3 B – Community Noise Standards.

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- 47 H. Any use, proposed use, or activity that the Zoning Administrator may determine as
48 possibly not meeting the standards / requirements of A through G (above) must be
49 reviewed and approved by the Joyfield Township Planning Commission.
50

51 **7.4 Waste Accumulation and Outside Storage**

52 It shall be unlawful for any person to accumulate rubbish or waste materials of any kind on any land in
53 Joyfield Township except in a permitted junkyard or a licensed sanitary landfill. No sewage, waste water
54 or water containing foreign substances shall be deposited or drained into any open ditch, creek, stream,
55 lake, pond, or other body of water unless the same has first been approved by state and county health
56 authorities. The provisions of this Section shall not be deemed to prohibit storing or spreading of
57 manure, fertilizers, or other soil conditioners as part of a permitted farm, forestry or home garden or
58 lawn operation.
59

60 **7.5 Removal of Soil, Sand and Other Material**

61 The use of land for the removal of topsoil, sand, gravel or other material to be sold from the land is not
62 permitted in any district except District R and then only under special land use permit issued by the
63 Joyfield Township Planning Commission pursuant to the provisions of Article 5. The application shall be
64 accompanied by the filing of a suitable agreement or bond that such removal will not cause stagnant
65 water to collect or leave the surface of the land in an unstable condition or unfit for growing of turf or
66 other land uses permitted in the district in which such removal occurs. Contaminated soils shall not be
67 sold or removed offsite without approval from the appropriate state agency.
68

69 **7.6 Fill**

70 A permit to fill shall be issued when it is determined:
71

- 72 A. A completed application is submitted to the Zoning Administrator. The application shall
73 contain:
74
- 75 1. A specification sheet showing the existing and proposed grade levels established by
76 a topographic survey of the area proposed for grading and fill,
77
 - 78 2. A statement as to the materials to be used,
79
 - 80 3. The period of time over which the fill will be brought to the site, and
81
 - 82 4. The contour of the lot after the proposed fill is completed.
83
- 84 B. That the proposed filling will not cause surface water to collect or to run-off onto
85 adjoining lands contrary to normal and natural drainage.
86
- 87 C. That the proposed fill material will not unreasonably cause blowing dust, grime, fumes
88 or odors.
89
- 90 D. That the proposed fill will not decay or rot in such a manner as to cause holes or soft
91 areas to develop in the filled area.
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- 93 E. The fill will not restrict a floodway or destroy the storage capacity of a floodplain.
- 94
- 95 F. The fill will stabilize according to accepted engineering standards.
- 96
- 97 G. The fill will comply with all applicable state regulations including, but not limited to
- 98 approvals pursuant to the Natural Resources and Environmental Protection Act, PA 451
- 99 of 1994.

100

101 Should the proposed filling not be carried out under the terms and conditions set forth, the Zoning

102 Administrator may require a Performance Guarantee in accordance with Article 14.14.

103

104 **7.7 Lot, Principal Structure**

105 No more than one (1) principal structure shall be erected on any lot of land unless such lot of land is

106 used for multiple family dwellings, mobile home parks, or for agricultural, commercial, or manufacturing

107 purposes, or as may be allowed by another section of this Ordinance.

108

109 **7.8 Accessory Buildings, Structures, and Uses**

110 Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following

111 regulations:

- 112 1. Building and structures used in active farm operations are not considered accessory
- 113 buildings and shall not be subject to this section, except that no buildings or structures
- 114 shall be located within a required yard. The building or structure must be located on a
- 115 parcel of land that contains an active farm operation.
- 116 2. Where the accessory building is structurally attached to a main building, it shall be
- 117 subject to, and must conform to, all regulations of this Ordinance applicable to the main
- 118 building. Structurally attached buildings are exempted from the maximum allowable
- 119 square footage.
- 120 3. Accessory buildings or structures shall not be erected in subzone A nor in any required
- 121 setback.
- 122 4. No detached accessory building shall be located closer than ten (10) feet to any main
- 123 building. In no instance shall an accessory building be located within a dedicated
- 124 easement right-of-way.
- 125 5. An accessory building may occupy not more than fifty (50) percent of the permitted yard
- 126 area; provided, however, that the total floor area (being the entire area enclosed with
- 127 the exterior walls) of all detached accessory buildings on a parcel of land, shall be
- 128 limited as follows:

If the area of the parcel of land is:	Then the maximum floor area of all detached accessory buildings shall not exceed:
Less than .99 acres	960sf
At least 1 acre but less than 2 acres	1,560sf
At least 2 acres but less than 3 acres	2,080sf

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If the area of the parcel of land is:	Then the maximum floor area of all detached accessory buildings shall not exceed:
At least 3 acres but less than 5 acres	2,600sf
At least 5 acres but less than 8 acres	3,120sf
At least 8 acres but less than 10 acres	3,900sf
10 acres or more	5,200sf plus 200 square feet for each acre increments above 10 acres up to a maximum of 8,000 square feet.

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7.9 Dwellings

No person shall use, occupy or permit the use or occupancy of a structure as a dwelling or duplex, which does not comply with dwelling standards of this ordinance, or standards of the State of Michigan and United States Department of Housing and Urban Development (HUD), whichever is applicable, within any district within Joyfield Township, except in a designated mobile home park which shall comply with the rules and regulations of the Michigan Mobile Home Commission, and except as hereinafter provided. All dwellings shall comply with the following minimum standards:

- A. It shall comply with the minimum square footage requirements of this Ordinance.
- B. The minimum dimension shall be at least twenty (20) feet in length or twenty (20) feet in width in its core living area. Core living area shall be the main or central part of a dwelling, excluding wings, attached garages, enclosed porches, expansions, or any part of a building added after initial completion or added to a mobile home after delivery and setup on site and it is occupied.
- C. It shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under provisions of 1972, Public Acts 230, as amended, (MCL 125.1501-1531) including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan Building Code, then and in that event such federal or state standard or regulation shall apply.
- D. It shall be enclosed around the perimeter at the ground level with masonry or other approved weather and rodent proof materials.
- E. It shall contain no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure including permanent attachment to the principal structure as long as such attachment does not include a bearing load on a mobile home and construction of a foundation as required herein.

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- F. Each dwelling unit shall be connected to public water and sanitary sewer lines, or to on-site water and sanitary sewerage facilities approved by the District Health Department.
- G. Each dwelling unit and any addition thereto shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 PART 1700 to End, PART 3280 et. seq. CFR. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- H. An accessory building shall not be used or occupied as a dwelling.

7.10 Incomplete Structure

No basement, cellar, garage or structure may be occupied as a dwelling and no primary structure may be occupied without completing the exterior in a watertight manner, including finished siding, windows and roofing; until all exterior and interior construction is completed and a Land Use Compliance Permit or Temporary Permit is issued by the Zoning Administrator or legally designated authority.

7.11 Home Occupations

Home occupations shall not be allowed in any zoning district in Joyfield Township except as hereinafter provided:

1. The home occupation(s) takes place at a dwelling owned by and used as their primary residence.
2. The home occupation(s) shall be accessory to the principal use (residential) of the property.
3. The activities of the home occupation(s) shall be operated in such a manner that other residents of the area, under normal circumstances, would not be aware of the existence of the home occupation.
4. The home occupation(s) shall be conducted entirely within the enclosed dwelling with no external evidence of the activity.
5. The home occupation(s) does not result in the employment of more than two (2) individuals.
6. The home occupation(s) shall not involve the use of any toxic or dangerous materials or hazardous equipment.
7. If the home occupation is a bed and breakfast, it shall meet the parking requirements described in Article 9.

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209 8. No traffic shall be generated by such home occupation in greater volumes than would
210 be normally expected in that neighborhood, and any need for parking generated by the
211 conduct of such home occupation shall be provided for on the premise.
212

213 **7.12 Creation of Ponds**

214 A manmade excavation or impoundment of surface water designed to retain or detain water with a
215 surface area of at least one thousand (1000) square feet is subject to the following regulations:
216

- 217 1. A pond is an accessory or special land use in all zoning districts.
218
- 219 2. No person shall commence the excavation, dredging, or construction of a dam that is
220 designed, intended or results in the creation or enlargement of a pond without first
221 making application for and receiving a Zoning Permit approving the specific plans for a
222 pond.
223
- 224 3. An application for a zoning permit for a pond shall be made pursuant to Article 14 of this
225 Ordinance.
226
- 227 4. Proposed ponds of less than one (1) acre in size shall be required to provide a plot plan.
228
- 229 5. Applications for ponds larger than one (1) acre and/or ponds which are located within
230 five-hundred (500) feet of a lake, river, stream, or open county drain shall be required to
231 be submitted to the Michigan Department of Environmental Quality to determine the
232 extent to which the Natural Resources and Environmental Protection Act, Public Act 451
233 of 1994, apply to the proposal.
234
- 235 6. Ponds (or man-made lakes) in excess of 1 acre shall require site plan review and
236 approval.
237
- 238 7. Plot plans and Site Plans for ponds shall indicate the size, depth, and proposed finished
239 grade of the land both above and below water level, any proposed fencing location and
240 specifications. In addition, the applicant shall indicate sources of water being used to
241 supply the pond (such as stream impoundment, surface water runoff, springs, and
242 wells).
243
- 244 8. No pond shall be closer than fifty (50) feet from any property line, easements for egress,
245 dwelling units, septic drainage fields and domestic wells.
246
- 247 9. Ponds on parcels of less than 20 acres in size that are not enclosed by a four feet high
248 fence shall be required to provide and maintain one or more safety stations in
249 compliance with the following:
250
 - 251 a. U.S. Coast Guard approved ring buoys securely connected to forty feet of rope
252 mounted on posts located at 500 feet intervals around the perimeter of the
253 pond.
 - 254 b. A twelve feet long pole shall be attached to one safety station.
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10. Ponds under five (5) acres can be permitted by the Zoning Administrator without regard to the nine (9) previous subsections if the following conditions apply:
 - a. On a bonafide commercial agriculture or horticulture operation in the Rural District;
 - b. The pond is approved by the Natural Resources Conservation Service as being in conformance with their existing pond design standards.

7.13 Temporary Dwelling Structures

No cabin, garage, cellar, basement, or any temporary structure, whether of a fixed or movable nature may be erected, altered, or moved upon and used in whole or in part for any dwelling purpose whatsoever for any length of time whatsoever, except as provided in this section.

During construction of a new residence, or if a dwelling is destroyed or damaged to the extent that it is uninhabitable for a period of time, by a natural or man-made event, such as fire, flood, windstorm, or tornado, a mobile home or other temporary dwelling approved by the Zoning Administrator may be moved onto the premises for use as a temporary dwelling during construction or repair of the permanent dwelling after obtaining a permit from the Zoning Administrator. Application for said permit shall be filed with the Township Clerk along with all fees established by resolution of the Township Board. The Building Official, prior to approval of such temporary structure, shall determine that the proposed structure is safe for habitation and is adequately served by public utilities. The temporary dwelling shall be placed so as to conform to all yard requirements of the zoning district in which located. Where municipal water and/or sanitary sewage disposal systems are not available, such on-site services shall be approved by the Benzie-Leelanau District Health Department.

The Zoning Administrator shall establish a reasonable date for removal of the temporary dwelling, said date not to exceed one (1) year from the date of said destruction or damage or the date of issuance of a Building Permit for new construction; however, the temporary dwelling shall be removed from the premises within six (6) months (180 days) of the date of issuance of an occupancy permit for the permanent dwelling. All utility connections shall be severed and temporary dwelling permit shall expire on issuance of an occupancy permit for the permanent dwelling.

7.14 Temporary Construction Structures

Temporary buildings and/or structures may be used as construction facilities provided that a permit is obtained for such use from the Zoning Administrator. The Zoning Administrator shall, in each case, establish a definite time limit on the use of such facilities.

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Article 8
LAND DEVELOPMENT OPTIONS

8.1 Purpose

The purpose of this Article is to allow and encourage alternative designs for residential developments, site condominiums or subdivisions in order to maintain the open and natural space and protect the rural character of Joyfield Township; including woodlots, range lands, and cultivated fields, and to protect environmentally sensitive and unique features.

Joyfield Township encourages use of land development options to conventional developments because they promote the location of dwelling units to be sited on those portions of a property most suitable for development, while leaving substantial portions as undeveloped open space. These developments may also include a variety of lot sizes ranging from large farm or estate lots to small lots resulting in the preservation of contiguous open space and important environmental resources.

The standards for permitted uses in each district are designed to protect these features. By allowing the use and application of flexible development standards, developments shall be designed to protect and enhance the natural features to an equal or greater degree than if the development were to proceed under the standard guidelines for permitted uses in each underlying land use district. Provisions outlined in this Article are adopted pursuant to Public Act 110 of 2006, known as the Michigan Zoning Enabling Act.

Subject to the “Conditions and Qualifications” of this section, property owners can utilize the planned unit development provisions to develop their property as residential. Planned unit development provisions may also be used for non-residential developments pursuant to the provisions of this section.

8.2 Planned Unit Development

The Planned Unit Development (PUD) option is intended to allow, with Township approval, private or public development, which is substantially in accord with the goals and objectives of the Joyfield Township Master Plan and Future Land Use Map. In reviewing a PUD plan, the Planning Commission shall consider the following objectives:

- A. The development allowed under this Article shall be considered as an optional means of development in Joyfield Township.
- B. Use of the PUD option will allow flexibility in the control of land development by encouraging innovation through an overall development plan to provide variety in design and layout; to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage useful open spaces suited to the needs of the parcel in question; and provide proper housing including workforce housing, employment, service and shopping opportunities suited to the needs of the residents of Joyfield Township.
- C. It is further intended the planned development may be used to allow land uses in areas not permitted by right or special use permit; to permit densities or lot sizes which are different from the applicable district and to allow the mixing of land uses that would otherwise not be allowed; provided other community objectives are met and the resulting development would promote the public health, safety and welfare, reduce

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48 sprawl, and be consistent with the Joyfield Township Master Plan and Future Land Use
49 Plan Map.

- 50
51 D. It is further intended the development will be laid out so the various land uses and
52 building bulk will relate to one another and to adjoining existing and planned uses in
53 such a way that they will be compatible, with no material adverse impact of one use on
54 another.
55

56 **8.2.1 Criteria for Qualification**

57 To qualify for the planned development option, it must be demonstrated that all the following criteria
58 will be met:

- 59
60 A. The use of a planned development shall not be for the sole purpose of avoiding the
61 applicable zoning requirements. Any permission given for any activity or building or use
62 not normally allowed shall result in an improvement to the public health, safety and
63 welfare in the area affected.
64
65 B. The planned development shall not be used where the same land use objectives can be
66 carried out by the application of conventional zoning provisions or standards. Problems
67 or constraints presented by applicable zoning provisions shall be identified in the PUD
68 application.
69
70 C. The planned development option may be granted only when the proposed land use will
71 not materially add service and facility loads beyond those considered in the Joyfield
72 Township Master Plan, and other public agency plans, unless the proponent can prove
73 to the sole satisfaction of Joyfield Township that such added loads will be
74 accommodated or mitigated by the proponent as part of the planned development.
75
76 D. The Planned development must meet the following objectives of Joyfield Township:
77
78 1. To permanently preserve open space or natural features because of their
79 exceptional characteristics or because they can provide a permanent transition
80 or buffer between land uses.
81
82 2. To permanently establish land use patterns which are compatible or which will
83 protect existing or planned uses.
84
85 3. To accept dedication or set aside open space areas in perpetuity.
86
87 4. To provide alternative uses for parcels which can provide transition buffers to
88 residential areas.
89
90 5. To promote the goals and objectives of the Joyfield Township Master Plan.
91
92 6. To foster the aesthetic appearance of Joyfield Township through quality building
93 design and site development, provide trees and landscaping beyond minimum
94 requirements; the preservation of unique and/or historic sites or structures; and

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95 the provision of open space or other desirable features of a site beyond
96 minimum requirements.

- 97
- 98 7. To bring about redevelopment of sites where an orderly change of use or
99 requirements is determined to be desirable.
- 100
- 101 8. To promote the use of smart growth designs such as Traditional Neighborhood
102 Design (TND) consistent with the principles of the Congress for New Urbanism.
- 103
- 104 9. To promote sustainable development especially on parcels with active farmland
105 and orchards as defined by MCL 324.36201 (h).
- 106

107 **8.2.2 Uses Permitted**

108

- 109 A. A land use plan shall be proposed for the area to be included within the PUD. The land
110 use plan shall be defined by the zoning ordinance districts that are most applicable to
111 the various land use areas of the PUD.
- 112
- 113 B. Uses permitted and uses permitted subject to special land use in this Ordinance may be
114 allowed within the districts identified on the PUD plan, except that some uses may be
115 specifically prohibited from districts designated on the PUD plan. Alternatively, Joyfield
116 Township may allow uses not permitted in the district if specifically noted on the PUD
117 plan. Conditions applicable to uses permitted subject to special approval shall be used
118 as guidelines for design and layout but may be varied by the Joyfield Township Planning
119 Commission provided such conditions are indicated on the PUD plan.
- 120

121 **8.2.3 Height, Bulk, Density and Area Standards**

122 The standards regarding height, bulk, density, and setbacks of each district shall be applicable within
123 each district area designated on the plan except as specifically modified and noted on the PUD plan.

124

125 **8.2.4 Submittal and Request for Qualification**

126

- 127 A. Any person owning or controlling land in Joyfield Township may make application for
128 consideration of a planned unit development. Such application shall be made by
129 presenting a request for a preliminary determination to whether a parcel qualifies for
130 the PUD option.
- 131
- 132 B. Prior to the submission of an application for planned unit development approval, the
133 applicant is encouraged to meet with the Zoning Administrator to review required
134 information and procedures.
- 135
- 136 C. A request shall be submitted to Joyfield Township. The submission shall include the
137 information required below:
- 138 1. Proof the criteria set forth in the Criteria for Qualification section above, are or
139 will be met.
- 140

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- 141 2. A schematic land use plan containing enough detail to explain the role of open
142 space; site drainage and stormwater mitigation, location of land use areas,
143 streets providing access to the site, pedestrian and vehicular circulation within
144 the site; dwelling unit density and types; and buildings or floor areas
145 contemplated, as applicable.
146
- 147 3. A plan to protect natural features or preservation of open space or greenbelts.
148
- 149
- 150 D. Based on the documentation presented, the Joyfield Township Planning Commission
151 shall make a preliminary determination about whether a parcel qualifies for the PUD
152 option under the Criteria for Qualification in Section 8.2.4(C).
153
- 154 E. The Joyfield Township Planning Commission shall review the applicant’s request for
155 qualification. If approved, the applicant may then continue to prepare a PUD Plan on
156 which a final determination will be determined. Approval shall confer upon the
157 applicant the right to proceed to preparation of the PUD Plan, but shall not bind Joyfield
158 Township to approval of the Plan.
159

160 **8.2.5 Submittal of the PUD Plan and Application Materials**

161 The application, reports, and drawings shall be filed in paper and digital format. All drawings shall be
162 provided to Joyfield Township in the most recent release of a computer aided design format acceptable
163 to the Joyfield Township Planning Commission. Other graphics and exhibits, text and tabular
164 information shall be provided in a “pdf” format. The site plans must meet the scale requirements and all
165 submittal requirements in Article 6.
166

167 Submittal of Proposed PUD Plan: An application shall be made to Joyfield Township for review and
168 recommendation by the Joyfield Township Planning Commission of the following:
169

- 170 A. A boundary survey of the exact acreage prepared by a registered land surveyor or civil
171 engineer.
172
- 173 B. A topographic map of the entire area at a contour interval of not more than two (2)
174 feet. This map shall show all major stands of trees, bodies of water, wetlands and
175 unbuildable areas. Should the topography of the site have significant slope, the Joyfield
176 Township Planning Commission may increase the contour interval to no more than five
177 (5) feet, however, the integrity and intent of the map may not be compromised due to
178 this interval change.
179
- 180 C. A proposed development plan shall show the following:
181
 - 182 1. Land use areas.
 - 183
 - 184 2. Vehicular circulation including major drives and location of vehicular access
185 including cross sections of public streets or private places.
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3. Transition treatment, including minimum building setbacks to land adjoining the PUD and between different land use areas within the PUD.
 4. The general location of nonresidential buildings and parking areas, estimated floor areas, building coverage and number of stories or height.
 5. The general location of residential unit types and densities and lot sizes by area.
 6. Location of all wetlands, water and watercourses, proposed water detention areas and depth to groundwater.
 7. The boundaries of open space areas that are to be preserved or reserved and an indication of the proposed ownership.
 8. A schematic landscape treatment plan for open space areas, streets and border/transition areas to adjoining properties.
 9. A preliminary grading plan, showing the extent of grading and delineating any areas, which are not to be graded or disturbed.
 10. A public or private water distribution, storm and sanitary sewer plan.
 11. A written statement explaining in detail the full intent of the applicant, showing dwelling units types or uses contemplated and resultant population, floor area, parking and supporting documentation, including the intended schedule of development.
 12. Written documentation from Joyfield Township Fire Department acknowledging their review of the plans and outlining any recommendations for modifications, if any.
- D. If requested by the Joyfield Township Planning Commission, the applicant shall submit the following:
- a. Market Study – components of the study should include a definition of the market, analysis of data pertaining to the market problem, the type and amount of market supportable real estate, and absorption rate(s) needed to sell and/or occupy the property within the project.
 - b. Traffic Impact Study – components of this study should include an assessment of existing traffic counts and movements, forecast of additional traffic based on ITE traffic/trip generation manual, and improvements necessary to accommodate and/or mitigate the increased traffic resulting from the proposed project.
 - c. Environmental Impact Assessment – components of the study should include a statement of the purpose and need of the proposed project, description of the affected environment, range of alternatives to the proposed action, analysis of environmental impacts such as threatened

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- 233 or endangered species, air and water quality impacts, impacts to
234 historic and cultural sites, and social and economic impacts.
235 d. A pattern book or design guidelines manual if requested by the Joyfield
236 Township Planning Commission.
237

238 **8.2.6 Preliminary Approval of Planned Unit Development**

239 A. Joyfield Township Planning Commission Review of Proposed PUD Plan:

240 The Joyfield Township Planning Commission shall hold a public hearing on the
241 PUD plan in accord with the Michigan Zoning Enabling Act, PA 110 of 2006, MCL
242 125.3103 *et seq.*
243

244 The Joyfield Township Planning Commission shall review the proposed PUD plan
245 and make a determination about the proposal's qualification for the PUD option
246 and for adherence to the objectives and requirements in this Article.
247

248 Upon its review, the Planning Commission shall take one of the following
249 actions:
250

- 251 a. Approval. Approval shall confer upon the applicant the right to proceed
252 to preparation of the Final Plan, but shall not bind the Board to approval
253 of the Final Plat or Plan.
254 b. Tabling. Upon finding that the Preliminary Plan does not meet the
255 criteria set forth in this Article, but could meet such criteria if revised,
256 Joyfield Township Planning Commission may table action until a revised
257 Preliminary Plan is resubmitted.
258 c. Denial. Upon finding that the Preliminary Plan does not meet the
259 criteria set forth in this Article, Joyfield Township Planning Commission
260 shall deny preliminary approval.
261

262 **8.2.7 Final Approval of Planned Unit Development**

- 263 A. On receiving the report of approval of the Preliminary Plan, the Joyfield Township
264 Planning Commission's attorney will prepare a contract setting forth the conditions on
265 which such approval is based. Once the contract is prepared, it shall be signed by
266 Joyfield Township and the applicant.
267 B. The agreement shall become effective on execution after its approval. The agreement
268 shall be recorded at the Benzie County Register of Deeds office.
269 C. Once an area has been included with a plan for PUD and Joyfield Township has
270 approved such plan, no development may take place in such area nor may any use of it
271 be made except under such plan or under an approved amendment, unless the plan is
272 terminated.
273 D. An approved plan may be terminated by the applicant or the applicant's successors or
274 assigns, before any development within the area involved, by filing with Joyfield
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280 Township and recording in the County records an affidavit so stating. The approval of
281 the plan shall terminate on such recording.

282
283 E. No approved plan shall be terminated after development begins except with the
284 approval of the Joyfield Township Planning Commission and of all parties in interest in
285 the land.

286
287 F. Within one (1) year following approval of the PUD contract by the Joyfield Township
288 Planning Commission, final plats or site plans for an area embraced within the PUD must
289 be filed as provided. If such plats or plans have not been filed within the one (1) year
290 period, the right to develop under the approved plan may be terminated by Joyfield
291 Township.

292
293 G. Approval of PUD by Joyfield Township Planning Commission shall also constitute an
294 approved revision of the Official Zoning Map, which shall delineate the boundaries of
295 the approved PUD and its date of approval.

296
297 **8.2.8 Submission of Final Plat, Site Plans; Schedule for Completion of PUD**

298 Before any permits are issued for the PUD, final plats or site plans and open space plans for a project
299 area shall be submitted to Joyfield Township for review and approval by the Joyfield Township Planning
300 Commission, and of the following:

301
302 A. Review and approval of site plans shall comply with Article 11 as well as this Section
303 except as otherwise modified in the approved plan.

304
305 B. Before approving any final plat or plan, the Joyfield Township Planning Commission shall
306 determine that the following have been met:

307
308 1. All portions of the project area shown on the approved plan for the PUD for use
309 by the public or the residents of lands within the PD have been committed to
310 such uses under the PUD contract;

311
312 2. The final plats or site plans are in conformity with the approved contract and
313 plan for the PUD;

314
315 3. Provisions have been made under the PUD contract to provide for the financing
316 of any improvements shown on the project area plan for open spaces and
317 common areas which are to be provided by the applicant and that maintenance
318 of such improvements is assured under the PUD contract.

319
320 4. If development of approved final plats or site plans is not substantially
321 completed in three years after approval, further final submittals under the PUD
322 shall stop until the part in question is completed or cause can be shown for not
323 completing same.

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325 C. The applicant shall be required, as the Planned Unit Development is built, to provide
326 Joyfield Township with “as built” drawings in both paper and/or digital format.

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8.2.9 Fees

Fees for review of PUD plans under this Section shall be established by resolution of Joyfield Township Board.

8.2.10 Interpretation of Approval

Approval of a PUD under this Article shall be considered an optional method of development and improvement of property subject to the mutual agreement of Joyfield Township and the applicant.

8.2.11 Amendments to PUD Plan

Proposed amendments or changes to an approved PUD plan shall be presented to the Joyfield Township Planning Commission. The Commission shall decide whether the proposed modification is of such minor nature as not to violate the area and density requirements or to affect the overall character of the plan and in such event may approve or deny the proposed amendment. The burden shall be on the applicant to show good cause as to any requested change. If the Commission decides the proposed amendment is material in nature, the Commission shall review the amendment under the provisions and procedures of this Article as they relate to final approval of the PUD.

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Article 9
SITE DESIGN STANDARDS

9.1 Off-Street Parking

9.1.1 General Parking Requirements

- A. There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile, off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building use, shall be provided prior to the issuance of a Certificate of Occupancy as prescribed in this Zoning Ordinance.
- B. Application for parking lot construction: Any person desiring to establish or change a parking area shall submit plans to Joyfield Township showing the locations, elevations, design, size, shape, landscaping, surfacing, marking, lighting, drainage, curb cuts, entrances, exits and any other features of the parking lot. Any curb cuts, entrances, exits and drainage involving County or State highways shall be submitted to the appropriate agency for approval.
- C. Minimum required off-street parking areas shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.
- D. Off-street parking existing at the effective date of this Zoning Ordinance in connection with the operation of an existing building or use shall not be reduced to any amount less than that required in this Zoning Ordinance for a similar new building or new use.
- E. Two (2) or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the individual uses if computed separately.
- F. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, Joyfield Township may grant an exception.
- G. The placement of materials, merchandise, motor vehicles, trucks, trailers, recreational vehicles or equipment in designated off-street parking areas of a property for the purpose of sale, rental or repair including the storage of such items is prohibited, except as may be provided in this Zoning Ordinance.
- H. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use that Joyfield Township considers is similar in type.
- I. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half ($\frac{1}{2}$) shall be disregarded and fractions over one-half ($\frac{1}{2}$) shall require (1) parking space.
- J. For the purpose of computing the number of parking spaces required, the definition of "floor area, usable" in Article 2 shall govern. In those instances, where floor area cannot be

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48 computed from plans, seventy-five percent (75%) of gross floor area shall be considered
 49 usable floor area.

- 50
- 51 K. For all residential buildings and institutional, public or essential services uses, the required
 52 parking area shall be provided on the same lot with the buildings or on a lot immediately
 53 adjacent, under the same ownership.
- 54
- 55 L. A resident of a dwelling unit may not have more than two (2) motorized vehicles, boats or
 56 trailers for sale on the site of such dwelling unit at any time and in no instance shall vacant
 57 residential lots or parcels be utilized for the sale of vehicles. In no instance shall a vehicle for
 58 sale be displayed in a front yard other than the driveway portion of the yard.

59

60 **9.1.2 Required Off-Street Parking**

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62 Parking for Handicapped –
 63 Off-street parking facilities required for physically handicapped-accessible buildings shall be
 64 provided in all parking areas in accord with provisions of the Americans with Disabilities Act

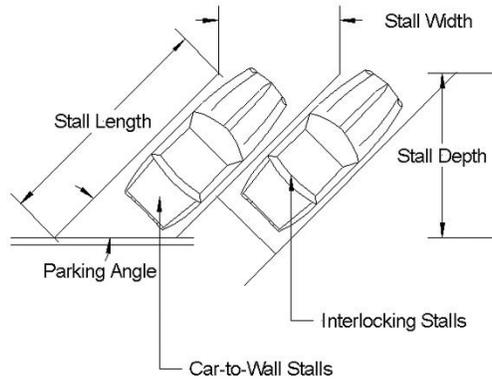
<i>Residential</i>	Minimum	Maximum	Measurement
Single Family Dwelling	2	N.A.	per unit
Multiple Family Dwelling	1.5	1.5	per unit
<i>Non-Residential</i>			
<i>Non-Residential</i>	Minimum	Maximum	Measurement
Agricultural Uses	Exempt		
Automotive Sale and Services	3.5	4	per 1,000 GFA
Banks and Financial Establishments	2	3	per 1,000 GFA
Consumer / Personal Services	2	3	per 1,000 GFA
Eating and Drinking Establishments	1	1	per 3 seats
Office Uses	2.5	3	per 1,000 GFA
Places of Assembly	1	1	per 3 seats or number permitted by Fire Code
Commercial & Retail Business Uses	2	3	per 1,000 GFA
Other Uses Not Listed or Classified	Determined by Planning Commission		

- 65 (ADA). An individual vertical free standing or wall mounted “handicapped” signage is required.
- 66
- 67 A. Parking space layout standards shall be provided in accordance with the specification in the
 68 following table:
- 69
- 70
- 71

Parking Stall Dimensions				
Angle of Parking Stall [1]	Degrees of Parking Angle			
	Parallel	30-53	54-74	75-90
Maneuvering Lane Width	12 Ft	12 Ft	15 Ft	20 Ft
Parking Space Width	8.5 Ft	9 Ft	9 Ft	9 Ft
Parking Space Length	23 Ft	20 Ft	20 Ft	20 Ft
Total Width - One (1) Tier Parking Plus Maneuvering Lane	-	26 Ft	36 Ft	40 Ft
Total Width - Two (2) Tier Parking Plus Maneuvering Lane	-	46 Ft	56 Ft	60 Ft

[1] The standard-size parking stall shall be at least nine (9) feet wide and twenty (20) feet long unless otherwise noted above.

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9.1.3 Pavement Design

The surface of the parking lot shall consist of a concrete, bituminous or compacted stone surface with the exception that a porous pavement can be used for the parking stalls. The maneuvering lane shall be constructed with a deep strength bituminous surface.

9.2 Sign Regulations

9.2.1 Purpose

It is the purpose of this section to regulate the size, placement, and general appearance of all manner of on and off-premise advertising structures in order to promote the public health, safety, morals, convenience, and general welfare, as well as the stated purposes of this chapter. These purposes include the enhancement of the aesthetic desirability of the environment and the reduction of hazards to life and property in Joyfield Township.

9.2.2 Permit Required

A Land Use Compliance permit is required for all Off-Premise Advertising Structures and On-Premise Advertising Structures. However, compliance with this Ordinance does not relieve the applicant of the responsibility for compliance with other Township, state or federal sign regulations, nor does the issuance of a Land Use Compliance permit grant permission to the applicant to place signs on any property including road rights-of-way other than property owned or otherwise legally under the control of the applicant.

9.2.3 Off-Premise Advertising Structures

Off-Premise Advertising structures are only permitted in the C district in accordance with the following limitations, in addition to such regulations set forth by the Michigan Department of Transportation pursuant to the Highway Advertising Act of 1972, PA 106 of 1972:

- A. Location: Off-premise advertising structures in the C districts shall only be located immediately adjacent to principal arterial streets. Such structures shall be located in accordance with the setback requirements of the district.
- B. Illumination: Off-premise advertising structures may not be illuminated.

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- 108 C. Maintenance: Off-premise advertising structures shall be adequately maintained. Such
109 maintenance shall include proper alignment of structure, continued readability of message,
110 and preservation of structure with paint or other surface finishing material. If an
111 Off-Premise Advertising structure is not maintained, written notice of any disrepair shall be
112 issued by the chief building inspector to the owner of such structure. If the disrepair is not
113 corrected within thirty (30) days, such structure shall be removed at the owner's expense.
114
- 115 D. Size: No Off-premise advertising structure shall exceed one hundred twenty-eight (128)
116 square feet in surface display area per side.
117
- 118 E. Required spacing: No Off-premise advertising structure shall be located within a distance of
119 one thousand (1000) feet of any other Off-Premise Advertising structure, such distance to
120 be measured along a line parallel to the right-of-way of the highway upon which the
121 Off-Premise Advertising structure fronts.
122
- 123 F. Such signs and sign structures shall not exceed twenty four (24) feet in height.
124
- 125 G. Off-premise highway advertising signs shall be set back a minimum of fifty (50) feet from the
126 Highway Right of Way.
127
- 128 H. All Off-premise highway advertising signs shall, prior to construction, require a land-use
129 permit from Joyfield Township or designated enforcement.
130

131 **9.2.4 On-Premise Advertising Structures**
132

- 133 A. Location: On-premise advertising structures in the R and C districts shall only be located
134 immediately adjacent to the public road. Such structures shall be located in accordance
135 with the setback requirements of the district.
136
- 137 B. Size:
138
 - 139 1. Commercial District: signs shall not exceed 32 square feet in area and shall not exceed
140 8 feet in height.
141
 - 142 2. Rural District: signs shall not exceed 24 square feet in area and shall not exceed 7 feet
143 in height.
144

145 **9.3 Storage and Use of Recreational Equipment or Trailers**
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- 147 A. The parking or storage of any recreational equipment in any residential occupied lot shall be
148 subject to the following:
149
 - 150 1. Recreational vehicle means a boat, small utility trailer, trailer, travel trailer, motor
151 home, and/or removable truck camper.
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 - 153 2. Recreational vehicle must be the property of the owner or lessee of entire property
154 and must have current registration or license unless it is a removable truck camper.

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3. The number of recreational vehicles parked or stored shall not exceed two (2) of any type and not exceed six (6) in combination.
4. Parking or storage of recreational vehicles is permitted between April 1st and October 31st of each calendar year in any yard, provided that the vehicle is not closer than five (5) feet to any lot line.
5. Storage of recreational vehicles is not permitted between November 1st and March 31st of each calendar year, except in a rear or side yard and then only if the vehicle is not closer than five (5) feet to any lot line.

9.4 Exterior Lighting and Dark Sky Provisions

Refer to Section 10.5.

9.5 Access Controls and Private Roads

9.5.1 Access to Roads

- A. In any district every use, building or structure established after the effective date of this Ordinance shall be on a lot which has its minimum frontage on a public or private road as specified in each respective district.
- B. If the lot exists prior to the effective date of this Ordinance and it does not meet the standards of 9.5.1.A, then that lot shall be allowed even if it does not meet the terms of this section.
- C. If the lot has the required frontage on a public road right-of-way in an existing subdivision and/or planned development, that shall be considered to be a lot which has met the required access to a public road, even if the road has not been constructed, and can be made passable without substantial earth movement or trespass off the road right-of-way.

9.5.2 Curb Cuts and Driveways

Curb cuts and driveways shall be located only upon the approval of Joyfield Township and the appropriate County and State authorities as required by law; provided, however, such approval shall not be given where such curb cuts and driveways shall cause an unreasonable increase in traffic hazards including, but not limited to, allowing adequate sight distance for ingress and egress.

- A. All plans for structures to be erected, altered, moved or reconstructed and use of premises shall contain a plan for the proposed driveway access to the premises, which shall be part of the plot plan or site plan. Said plan shall be approved by the Zoning Administrator and, in the case of a site plan, prior to the issuance of a zoning permit. No such plan shall be approved unless such driveway access is onto a dedicated public street or private road easement or private place. Driveways shall, at a minimum, meet the following standards:

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1. Culverts shall be installed in line with and on the same grade as the road ditch in the event there is no storm sewer system.
 2. Drives shall enter perpendicular to the existing public street or private road.
 3. No portion of the driveway entrance within the right-of-way shall have a grade of greater than ten percent (10%) (one (1) foot vertical rise in ten (10) feet of horizontal distance).
 4. The driveway shall meet clear vision standards of this Zoning Ordinance.
 5. Residential driveways shall be a minimum of fifty (50) feet from the nearest right-of-way line of an intersecting road or street, unless waived by the Joyfield Township Planning Commission.
 6. Vehicle ingress and egress points shall not be closer than one-hundred (100) feet to the intersection of any two (2) public streets, or closer than eighty (80) feet to an adjacent driveway within a commercial or industrial district.
 7. All driveways leading to dwellings, garages or accessory structures shall be designed to minimize erosion.
 8. Residential driveways shall be a minimum of ten (10) feet wide.
 9. Driveways constructed after the adoption of this Ordinance shall abide by the side yard setbacks.
- B. The Zoning Administrator shall inspect the driveway as developed for compliance to the above standards.
- C. New driveways shall align with existing or planned driveways, crossovers, turn lanes, or other access features. This shall only be required if the resulting alignment provides safe access and if all requirements of this Zoning Ordinance are met.
- D. The location of new driveways shall conform with road improvement plans or corridor plans that have been adopted by Joyfield Township, Benzie County, or Michigan Department of Transportation.
- E. No driveway shall serve more than one (1) single family dwelling or more than one (1) dwelling unit in a two (2) family dwelling unless adjoining property owners execute a cross access easement agreeable in form and content to Joyfield Township.
- F. No driveways providing access to nonresidential uses and structures shall cross residentially occupied property.

247 **9.5.3 Construction of New Roads**

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A. Private Roads: All private roads shall require a Land Use and Grading Permit before any earth moving.

1. Private roads shall be designed and constructed in accordance with the Private Road standards and specifications issued by the Benzie County Road Commission. (http://www.benziecrc.org/PDF/documents/Private_Roads.pdf)
2. Private roads that will be constructed as part of a subdivision, site condominium, cluster housing project or other private development shall comply with the Benzie County Road Commission Standards and Specifications for Subdivisions, Site Condominiums and Other Development Projects. http://www.benziecrc.org/PDF/documents/Standard_Specs_3_13_2006.pdf

B. Public Roads:

1. Public roads that will be constructed as part of a subdivision, site condominium, cluster housing project or other private development shall comply with the Benzie County Road Commission Standards and Specifications for Subdivisions, Site Condominiums and Other Development Projects. http://www.benziecrc.org/PDF/documents/Standard_Specs_3_13_2006.pdf

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ARTICLE 10
ENVIRONMENTAL PROVISIONS

10.1 Purpose

It is the intent of these regulations to protect the health, safety and welfare of the citizens and it is acknowledged that protection of the environment in which they live is crucial to attaining those objectives. This regulation further acknowledges that there are areas of Joyfield Township that are considered to be environmentally sensitive to development, due to soil types, drainage, vegetation, wildlife habitats, floodplain, slope erosion or other factors, and that are subject to being seriously endangered, damaged, or destroyed if allowed to develop in a manner inconsistent with their conservation and preservation. Since the welfare and well-being of the citizens of Joyfield Township are directly linked and related to the natural environment of the area, it is recognized by this Article that in order to maintain sensitive areas in their natural condition for the benefit of mankind, it is necessary to protect such areas from degradation. It is further recognized that degradation of the environment can occur from other than tangible/physical degradation and that it is essential to provide environmental protection from intangible/non-physical degradation such as but not limited to emission and transmission of injurious, unnatural or annoying noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, adequate light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.

10.2 Regulation of Environmentally Sensitive Areas

All uses allowable in zoning districts of this Ordinance shall comply with the standards set forth in this section regulating the development of environmentally sensitive areas. These requirements shall be considered in addition to use restrictions or other applicable regulations for each zoning district.

10.2.1 Environmentally Sensitive Areas

The protection of areas of environmental concern, such as wetlands, swamps, wetlands and steep slope areas must be considered in conjunction with development and must conform with the following regulations of federal, state, county and township agencies as applicable:

- A. Wetlands
- B. Steep Slopes
- C. Public and Private Conserved Land
- D. Migratory Bird Treaty Acts, Bald and Golden Eagle Acts, Endangered Species Acts and US Fish & Wildlife Acts and recommendations.

10.3 Provisions for the Protection of the Environment, Health, Safety and Overall Quality of Life for Joyfield Township

- A. Every use shall be so conducted and operated so that it is not detrimental to the health, safety, or welfare of persons or property, or obnoxious by reason of heat, glare, fumes, odors, dust, noise, smoke, water runoff, light, ground vibration or other nuisance beyond the lot on which the use is located. It shall be unlawful to carry on or permit to be carried on any activity or operation of use of any land, building, or equipment that

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produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or to human activity.

B. Community Noise Standard:

1. It shall be unlawful for any person or entity to make, maintain, or continue, or cause to be made or continue excessive, unnecessary, unnatural, repeated, prolonged or unusual noise which annoys, disturbs, injures, irritates, or impairs the comfort, repose, health, or peace of another person.
2. It shall be unlawful for the owner of any premises within Joyfield Township, and for the occupant or person in possession of any premises or lands within Joyfield Township, and for the occupant or person in possession of any premises or lands within Joyfield Township, whether individual, corporate, or otherwise, to knowingly make, allow to be made, or to permit to be made upon the premises so owned, occupied, or possessed, any excessive, unnecessary, unnatural, repeated, prolonged or any noise which annoys, disturbs, injures, irritates, or impairs the comfort, repose, health, or peace of another person, within the limits of Joyfield Township.
3. Noise shall not exceed at the property line, the established outdoor background sound level LA90 and 50 dba, (Residual Noise ANSI S12.9 Part I) between the hours of 9p.m. and 7 a.m.
4. Specific Noises Prohibited: The following noises and acts are hereby declared to be in violation of this Ordinance, said specification is not to be construed to exclude other violations not enumerated:
 - a. Horns and Other Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle, boat, bus, truck, or any other vehicle, except as a danger warning.
 - b. Radios, Televisions, Audio Equipment, and Musical Instruments. The using, operating or permitting to be played, used or operated, any radio receiving set, television receiving set, audio equipment, or musical instrument, or any other such device for the production or reproduction of sound, in such a manner as to unreasonably or unnecessarily irritate, annoy, or disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time at a volume unnecessary for the convenient listening of the person or persons in the room, vehicle, or chamber in which such machine or device is being operated, and who are voluntarily listeners thereto. The operation of any such radio, television, audio equipment, musical instrument, or any other machine or device between the hours of nine o'clock (9:00) p.m. and nine o'clock (9:00) a.m. in such a manner as to be plainly audible at the property line or which is plainly audible in a dwelling unit other than in which it is located, shall be prima facie evidence of a violation of this Section.

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- c. Exhaust Noises. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or any other form of engine, whether in a boat, motor vehicle, motorcycle, off-road vehicle, or tractor, except through a muffler or other device which effectively prevents or reduces loud or explosive noises.
 - d. Construction, Repairing or Maintenance of Buildings or Yards. The erection (including excavation), demolition, alteration or repair of any building or structure other than between the hours of seven o'clock (7:00) a.m. and nine o'clock (9:00) p.m. where such activity results in the creation of unusually loud noise or noise that annoys, disturbs, injures or impairs the comfort, repose, health, peace or safety of others except in the case of urgent necessity in the public interest of the public health and safety, for the duration of such emergency.
 - e. Business Operations And Other Premises Activities. The carrying on of any business operations, or other activities upon any premises in such a manner so as to create any excessive, unnecessary, unnatural, repeated, prolonged or unusual noise which annoys, disturbs, injures, irritates, or impairs the comfort, repose, health, or peace of another person.
 - f. The operation of any race track, proving grounds, testing area, or obstacle course for vehicles, motorcycles, snowmobiles, boat racers, automobiles, off-road vehicles, or vehicles of any kind or nature in Joyfield Township where such noise emanating from the identified vehicle would be unusually loud or continuous, unreasonable disturbing, or upsetting to another person in that vicinity.
5. The noise prohibitions set out herein before shall not apply to the following:
- a. Any police vehicle, ambulance, fire engine, or other emergency vehicle while engaged in necessary emergency activities.
 - b. Excavation or repair of bridges, streets, and highways on behalf of the State of Michigan, Joyfield Township, of the County of Benzie, between sundown and seven o'clock (7:00) a.m. when the public welfare, health, safety or convenience renders it impossible to perform such work during other hours.
 - c. Noises emitted from warning devices for the purpose of notifying individuals or the public at large as authorized by law.
 - d. Normal agricultural (orchard or crop management) practices.
 - e. Agricultural processing in compliance with the Michigan Department of

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142 Agriculture & Rural Development Generally Accepted Fruit, Vegetable,
143 Dairy, Meat and Grain Processing Practices for Noise and Odor (GAPPs)
144 according to the Michigan Agricultural Processing Act (1998 PA 381).

145
146 f. Livestock or other large animal operation in which the land is zoned for
147 including domestic pets which from time to time may communicate.

148
149 g. Noise emanating from the discharge of firearms providing that such
150 discharge is otherwise authorized under Michigan law or local
151 ordinance.

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153 h. Fireworks are permitted July 3-5th and December 31st between the dusk
154 and 1AM.

155
156 6. Permits for special events: Any person wishing to obtain a permit to increase
157 the noise level between the hours of 9 p.m. to midnight for special events shall
158 contact the zoning administrator for such permit. The Zoning Administrator
159 shall have the right to deny such permit. Allowed special events include
160 weddings, birthdays, graduation, festivals, reunions and other occasions of
161 celebration.

162
163 C. Environmental Reviews: The Joyfield Township Zoning Administrator shall review all
164 Special Land Use applications to determine if environmental studies are recommended.
165 The Planning Commission will review and collaborate as to the extent of the studies to
166 be performed. The Planning Commission may require, at the cost of the Applicant, a
167 third party Environmental Specialist who is acceptable to Joyfield Township to provide
168 an Environmental Assessment to determine the appropriate environmental studies for
169 the project. The Environmental Specialist shall identify and assess any potential
170 impacts on the natural environment and identify the appropriate studies to be required
171 prior to the permit being issued. The Environmental Specialist shall provide
172 recommendation for specific studies and methods to be followed. Environmental
173 studies may include but should not be limited to the following:

- 174
175 1. Environmental Impact Study.
176 2. One to Three Year Avian Impact Study including migration.
177 3. Identify nesting Eagles within 5 miles of the project.
178 4. Water Quality Impact Study.
179 5. Groundwater Impact Analysis.
180 6. Three year Bat Study.
181 8. Soil Erosion and Sedimentation Study.
182 9. Environmental Impact on Herring Lakes Watershed.
183 10. Identify all Sensitive Areas as defined in Section 2.2 within project footprint and
184 determine the potential impacts on these Sensitive Areas.

185
186 Applicants must comply with all Michigan DNR/DEQ requirements and regulations. The
187 Applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts
188 identified in the analysis, and shall show those measures on the site plan. If mitigation efforts

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189 are required to minimize adverse impacts, the Applicant must obtain approval of the mitigation
190 plan from the Joyfield Township Zoning Administrator, the Planning Commission and their
191 Independent Environmental Consultant. The Applicant shall identify and evaluate the
192 significance of any net effects or concerns that will remain after mitigation efforts including, but
193 not limited to wildlife (birds, bats, etc.) wetlands and other fragile ecosystems, historical and
194 cultural sites, and antiquities following the guidelines.
195

196 D. Viewsheds: No tall structure shall be erected on a ridge or in a viewshed as defined in
197 the Master Plan. No structure on a ridge line will be higher than the highest tree thus
198 interrupting the natural view and nature of the ridge.
199

200 E. All proceedings of the Planning Commission, Zoning Board of Appeals, and Township
201 Board of Trustees shall be conducted, and all decisions shall be made with due
202 consideration given to the above referenced environmental concerns. Maintenance of
203 reasonable circumstances regarding: emission and transmission of injurious or
204 obnoxious noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas
205 fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress,
206 ease of police and fire protection, drainage, lateral land support, blighting influence,
207 effect on property values, adequate light and air, overcrowding of persons, sanitation,
208 general appearance of the area, surface and groundwater quality, and other similar
209 considerations having an effect on public health, safety and general welfare of the
210 people of the surrounding area.
211

212 **10.4 Exterior Lighting Regulations**

213 A. The purpose of the exterior lighting regulations is to:

- 214 1. Permit reasonable uses of outdoor lighting for nighttime safety, utility, security,
215 and enjoyment while preserving the ambiance of the night.
- 216 2. Curtail and reverse any degradation of the nighttime visual environment and the
217 night sky.
- 218 3. Minimize glare and obtrusive light by limiting outdoor lighting that is
219 misdirected, excessive, or unnecessary.
- 220 4. Conserve energy and resources to the greatest extent possible.
- 221 5. Help protect the natural environment from the damaging effects of night
222 lighting.
223

224 B. Requirements:

- 225 1. Exterior lighting is required to use either a or b noted below:
 - 226 a. All outdoor light fixtures shall have full cut-off shielding such that no light is
227 emitted above an imaginary horizontal plane passing through the fixture
228 below the light source regardless of type or wattage, EXCEPT for gas lighting,
229 glass tubes filled with Neon, Argon or Krypton, and small decorative fixtures
230 such as porch lights.
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- b. Baffles or shields shall be required as needed so that light sources are not visible beyond the property on which they are installed, so that direct light rays are not directed above a horizontal plane passing through the fixture, and also so that vehicular and pedestrian traffic are protected from unnecessary and dangerous glare and from the intense light of directly visible light sources.
- 2. Exterior lighting installed after the effective date of this ordinance shall have the Fixture Seal of Approval (FSA) for dark sky friendly light fixtures as certified by the International Dark Sky Association. FSA compliant fixture can be referenced at www.darksky.org/outdoorlighting-29.
- 3. Exterior light fixtures shall be energized only when necessary by means of automatic timing devices and through the use of motion detection devices on security lighting.
- 4. Sodium light sources or LED (“warm-white”) shall be used for street lighting, parking lot lighting, and for security lighting when such security lighting is not to be energized by motion detection devices. Where feasible, low-pressure sodium lighting is to be encouraged.
- 5. Floodlights shall be directed downward, shielded as necessary so that the light source is not visible from roads or adjacent property, and located and directed so that light is neither unnecessarily reflected onto adjacent property or into the night sky.
- 6. In addition to fixture design and shielding, architectural and landscape design features may be incorporated into an outdoor lighting plan to meet the requirements and comply with the intent of this Article.
- 7. Off-premises advertising signs, if permitted, shall not be illuminated externally or internally.
- 8. Advertising signs shall not be illuminated between one (1) hour after the close of business and one (1) hour before the opening of business on the following day except by special permission granted as a condition of site plan approval. All fixtures or circuits illuminating advertising sights shall be equipped with automatic timing device.
- 9. Quartz and mercury vapor lighting are prohibited because of the broad spectrum of visible light which these sources emit and because of the diffusive and reflective character of such light.
- 10. All parking lots shall be illuminated only when in use during regular business hours and thereafter only until the public and employees have left the premises. Approved security lighting will be permitted.
- 11. Entrance and traffic marker lights along access roads and drives, in parking lots and along pedestrian ways shall be sodium type and equipped with full cut-off shielding, as well as shielding to keep the light source out of view of vehicular and pedestrian traffic.
- 12. Outdoor display areas including display or storage lots may be illuminated during the hours the business is open to the public or until 11:00 p.m. Metal halide light sources may be used provided such fixtures are equipped with full cut-off shielding and project only the minimum amount of light necessary for good visibility.

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- 281 13. Lighting of building facades shall be from the top and directed downward with full
- 282 cut- off shielding and additional shielding to keep the light source from the view of
- 283 vehicular and pedestrian traffic and adjacent property.
- 284 14. Security lighting shall be directed away from and/or shielded from road traffic and
- 285 adjacent properties.
- 286 15. Limit the type of LED light to a “warm-white” or filtered LEDS’s (with a Correlated
- 287 Color Temperature – CCT lower than 3,000K) to minimize blue emissions.
- 288 16. LED rope lights, or lighting that flashes or scrolls are prohibited.
- 289 17. Electronic message boards, of any type, are prohibited.

290

291 C. Approved Materials: The provisions of this Article are not intended to prevent the use of

292 any design, material or method of installation, even if not specifically prescribed by this

293 Article, provided that such alternate has been approved by the Planning Commission and

294 meets or exceeds the Illuminating Engineers Society (IES) standards and has the Fixture

295 Seal of Approval (FSA) from the International Dark Sky Association.

296

297 D. Exemptions: The following uses and activities shall be exempt from these Exterior

298 Lighting Regulations:

- 299
- 300 1. Lighting in swimming pools and other water features governed by Article 680 of
- 301 the National Electrical Code.
- 302
- 303 2. Exit signs and other illumination required by building codes.
- 304
- 305 3. Lighting for stairs and ramps, as required by the building code.
- 306
- 307 4. On-premise signs are regulated by the sign code, but all sign lighting is
- 308 recommended to be fully shielded.
- 309
- 310 5. Holiday and temporary lighting (less than thirty days’ use in any one year).
- 311
- 312 6. Football, baseball, and softball field lighting; only with permit from Joyfield
- 313 Township recognizing that steps have been taken to minimize glare and light
- 314 trespass, and utilize sensible curfews.
- 315
- 316 7. Low voltage landscape lighting, but such lighting should be shielded in such a
- 317 way as to eliminate glare and light trespass.

318

319 **10.5 Use, Storage and Handling of Hazardous Substances**

- 320
- 321 A. It shall be unlawful for any person, firm, corporation or other legal entity to pollute,
- 322 impair or destroy the air, water, soils or other natural resources within the Township
- 323 through the use, storage and handling of hazardous substances and/or wastes or the
- 324 storage and disposal of solid, liquid, gaseous and/or sanitary wastes.
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- 326 B. Any person, firm, corporation or other legal entity operating a business or conducting an
- 327 activity which uses, stores or generates hazardous substances shall obtain the

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appropriate permits or approval from the State of Michigan, and/or other designated enforcing agencies.

C. Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances or petroleum products shall complete a Hazardous Chemicals Survey and a Pollution Incidence Protection Plan (PIPP) in conjunction with the following:

1. Upon submission of a site plan.
2. Upon any change of use or occupancy of a structure or premise
3. Upon any change of the manner in which such substances are handled, and/or in the event of a change in the type of substances to be handled.

D. All businesses and facilities which use, store, or generate hazardous substances in quantities greater than one hundred (100) kilograms per month (equal to or greater than twenty- five (25) gallons or two hundred-twenty (220) pounds) shall comply with the following standards:

1. Above Ground Storage and Use Areas for Hazardous Substances.
 - a. Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - b. Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
 - c. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
 - d. Areas and facilities for loading/unloading of hazardous substances, as well as areas where such materials are handled and used, shall be designated and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater, or soils.
2. Underground Storage Tanks.
 - a. Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with requirements of the U.S. Environmental Protection Agency and the State Police Fire Marshal Division.

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- b. Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with requirements of the State Police Fire Marshall and Joyfield Township. Leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by state or local officials.
 - c. Out-of-service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the State Police Fire Marshall Division, the Michigan Department of Natural Resources, and Joyfield Township.
3. Loading and Unloading Areas. Areas used for the loading and unloading of hazardous substances shall be designed and constructed to prevent the harmful release to the environment of hazardous materials which may be spilled or leaked.
- E. All site plans for businesses or facilities which use, store or generate hazardous substances shall be reviewed by the appropriate experts determined necessary by the Planning Commission prior to approval by the Planning Commission.

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Article 11
SITE PLAN AND PLOT PLANS

11.1 Purpose

It is the purpose of this Article to specify standards, data requirements and the review process which shall be followed in the preparation of site plans, plot plans, and Special Land Uses as required by this Zoning Ordinance. A site plan contains comprehensive and detailed information about improvements proposed on the site and is required for land uses such as commercial, industrial and multiple-family developments. Plot plans are less detailed plans pertaining to improvements proposed on the site and are required for less complex developments such as single family and two (2)-family dwellings.

11.2 Approval of Site Plan or Plot Plan Required

- A. Site plan approval is required by the Joyfield Township Planning Commission, prior to the issuance of a Land Use Compliance Permit, unless required otherwise by this Zoning Ordinance, for the following uses:
 - 1. All uses permitted by right within any commercial district.
 - 2. All uses for which this Zoning Ordinance requires at least three (3) or more off-street parking spaces.
 - 3. All Special Land Uses.
 - 4. Multiple-family developments.
- B. Prior to the issuance of a Land Use Compliance Permit, plot plan approval is required by the Joyfield Township Zoning Administrator for all other uses not listed above. The Commission shall review such plans in accordance with the same procedures, requirements and standards used by the Municipality as specified in this Article.

11.3 Optional Sketch Plan Review

Prior to submitting an application, or site plan, for a land use permit an applicant may choose to submit a sketch plan for review by the Zoning Administrator and/or the Joyfield Township Planning Commission. The sketch plan may be superimposed on an air photo of the parcel or shall be a scaled drawing of the parcel showing the location of existing and proposed structures, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements and drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting and type of permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the Commission's agenda if the sketch plan is to be reviewed by the Commission.

11.4 Site Plan Review

Site plan review shall be undertaken by the Joyfield Township Planning Commission in accordance with the following requirements and procedures set forth in this Article.

11.5 Required Data for Site Plan

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A. Each site plan as may be required by this Zoning Ordinance shall be provided on a professional quality drawing of scale not less than one (1) inch equals one hundred (100) feet. All information depicted shall be designed and sealed by an engineer, architect or landscape architect licensed in Michigan. In addition to the applicant's full name(s), address(es) and phone number(s), cell phone number, e-mail address, the following data shall be submitted with applications for zoning permits for uses requiring a site plan:

1. A survey showing property dimensions and legal description, including angles, lot area and dimensions and an arrow pointing north.
2. A project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, carports or garages, employees by shift, amount of recreational and open space, type of recreation facilities to be provided and related information as pertinent or otherwise required by this Zoning Ordinance.
3. A plan showing the location of all buildings and structures existing and proposed on the site including building elevation drawings and all of the following listed items:
 - a. The natural features such as woodlands, streams, flood plains, drains, ponds, topography (at two (2) foot intervals on-site and within one hundred fifty (150) feet of the site) and man-made features such as existing roads and structures, with indication as to which are to be retained and which are to be removed or altered.
 - b. The existing public rights-of-way, private easements, private places of record and deed restrictions.
 - c. The proposed streets and alleys, including cross-sections, acceleration, deceleration or right-turn lanes, driveways, parking spaces and sidewalks with indication of the direction of travel and the inside radii of all curves including driveway curb returns. The width of streets, driveways and sidewalks, the total number of parking spaces, the dimensions of a typical individual parking space and associated aisles. Proposed traffic control measures including signs and proposed street or road names shall also be indicated.
 - d. A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any public street.
 - e. The location of utilities, water supply and the location and design of waste water systems as well as any easements that exist or are

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- 95 proposed to be established for installation, repair and maintenance of
96 utilities.
97
98 f. The proposed location of trash receptacles, accessory buildings and uses
99 and signs.
100
101 g. A landscaping plan indicating the locations of plant materials to be
102 preserved and locations of proposed planting and screening, fencing
103 and lighting in compliance with the requirements of this Zoning
104 Ordinance. Also, the plan must include the proposed locations of
105 common open spaces, if applicable.
106
107 h. A storm drainage and storm water management plan for all streets and
108 impervious surfaces.
109
110 i. The location and specifications for any existing or proposed above or
111 below ground storage facilities for any chemicals, salts, flammable
112 materials or hazardous materials as well as any containment structures
113 or clear zones required by government authorities.
114
115 j. The location of exterior drains, dry wells, catch basins, retention and/or
116 detention areas, sumps and other facilities designed to collect, store or
117 transport storm water or waste water. The point of discharge for all
118 drains and pipes shall also be specified on the site plan.
119
120 k. A statement from the applicant identifying all Federal, State and local
121 permits required, if any.
122
123 l. Such other information and/or assessments as necessary to enable the
124 Municipality to determine whether the proposed site plan will conform
125 to the provisions of this Zoning Ordinance.
126

127 **11.6 Required Data for Plot Plans**
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- 129 A. The following data shall be submitted with applications for zoning and/or land use
130 permits for uses requiring a plot plan:
131
132 1. An accurate, readable, scale drawing showing the following shall be required
133 except in the case of minor alterations, repair and demolitions as determined by
134 the Joyfield Township Planning Commission. The Commission may establish and
135 make available written guidelines as to the scale and level of detail needed for
136 applications for various types of uses requiring a zoning permit or for
137 information to be submitted to the Board of Zoning Appeals in order to make a
138 decision on an appeal or request for Zoning Ordinance interpretation or
139 variance:
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- 141 a. Name, address and telephone number of the applicant(s) (and owner(s)
142 if different).
143
144 b. The location, shape, area and dimension of the lot.
145
146 c. The location, dimensions, height and bulk of the existing and/or
147 proposed structures to be erected, altered or moved on the lot.
148
149 d. A description of proposed use of the building(s), land or structures.
150
151 e. The proposed number of sleeping rooms, dwelling units, occupants,
152 employees, customers and other users.
153
154 f. The yard, open space, parking lot and space dimensions and number of
155 spaces.
156
157 g. A vicinity sketch showing the location of the site in relation to the
158 surrounding street system and adjacent land uses within five hundred
159 (500) feet in every direction including on the opposite side of any public
160 street.
161
162 h. Location of any septic system or drain field and well.
163
164 i. Configuration of the driveway and parking.
165
166 j. Drains and site drainage patterns.
167
168 k. Existing public rights-of-way or easements.
169
170 l. All public utilities.
171
172 m. Any other information deemed necessary by the Joyfield Township
173 Planning Commission to determine and provide for the enforcement of
174 this Zoning Ordinance.
175

176 **11.7 Required Data for a Site Plan Involving Special Groundwater Protection**
177 **Provisions**
178

- 179 A. All businesses and facilities which use or generate hazardous substances except:
180
181 1. Fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by
182 that vehicle's motor.
183
184 2. Materials in a five (5) gallon, or smaller, pre-packaged sealed containers for
185 purposes of resale and located inside a retail establishment.
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- 187 B. In addition to all the data required for a Site Plan, the following shall also be shown in
188 the site plan:
189
- 190 1. Location and size of interior and exterior areas and structures to be used for
191 storage, use, loading/unloading, recycling, or disposal of hazardous substances.
192
 - 193 2. Location of all underground and above ground storage tanks for such uses as
194 fuel storage, waste oil holding tanks, chemical storage, hazardous waste
195 storage, collection of contaminated storm water or wash water, and all similar
196 uses.
197
 - 198 3. Location of exterior and interior drains, on-site sewage systems, dry wells; catch
199 basins; retention/detention areas; sumps and other facilities designed to collect,
200 store or transport storm water or wastewater. The point of discharge for all
201 drains and pipes shall be specified on the site plan.
202
 - 203 4. Location of all water wells on the site and within one hundred and fifty (150)
204 feet surrounding the parcels property boundaries.
205
 - 206 5. Delineation of areas on the parcel which are known or suspected to be
207 contaminated, together with a report on the status of site cleanup.
208

209 **11.8 Submittal and Distribution of Site Plans**

210 At least twelve (12) copies of the application and Site Plan shall be submitted to the Joyfield Township
211 Planning Commission at least twenty (20) days prior to the Commission’s regularly scheduled meeting.
212 Two (2) copies of the Site Plan drawings shall be on twenty-four inch by thirty-six inch (24” x 36”) paper
213 drawn in a scale of one (1) inch equals forty (40) feet. Ten (10) copies shall be on eleven inch by
214 seventeen inch (11” x 17”) paper reduced from original drawing. In addition, all site plans and
215 documents shall be submitted on a compact disk or memory stick in pdf format. The Zoning
216 Administrator shall review the application and Site Plans for completeness and if such application or
217 plans are not complete, the plans shall be returned to the applicant with a written notice identifying the
218 plans’ inadequacies. Upon receipt of an adequately completed application and plans, the Zoning
219 Administrator shall record the date of their receipt.
220

221 **11.9 Completeness of the Site Plan Application**

222 The Joyfield Township Planning Commission shall review the application and plans and determine their
223 conformity with the applicable provisions of this Zoning Ordinance. The Commission may, at its
224 discretion, delay deliberating upon a Site Plan at its next regularly scheduled or special meeting unless
225 the site plan and all supporting documents, including a zoning permit application form and escrow
226 payment, have been received by Joyfield Township at least seven (7) business days prior to such
227 meeting.
228

229 **11.10 Joyfield Township Planning Commission Review and Action**

230 After conducting a review, the Joyfield Township Planning Commission shall reject, approve or
231 conditionally approve the Site Plan as it pertains to requirements and standards contained in the Zoning
232 Ordinance. Any conditions required by the Commission for approval shall be stated in writing, together
233 with the reasons and delivered to the applicant. Decisions and recommendations by the Commission

234 shall be made within sixty (60) days of the receipt of the completed application unless, in the opinion of
235 the Joyfield Township Planning Commission, an extension of time is necessary to adequately collect and
236 review information pertinent to a decision or recommendation. A Site Plan shall be approved by the
237 Commission if it contains the information required by and is in compliance with this Zoning Ordinance,
238 the conditions imposed pursuant to the Zoning Ordinance, other planning documents, other applicable
239 Codes and County, State and Federal laws and statutes.

240
241 **11.11 Approved Site Plans**
242 Three (3) copies of the approved Site Plan, with any conditions required shall be maintained as part of
243 the Joyfield Township Planning Commission’s records for future review and enforcement. One (1) copy
244 shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the
245 Chair and Secretary of the Joyfield Township Planning Commission. If any variances from the Zoning
246 Ordinance have been obtained from the Board of Zoning Appeals, the minutes concerning the variances,
247 duly signed, shall also be filed with the Commission's records as a part of the site plan and delivered to
248 the applicant for information and direction.

249
250 **11.12 Site Plan Approval Criteria**

- 251
252 A. Each Site Plan shall conform to the applicable provisions of this Zoning Ordinance and
253 the criteria listed below in addition to any conditions imposed by the Joyfield Township
254 Planning Commission:
255
- 256 1. All elements of the Site Plan shall be harmoniously and efficiently organized in
257 relation to topography, the size and type of lot, the character of adjoining
258 property and the type and size of buildings. The site shall be so developed as not
259 to impede the normal and orderly development or improvement of surrounding
260 property for uses permitted in this Zoning Ordinance.
261
 - 262 2. The landscape shall be preserved in its natural state, insofar as practical, by
263 minimizing tree, other vegetative material and soil removal and by topographic
264 modifications which result in maximum harmony with adjacent areas. Landscape elements shall minimize negative impacts and allow for the
265 appropriate blending of the Site Plan with the surrounding community and in
266 the case of parking lots, provide directional guidance to drivers. Landscaping,
267 buffering and screening shall conform to the requirements of this Zoning
268 Ordinance.
269
 - 270 3. Special attention shall be given to proper site drainage so that removal of storm
271 waters will not increase off-site sedimentation or otherwise adversely affect
272 neighboring properties, Herring Lakes or its tributaries.
273
 - 274 4. The Site Plan shall provide reasonable, visual and sound privacy for all dwelling
275 units located therein. Special attention shall be given to ensure the peaceful
276 surroundings of any nearby dwellings or other types of communities so as to
277 lend continuity and that adequate natural light that may be currently enjoyed
278 and continued to be enjoyed by the surrounding structures. Fences, walks,
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- barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
5. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides. This review shall be conducted by the Fire Department Fire Marshall.
 6. Every structure or dwelling unit shall have access to a public street, private easement, private place, walkway or other area dedicated to common use.
 7. A pedestrian circulation system shall be provided which is insulated as completely as reasonably possible from the vehicular circulation system.
 8. Exterior lighting shall be designed and arranged so that it is deflected away from adjacent streets and adjoining properties. Flashing, twinkling or intermittent lights shall not be permitted.
 9. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way according to the standards of the Benzie County Road Commission.
 10. All roads dedicated to public use shall be developed in accordance with Benzie County Road Commission specifications.
 11. All parking areas shall be so designed to facilitate efficient and safe vehicular and pedestrian circulation, minimize congestion at ingress and egress points to intersecting roads, including the use of service drives as appropriate and minimize the negative visual impact of such parking areas.
 12. Residential and nonresidential development shall not include unnecessary curb cuts and commercial service drives shall be used where the opportunity exists.
 13. The Site Plan shall provide for the appropriate location of all necessary and proposed utilities. Locational requirements shall include underground facilities to the greatest extent feasible.
 14. Site Plans shall conform to all applicable requirements of State and Federal statutes (i.e. Soil and Sedimentation Control, Wetlands, Critical Dunes, High Risk Erosion, etc.) and approval may be conditioned on the applicant receiving necessary State and Federal permits before the Site Plan approval is granted.
 15. The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous materials from entering the environment including:

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- a. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, ground water, lakes, streams, rivers or wetlands.
- b. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
- c. State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.

11.13 Conformity to Approved Site Plans

Property which is the subject of Site Plan approval must be developed in strict compliance with the approved Site Plan and any amendments thereto which have received approval from the body which had approved the original site plan. If construction and development does not conform with such approved plans, the approval and associated permits shall be revoked. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.

11.14 Amendment to a Site Plan

No changes shall be made to an approved Site Plan prior to or during construction except where the Joyfield Township Planning Commission and applicant mutually agree according to the following procedures:

- A. Minor Changes: Minor changes to an approved Site Plan involving changes of less than five (5) feet in the location of walkways, vehicular circulation ways and parking areas or exterior building and structure walls; adjustment of utilities; and similar minor changes as may be approved by Joyfield Township.
- B. Major Changes: Major changes or amendments to an approved Site Plan involving changes in excess of five (5) feet in the location of walkways, vehicular circulation ways and parking areas or exterior building and structure walls; the number and location of accesses to public streets and alleys; a reduction in the number of parking spaces; an increase in the gross floor area or heights of buildings; a reduction in the open space; and similar major changes, shall require the approval of the Joyfield Township Planning Commission, or in the case of a Planned Unit Development project, in the same manner as the original application was submitted, reviewed and approved and subject to the finding of all of the following:
 - 1. Such changes will not adversely affect the initial basis for granting approval;

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- 374 2. Such changes will not adversely affect the overall project in light of the intent
375 and purpose of such development as set forth in this Article; and
376
377 3. Such changes shall not result in the reduction of open space area as required
378 herein.
379

380 **11.15 Amendments to a Plot Plan**

381 The Zoning Administrator shall review proposed changes to an approved plot plan in accordance with
382 the same procedures, requirements and standards used by the Joyfield Township Planning Commission.
383 Joyfield Township Zoning Administrator shall have the authority to determine if a proposed change is
384 substantive and therefore requires an amendment to the approved site plan. Minor changes of an
385 approved final site plan may be incorporated without amendment to the approved preliminary site plan
386 at the discretion of the Planning Commission.
387

388 **11.16 Review Fees and Security Requirement**

389 If the Planning Commission or Zoning Board of Appeals determines that the zoning fees will not cover
390 the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of
391 Appeals determines that review of the application and/or participation in the review process or appeal
392 by qualified professional planners, engineers, attorneys or other professionals is necessary, then the
393 applicant shall deposit with the Township Treasurer such additional zoning fees in an amount
394 determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional
395 costs.
396

397 The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay
398 these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial
399 escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the
400 application or decision on the appeal is not completed, then the Planning Commission or Zoning Board
401 of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by
402 the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the
403 review or decide the appeal.
404

405 Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to
406 make the application incomplete or the appeal procedurally defective thereby justifying the denial of
407 the application or the dismissal of the appeal. Any unexpected funds held in escrow shall be returned
408 to the applicant following final action on the application or the final decision on the appeal. Any actual
409 costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant
410 and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on
411 an appeal.

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412 **Article 12**
413 **NONCONFORMING USES**

414
415 **12.1 Purpose**

416 It is the intent of this Ordinance to permit legal nonconforming lots, structures, or uses to continue until
417 they are removed consistent with the provisions in the Michigan Zoning Enabling Act, Act 110 of 2006;
418 MCL 125.3208.

419
420 It is recognized that there exists within the districts established by this Ordinance and subsequent
421 amendments, lots, structures, and uses of land and structures which were lawful before this Ordinance
422 was passed or amended which would be prohibited, regulated, or restricted under the terms of this
423 Ordinance or future amendments. Such uses are declared by this Ordinance, to be incompatible with
424 permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities
425 shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures
426 or uses prohibited elsewhere in the same district.

427
428 A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure
429 and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building
430 or premises of additional signs intended to be seen from off the premises, or by addition of other uses
431 of a nature which would not be permitted generally in the district involved.

432
433 To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans,
434 construction, or designed use of any building on which actual construction was lawfully begun prior to
435 the effective date of adoption or amendment of this Ordinance, and upon which actual building
436 construction has been diligently carried on. Actual construction is hereby defined to include the placing
437 of construction materials in permanent position and fastened in a permanent manner; except that
438 where demolition or removal of an existing building has been substantially begun preparatory to
439 rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work
440 shall be diligently carried on until completion of the building involved.

441
442 **12.2 Nonconforming Uses of Land**

443 Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that
444 is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may
445 be continued, so long as it remains otherwise lawful, subject to the following provisions:

- 446
447 A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a
448 greater area of land than was occupied at the effective date of adoption or amendment of
449 this Ordinance.
- 450
451 B. No such nonconforming use shall be moved in whole or in part to any other portion of the
452 lot or parcel occupied by such use at the effective date of adoption or amendment of this
453 Ordinance.

454
455 **12.3 Nonconforming Structures**

456 Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that
457 could not be built under the terms of this Ordinance by reason of restriction on area, lot coverage,

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458 height, yards, or other characteristics of the structure or its location on the lot, such structure may be
459 continued so long as it remains otherwise lawful, subject to the following provisions:

- 460
- 461 A. No such structure may be enlarged, or altered in a way which increases its nonconformity.
- 462
- 463 B. Should such structure be intentionally moved for any reason for any distance whatever, it
464 shall thereafter conform to the regulations for the district in which it is located after it is
465 removed.
- 466
- 467 C. If a nonconforming structure is destroyed by natural causes or methods not initiated by the
468 property owner, such structure may be rebuilt as it existed at the time of passage or
469 amendment of this Ordinance.
- 470

471 **12.4 Nonconforming Uses of Structures and Land**

472 If a lawful use of a structure, or of structure and land in combination, exists at the effective date of
473 adoption or amendment of this Ordinance, the lawful use may be continued so long as it remains
474 otherwise lawful, subject to the following provisions:

- 475
- 476 A. No existing structure devoted to a use not permitted by this Ordinance in the district in
477 which it is located shall be enlarged, extended, constructed, reconstructed, moved or
478 structurally altered except in changing the use of the structure to a use permitted in the
479 district in which it is located.
- 480
- 481 B. Any nonconforming use may be extended throughout any parts of a building which were
482 manifestly arranged or designed for such use, and which existed at the time of adoption
483 or amendment of this Ordinance, but no such use shall be extended to occupy any land
484 outside such building.
- 485
- 486 C. Any structure, or structure and land in combination, in or on which a nonconforming use
487 is superseded by a permitted use, shall thereafter conform to the regulations for the
488 district in which such structure is located, and the nonconforming use may not
489 thereafter be resumed.
- 490
- 491 D. Where nonconforming use status applies to a structure and land in combination,
492 removal or destruction of the structure shall eliminate the nonconforming status of the
493 land.
- 494

495 **12.5 Repairs and Maintenance**

496 On any building devoted in whole or in part to any nonconforming use, work may be done in any period
497 of twelve (12) consecutive months on ordinary repairs, or on repair replacement of nonbearing walls,
498 fixtures, wiring, or plumbing, provided that the cubic content of the building, as it existed at the time of
499 passage or amendment of this Ordinance, shall not be increased. Nothing in this Ordinance shall be
500 deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof
501 declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

502 **12.6 Change of Tenancy or Ownership**

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504 There may be a change of tenancy, ownership or management of any existing nonconforming uses of
505 land structures, and premises provided there is no change in the nature or character of such
506 nonconforming uses except in conformity with the provisions of this Ordinance.

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ARTICLE 13
ZONING BOARD OF APPEALS

13.1 Purpose & Scope

It is the purpose of this Article to create a Zoning Board of Appeals, to establish its responsibilities and to establish standards for its operation.

13.2 Creation of Board of Appeals

- A. Establishment: There is hereby established a Board of Appeals in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. The Board of Appeals shall perform its duties and exercise its powers so that the health, safety and welfare of the public may be secured; and that substantial justice be done.
- B. Membership, term of office of the Board of Appeals:
 - 1. The Board of Appeals shall consist of not less than three (3) and not more than seven (7) members who shall be appointed and shall serve in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
 - 2. The membership of the Board of Appeals shall be as representative as possible to include the greatest and most varied available expertise. One member of the Board of Appeals shall be a member of Joyfield Township Planning Commission.
- C. Powers: The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination and to that end, shall have all the powers of the office or body from whom the appeal was taken, and may issue or direct the issuance of a permit. The Board of Appeals shall have the power to make final determinations, within its jurisdiction and duties herein prescribed, in such a way that the objectives of this Ordinance may be equitably achieved in order that there shall be uniform interpretation and flexibility in the enforcement of this Ordinance or to fulfill any other responsibilities bestowed upon the Board of Appeals by this Ordinance.
- D. Members of the Board of Appeals shall be removable by Joyfield Township Board for non-performance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office.
- E. The term of office of each member shall be three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board respectively, and the period stated in the resolution appointing them. A successor shall be appointed within one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. The expiration of the terms of members appointed from the electorate shall be adjusted so that all do not expire at the same time. A successor

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48 shall be appointed not more than one (1) month after the term of the preceding
49 member has expired. All vacancies for unexpired terms shall be filled for the
50 remainder of the term.
51

52 **13.3 Rules, Limits on Authority of the Board of Appeals and Use Variance**
53

- 54 A. The Board of Appeals shall establish rules of procedure or by-laws to govern its
55 procedures. The Board shall choose its own chairman, and in his or her absence, an
56 acting chairman who may administer oaths and compel the attendance of witnesses.
57
- 58 B. The concurring vote of a majority of the members of the Board of Appeals shall be
59 necessary to reverse an order, requirement, decision or determination of the
60 administrative official or body, or to decide in favor of the applicant any matter upon
61 which they are required to pass or to effect any variation under this Ordinance.
62
- 63 C. The Joyfield Township Board of Appeals shall not have the power to alter or change the
64 zoning district classification of any property, nor to make any change in the terms or
65 intent of this Ordinance; these powers are reserved to the governing body.
66

67 **13.4 Zoning Appeals**
68

69 The Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an
70 error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any
71 other official in administering or enforcing any provisions of this Ordinance. The procedure for
72 appealing to the Zoning Board of Appeals, or requesting a variance, ordinance interpretation or filing
73 any other request is as follows:
74

- 75 A. The appeal shall be taken within such time as prescribed by the rules or by-laws of the
76 Zoning Board of Appeals.
77
- 78 B. A fee, prescribed by Joyfield Township Board, shall be submitted to the Zoning
79 Administrator at the time of the filing of the application form.
80
- 81 C. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an
82 officer, department, board, agency, or bureau of Joyfield Township, county, state,
83 federal, or other legally constituted form of government.
84
- 85 D. The person, firm, agent, or attorney thereof making the appeal shall file by completing
86 and signing the application form provided by Joyfield Township.
87
- 88 E. All persons shall file a written statement signed by the principal stating the agent's right
89 to act upon their behalf.
90
- 91 F. A completed application form shall be submitted to the Zoning Administrator. The
92 application shall state the reasons for the appeal and the order or ruling appealed.
93 When applicable, the legal description of the property involved shall be stated in the
94 notice of appeal. Before the application is processed, the fees shall be collected. If the

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95 Zoning Administrator determines that the application does not fully comply with the
96 submittal requirements, the application and fee shall be returned to the applicant. If the
97 application is approved, the Zoning Administrator shall forthwith transmit to the
98 recording secretary for the Zoning Board of Appeals the application and all papers
99 constituting the record from which the appeal was taken.
100

101 G. An appeal stays all proceedings in furtherance of the action appealed unless the officer
102 from whom the appeal is taken certifies to the Board of Appeals that by reason of facts
103 stated in the appeal application, a stay would in his or her opinion cause imminent peril
104 to life and property.
105

106 H. When a properly executed application form has been filed, the recording secretary,
107 upon consultation with the chairman for the Zoning Board of Appeals, shall schedule the
108 matter for a public hearing.
109

110 I. Notice of the public hearing shall be provided per Section 103 of Public Act 110 of 2006.
111

112 J. Following the public hearing, the Board of Appeals shall return a decision on a case in a
113 timely manner, or if time frames are included within its rules of procedure, then within
114 the time specified in the rules of procedure.
115

116 K. No Land Use Compliance Permit shall be issued by the Zoning Administrator based on a
117 decision of the Board of Appeals before eight (8) days have expired.
118

119 **13.5 Variances**

120
121 The Board of Appeals shall have the power to authorize, upon appeal, a dimensional non-use variance
122 from requirements of the Zoning Ordinance, provided the applicant has proven a "practical difficulty",
123 by demonstrating as follows:
124

125 A. That strict compliance with the Ordinance would unreasonably prevent the owner from
126 using the property for a permitted purpose, or would render conformity with such
127 restrictions unnecessarily burdensome.
128

129 B. That the problem is due to a unique circumstance of the property.
130

131 C. That the specific conditions relating to the property are not so general or recurrent in
132 nature, in the zoning district, so as to require an amendment to the zoning ordinance,
133 instead of a variance.
134

135 D. The property problem was not created by the action of the applicant.
136

137 E. That the granting of the variance will not cause a substantial adverse effect upon
138 property values in the immediate vicinity, or in the district in which the property of the
139 applicant is located.
140

141 F. That the requested variance will relate only to the property under the control of the

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- 142 applicant.
- 143
- 144 G. That the non-conforming dimensions of other lands, structures, or buildings in the same
- 145 zoning district shall not be considered grounds for the issuance of a variance.
- 146
- 147 H. That the variance is the minimum variance that will make possible the reasonable use of
- 148 the land, building or structure in the zoning district in which it is located.
- 149
- 150 I. That the proposed use of the premises is in accord with the Zoning Ordinance.
- 151
- 152 J. That the variance would do substantial justice to the applicant as well as to other
- 153 property owners in the district.
- 154
- 155 K. That the granting of the variance will ensure that the spirit of the ordinance is observed,
- 156 public safety secured and substantial justice applied.
- 157
- 158 L. That the requested variance shall not amend the permitted uses of the zoning district in
- 159 which it is located.
- 160

161 **13.6 Special Rules for Variances**

162

163 The following rules shall be applied in the granting of a variance:

164

- 165 A. The Zoning Board of Appeals shall specify, in writing, such conditions regarding the
- 166 character, location, and other features which will, in its judgment, secure the objectives
- 167 and intent of this Ordinance, provided there is an applicable standard in this Ordinance
- 168 to serve as the basis for such condition. The breach of such condition shall
- 169 automatically invalidate the permit granted.
- 170
- 171 B. Each variance granted under the provisions of this Ordinance shall become null and void
- 172 unless the construction authorized has been commenced within one (1) year after the
- 173 hearing date when the variance was granted.
- 174

175 **13.7 Interpretation and Other Powers**

176

177 The Board of Appeals shall have the power to:

178

- 179 A. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out
- 180 the intent and purpose of this Ordinance.
- 181
- 182 B. Determine the precise location of the boundary lines between zoning districts.
- 183
- 184 C. Classify a use which is not specifically mentioned as part of the use regulations of any
- 185 zoning district so that it conforms to a comparable permitted or prohibited use, in
- 186 accordance with the purpose and intent of each district. The classification of the
- 187 unmentioned use does not automatically permit the use, it only identifies the district in
- 188 which it may be located and the zoning regulations with which it must conform.

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- D. Determine the signage, landscaping, buffering, off-street parking and loading space requirements of any use not specifically mentioned in this Ordinance, by applying the most comparable provisions for other similar uses.

When making an interpretation, the Board of Appeals shall carefully consider the definitions in Article II, the meaning of all the relevant sections in the Ordinance, past decisions of the Board of Appeals on similar matters, research and any conclusions by the Zoning Administrator, consultant or attorney paid by Joyfield Township, and shall make a decision on the narrowest grounds feasible so as not to upset the meaning and application of this Ordinance.

13.8 Determination of a Lot of Record

The Board of Appeals shall have the power to make "Lot of Record" determinations in accordance with the following procedure:

- A. Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject to a deed or land contract, not recorded in the Office of the Register of Deeds on the effective date of this Ordinance, the Board of Appeals is authorized to conduct a hearing to determine whether a variance should be granted to such owner entitling him to have the parcel treated as a "lot of record" as provided for in this Ordinance.
- B. The Board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel of said owner was executed prior to the effective date of this Ordinance. In making its determination, the Board is authorized to consider all matters it deems relevant, including but not limited to, the tax roll of Joyfield Township, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his witnesses.
- C. Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other requirements set forth in this Ordinance.

13.9 Nonconformity Appeals

Nonconforming buildings or structures may be structurally changed, altered, or enlarged upon appeal in cases of hardship or other extenuating circumstances, and when approval of said appeal will not have an adverse effect on surrounding property, and when consistent with the requirements of this Ordinance.

13.10 Findings of Fact

- A. The Board of Appeals shall grant no variance or make any determination on an appeal, ordinance interpretation or other issue requested of it unless the Board records specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards imposed by the requirements of this Ordinance have been met.

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- B. Said findings of fact shall include, but not be limited to the following information:
1. How the application of the Zoning Ordinance creates unnecessary hardship or practical difficulty in the use of petitioner's property.
 2. Identify the unique physical circumstances or conditions or exceptional topography that create practical difficulties.
 3. Specific findings (characteristics of the land) showing that because of physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance.
 4. That the authorization of a variance is, therefore, necessary to enable the reasonable use of the property and that the condition is specific to this property and not general to other properties in the area.
 5. Finding that the practical difficulty was not created by the appellant and is related only to property that is owned or occupied by the appellant.
 6. A statement of the impacts of the variance if authorized, the property values, use and enjoyment of the property in the neighborhood or district, and on the public health, safety and welfare.
 7. The proposed variance does not permit the establishment of any use which is not permitted by right within the district or any use or dimensional variance for which a Special Use Permit is necessary.
 8. Findings on whether the proposed development complies with the requirements, standards or procedures given in the Zoning Ordinance or an interpretation of the disputed ordinance provisions, if applicable.
 9. Findings on any error in judgment or procedure in the administration of the relevant zoning provisions.
 10. The possible precedents or affects which might result from the approval or denial or the appeal.
 11. Findings on the impact if the appeal is approved, on the ability of Joyfield Township or other governmental agency to provide adequate public services and facilities and/or programs that might reasonably require in the future if the appeal is approved.

13.11 Burden of Proof in Appeals and Variances

When an appeal is taken to the Board of Appeals, the applicant shall have the burden of presenting to the Board sufficient evidence and argument to justify the requested order or decision.

13.12 Re-Applications and Re-hearings

Any request for reapplication or rehearing shall be made within eight (8) days of the meeting at which the original decision was made. If the Board of Appeals votes to consider a reapplication or to grant a rehearing, the Board shall then, at the same hearing, proceed with the appeal, variance or interpretation without charging the applicant a second fee.

13.13 Bond Authorized

In authorizing any variance, the Board of Appeals may require that a bond or other performance

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283 guarantee be furnished to insure compliance with the requirements, specifications and conditions
284 imposed with the granting of a variance.

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Article 14
ADMINISTRATION AND ENFORCEMENT

14.1 Enforcement

The provisions of this ordinance shall be administered and enforced by the Zoning Administrator or by such deputies of this department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

14.2 Duties of Zoning Administrator

The Zoning Administrator shall have the power to interpret, administer and enforce all provisions of this Ordinance and shall have the power to grant land use compliance and occupancy permits, and to make inspections of buildings or premises necessary to carry out their duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this ordinance.

The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Article 12.

The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

14.3 Land Use Compliance Permits

The following shall apply in the issuance of any land use compliance permit:

- A. Permits Not to be Issued: No land use permit shall be issued for the erection, alteration, or use of any building or structure, or part thereof, or for the use of any land which is not in accordance with all provisions of this Ordinance.
- B. Permits for New Use of Land: No land heretofore vacant shall hereafter be used, or an existing use of land be hereafter changed to a use of a different class or type unless a land use permit is first obtained for the new or different use.
- C. Permits for New Use of Buildings: No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a land use permit is first obtained for the new or different use.
- D. Permits Required for the Erection, Alteration or Repair of Buildings: No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a land use permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by State Construction Building Code, Housing Law, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.

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E. Permits for Wrecking Buildings: Before a building or structure can be wrecked, the owner, wrecking company, or person who secures the permit shall notify all utilities having service connections within the building such as water, electric, gas, sewer, and other connections. A permit to wreck a building shall not be issued unless a release is obtained from the utilities stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed and/or sealed and plugged in a safe manner; nor shall a wrecking permit be issued until a report has been received from the public utility companies concerned, that said wrecking operations may be accomplished in such a manner as not to create a hazardous condition as a result of the proximity of such public utility installations.

1. Before a permit is issued for the wrecking of any building, such application for permit shall be referred to the Zoning Administrator for examination of the premises to determine whether or not rodent and/or insect extermination procedures are necessary.
2. The wrecking company, or person who secures the permit for the razing of the structure, will be held responsible for the compliance with these regulations and other laws and ordinances covering this subject. He will also be held responsible and liable for the acts of subcontractors or other persons who do any work of removal or destruction in the wrecking of the building. The methods to be used in wrecking shall not involve undue hazards to the public or unnecessary danger to the workmen and shall be in accordance with good practice. Crane, back hoe, bulldozer, high loader, ball, clam-bucket, chain, cable, and other similar mechanical devices shall not be used to wreck buildings or structures except in individual cases wherein detailed plans and proposed procedures are submitted with the application for wrecking permit and are approved by the building official. Suitable provision shall be made for the disposal of materials which are accumulated during the wrecking operations. No part of the structure shall be overloaded by excessive storage of materials or debris. Chutes, scaffolds, derricks, and hoists shall be strong and substantial, and safe for the purpose for which they are intended. Materials, which in their removal, would cause an excessive amount of dust, shall be well wet down to prevent the creation of a nuisance. No open fires or other sources of flame except necessary cutting torches will be permitted on the inside of the building which is being wrecked, not in close proximity to flammable materials outside of the building, and every precaution shall be taken to prevent the possibility of fire.
3. Blasting and use of explosives shall be done only by a person licensed by the State of Michigan and approved by the Fire Marshall and Zoning Administrator to perform such work and notification shall be given to Joyfield Township and surrounding property owners within three hundred (300) feet of the site and within five (5) calendar days of the work.
4. The requirements of this section are designated as the minimum necessary for average conditions and, in the case of unusual or dangerous situations, adequate provision shall be made and every precaution taken to protect the

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95 safety of the public and workmen. All abandoned basements or cellars and
96 holes shall be filled to grade, and all excess materials, rubbish, and debris shall
97 not be permitted to remain on the premises above grade. The Fire Department
98 shall be notified before removing standpipes, sprinklers, or fire protection water
99 supplies.

100
101 5. Expiration of Land Use Permit: If the work described in any land use permit has
102 not begun within twelve (12) months from the date of issuance thereof, said
103 permit shall expire; it shall be canceled by the Zoning Administrator, and written
104 notice thereof shall be given to the persons affected. If the work described in
105 any land use permit has not been substantially completed within two (2) years
106 of the date of issuance thereof, said permit shall expire and be canceled by the
107 Zoning Administrator, and written notice thereof shall be given to the persons
108 affected, together with notice that further work, as described in the canceled
109 permit, shall not proceed unless, and until, a new land use permit has been
110 obtained.

111
112 6. Timing of Permits

113
114 a. The Zoning Administrator or appropriate governing body has the power
115 to require a permit to be obtained on a prompt basis.

116
117 b. The Zoning Administrator or appropriate governing body may require
118 construction to commence within a specified date from the date of
119 issuance of the permit, that the construction be pursued in a diligent
120 manner, and that the construction be completed by a specified date.

121
122 c. Any time periods specified in the ordinance for the start and completion
123 of a project may be modified by the applicable body as a condition of
124 project approval.

125
126 **14.4 Building Permit**

127 No building permit shall be issued for the erection, structural alteration, moving or repair of any
128 structure or part thereof which does not comply with all provisions of this Ordinance and unless a
129 Preliminary Land Use Compliance Permit has been issued by the Zoning Administrator. No structure
130 shall be erected, moved, added to, or structurally altered unless a building permit shall have been issued
131 therefor by the Building Inspector.

132
133 Where repairs to a single-family dwelling and/or residential accessory building are exclusive of
134 structural, mechanical or electrical modifications, the Zoning Administrator shall not require a
135 Preliminary Land Use Compliance Permit .

136
137 **14.5 Certificates of Occupancy**

138 No land, building, or part thereof, shall be occupied by, or for any use, unless and until a certificate of
139 occupancy shall have been issued for such use. The following shall apply in the issuance of any
140 certificate:

- 142 A. Certificates Not to be Issued: No certificate of land use compliance shall be issued for
143 any building, structure or part thereof, or for the use of any land which is not in
144 accordance with all the provisions of this Ordinance or for which a variance has been
145 granted.
146
- 147 B. Certificates Required: No building or structure, or parts thereof, which is hereafter
148 erected, or altered, shall be occupied or used or the same caused to be done, unless and
149 until a certificate of land use compliance shall have been issued for such building or
150 structure.
151
- 152 C. Record of Certificates: A record of all certificates issued shall be kept on file in the office
153 of the Zoning Administrator, and copies shall be furnished upon request to any person
154 having a proprietary or tenancy interest in the property involved.
155
- 156 D. Application for Certificates: Application for Certificate of Land Use Permit Compliance
157 shall be made, in writing, to the Zoning Administrator on forms furnished by that
158 Department, and such certificates shall be issued within five (5) days after receipt of
159 such application if it is found that the building or structure, or part thereof, or the use of
160 land is in accordance with the provisions of this Ordinance. If such certificate is
161 refused for cause, the applicant therefore shall be notified of such refusal and cause
162 thereof, within the aforesaid five (5) day period.
163
- 164 E. A Certificate of Land Use Permit Compliance for any improvement will not be issued nor
165 shall the property be used or occupied in any way until the required physical site
166 improvements are fulfilled. In instances where all improvements as required by this
167 Ordinance are not completed and a temporary certificate of occupancy is requested, the
168 cost of such remaining improvements shall be estimated by the Zoning Administrator,
169 taking into account the criteria listed above. The Zoning Administrator may grant
170 temporary occupancy if use of the premises does not constitute a hazard or nuisance.
171 Temporary occupancy will not be granted until satisfactory cash bond or irrevocable
172 letter of credit in the amount of the estimated cost of completion is filed with the
173 Joyfield Township Planning Commission. If the work is not completed by the date
174 specified on the temporary occupancy permit, the Commission may use the cash, surety
175 bond or irrevocable letter of credit to complete the improvements.
176

177 **14.6 Inspection**

178 The holder of every land use permit for the construction, erection, alteration, repair, or moving of any
179 building, structure, or part thereof, shall notify the Zoning Administrator, or their designee, immediately
180 upon the completion of the work authorized by such permit for a final inspection. The Zoning
181 Administrator has the authority to make periodic inspections to ensure compliance of the Zoning
182 Ordinance. Authorization for period or formal inspections shall be incorporated in applicable permits.
183

184 **14.7 Fees**

185 Fees for inspection and the issuance of permits or certificates or copies thereof, required or issued
186 under the provisions of this Ordinance, may be collected by the Zoning Administrator in advance of
187 issuance. The amount of such fees shall be established by resolution of Joyfield Township Board and

188 shall cover the cost of inspection and supervision resulting from enforcement of this Ordinance. No
189 certificate or permit shall be issued unless required fees have been paid in full.

190

191 **14.8 Requests for Information and Complaints**

192 Any request for information and/or complaint regarding an interpretation of a zoning provision,
193 administrative or enforcement of any provisions shall be submitted to Joyfield Township in writing for
194 review and action. Only written communication will be considered.

195

196 **14.9 Violations and Penalties**

197

198 A. Nuisance per se: Any land, dwellings, buildings or structures, including tents and
199 trailer coaches, used, erected, altered, razed or converted in violation of this
200 Ordinance or in violation of any regulations, conditions, permits or other rights
201 granted, adopted or issued pursuant to this Ordinance are hereby declared to be
202 a nuisance per se.

203

204 B. Inspection: The Zoning Administrator shall have the duty to investigate each
205 alleged violation and shall have the right to inspect any property for which a
206 zoning permit has been issued to the ensure compliance with the plans and
207 conditions of the zoning permit or approved site plan.

208

209 C. Penalties

210 1. Any person, partnership, limited liability company, corporation, or
211 association who creates or maintains a nuisance per se or who violates or
212 fails to comply with this Ordinance or any permit issued pursuant to this
213 Ordinance shall be responsible for a municipal civil infraction as defined
214 in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections
215 600.101-600.9939 of the Michigan Compiled Laws, and shall be subject to
216 a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every
217 day that such violation continues shall constitute a separate and distinct
218 offense under the provisions of this Ordinance. Nothing in this section
219 shall exempt the offender from compliance with provisions of this
220 Ordinance.

221

222 2. The Township Zoning Administrator is hereby designated as the
223 authorized Township official to issue municipal civil infraction citations
224 directing alleged violators of this Ordinance to appear in court.

225

226 3. In addition to enforcing this Ordinance, as a municipal civil infraction, the
227 Township may initiate proceedings in the Circuit Court to abate or
228 eliminate the nuisance per se or any other violation of this Ordinance.

229

230 **14.10 Rights and Remedies are Cumulative**

231 The rights and remedies provided herein are cumulative and in addition to any other remedies provided
232 by law.

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14.11 Performance Guarantee

- A. Where in this Ordinance there is delegated to the Zoning Board of Appeals and the Joyfield Township Planning Commission the function of establishing certain physical site improvements as a contingency to securing a zoning amendment, site plan approval, special approval or variance, the Zoning Board of Appeals or the Joyfield Township Planning Commission shall, to ensure strict compliance with any regulation contained herein or required as a condition of the issuance of a permit, require a cash, performance, or surety bond executed by a reputable surety company authorized to do business in the state, or irrevocable letter of credit or cash escrow account in an amount determined by the Zoning Board of Appeals or the Joyfield Township Planning Commission to be reasonably necessary to ensure compliance hereunder; provided, however, that in fixing the amount of such cash, performance, surety bond, irrevocable letter of credit or cash escrow account, consideration shall be given to the size and scope of the proposed improvement project, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application.
 - B. The performance guarantee shall be deposited with Joyfield Township at the time of the issuance of the permit authorizing the activity or project.
 - C. The Joyfield Township Planning Commission shall establish procedures whereby a rebate of cash deposits, in reasonable proportion to the ratio of work completed on the required improvements, will be made as work progresses.
 - D. As used in this section, “improvements” means those features and actions associated with a project which are considered necessary by the body or official granting approval to protect natural resources or the health, safety and welfare of the residents of Joyfield Township and future users or inhabitants of the proposed project or project area, including but not limited to roadways, paving, walls, curbing, striping, lighting, utilities, sidewalks, screening, landscaping and drainage.
- Objection to a performance guarantee requirement must be in writing and filed with the Joyfield Township Planning Commission within thirty (30) days of notice of the requirement. The determination of the Commission shall be final.

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Article 15
CHANGES AND AMENDMENTS

15.1 Purpose

Joyfield Township may from time-to-time, on recommendation from the Joyfield Township Planning Commission, its own initiative or on petition, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 110 of the Public Acts of 2006, as amended.

15.2 Petition for Amendments

An amendment to the Zoning Ordinance is subject to a protest petition. If a protest petition is filed, approval of the amendment to the Zoning Ordinance shall require a two-thirds (2/3) vote of the Joyfield Township Planning Commission, unless a larger vote, but not to exceed three-quarters (¾) vote, if required by ordinance or charter. The protest petition shall be presented to the Joyfield Township Planning Commission before final legislative action on the amendment, and shall be signed by one (1) or more of the following:

- A. The owners of at least twenty-percent (20%) of the area of land included in the proposed change.
- B. The owners of at least twenty-percent (20%) of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.
- C. For purposes of this section, publicly owned land shall be excluded in calculating the twenty-percent (20%) land area requirement.

15.3 Conditional Rezoning

- A. Intent: It is recognized that there are certain instances where it would be in the best interests of Joyfield Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Michigan Zoning Enabling Act (MCL125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- B. Application and Offer of Conditions:
 - 1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
 - 2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made

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47 without any offer of conditions, except as modified by the requirements of this
48 Section.

49
50 3. The owner's offer of conditions may not purport to authorize uses or
51 developments not permitted in the requested new zoning district.

52
53 4. The owner's offer of conditions shall bear a reasonable and rational relationship
54 to the property for which rezoning is requested.

55
56 5. Any use or development proposed as part of an offer of conditions that would
57 require a special land use permit under the terms of this Ordinance may only be
58 commenced if a special land use permit for such use or development is ultimately
59 granted in accordance with the provisions of this Ordinance.

60
61 6. Any use or development proposed as part of an offer of conditions that would
62 require a variance under the terms of this Ordinance may only be commenced if a
63 variance for such use or development is ultimately granted by the Zoning Board of
64 Appeals in accordance with the provisions of this Ordinance.

65
66 7. Any use or development proposed as part of an offer of conditions that would
67 require site plan approval under the terms of this Ordinance may only be
68 commenced if site plan approval for such use or development is ultimately
69 granted in accordance with the provisions of this Ordinance.

70
71 8. The offer of conditions may be amended during the process of rezoning
72 consideration provided that any amended or additional conditions are entered
73 voluntarily by the owner. An owner may withdraw all or part of its offer of
74 conditions any time prior to final rezoning action of Joyfield Township Board
75 provided that, if such withdrawal occurs subsequent to the Planning Commission's
76 public hearing on the original rezoning request, then the rezoning application shall
77 be referred to the Planning Commission for a new public hearing with appropriate
78 notice and a new recommendation.

79
80 C. Planning Commission Review: The Planning Commission, after public hearing and
81 consideration of the factors for rezoning set forth in Section 15 of this Ordinance, may
82 recommend approval, approval with recommended changes or denial of the rezoning;
83 provided, however, that any recommended changes to the offer of conditions are
84 acceptable to and thereafter offered by the owner.

85
86 D. Township Board Review: After receipt of the Planning Commission's recommendation,
87 Joyfield Township Board shall deliberate upon the requested rezoning and may approve
88 or deny the conditional rezoning request. Joyfield Township Board's deliberations shall
89 include, but not be limited to, a consideration of the factors for rezoning set forth in
90 Section 15 of this Ordinance. Should Joyfield Township Board consider amendments to
91 the proposed conditional rezoning advisable and if such contemplated amendments to
92 the offer of conditions are acceptable to and thereafter offered by the owner, then
93 Joyfield Township Board shall refer such amendments to the Planning Commission for a

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94 report thereon within a time specified by Joyfield Township Board and proceed
95 thereafter in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, to
96 deny or approve the conditional rezoning with or without amendments.
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99

100 E. Approval:

101 1. If the Joyfield Township Board finds the rezoning request and offer of conditions
102 acceptable, the offered conditions shall be incorporated into a formal written
103 Statement of Conditions acceptable to the owner and conforming in form to the
104 provisions of this Section. The Statement of Conditions shall be incorporated by
105 attachment or otherwise as an inseparable part of the ordinance adopted by the
106 Joyfield Township Board to accomplish the requested rezoning.
107

108 2. The Statement of Conditions shall:

109
110 a. Be in a form recordable with the Register of Deeds of the County in
111 which the subject land is located or, in the alternative, be accompanied
112 by a recordable Affidavit or Memorandum prepared and signed by the
113 owner giving notice of the Statement of Conditions in a manner
114 acceptable to the Joyfield Township Board.
115

116 b. Contain a legal description of the land to which it pertains.
117

118 c. Contain a statement acknowledging that the Statement of Conditions
119 runs with the land and is binding upon successor owners of the land.
120

121 d. Incorporate by attachment or reference any diagram, plans or other
122 documents submitted or approved by the owner that are necessary to
123 illustrate the implementation of the Statement of Conditions. If any
124 such documents are incorporated by reference, the reference shall
125 specify where the document may be examined.
126

127 e. Contain a statement acknowledging that the Statement of Conditions or
128 an Affidavit or Memorandum giving notice thereof may be recorded by
129 Joyfield Township with the Register of Deeds of the County in which the
130 land referenced in the Statement of Conditions is located.
131

132 f. Contain the notarized signatures of all of the owners of the subject land
133 preceded by a statement attesting to the fact that they voluntarily offer
134 and consent to the provisions contained within the Statement of
135 Conditions.
136

137 3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the
138 new zoning classification along with a designation that the land was rezoned
139 with a Statement of Conditions. The Joyfield Township Clerk shall maintain a
140 listing of all lands rezoned with a Statement of Conditions.

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4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by Joyfield Township with the Register of Deeds of the County in which the land is located. The Joyfield Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to Joyfield Township or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. Compliance with Conditions:

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. Time Period for Establishing Development or Use: Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Joyfield Township Board if (1) it is demonstrated to Joyfield Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) Joyfield Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

H. Reversion of Zoning: If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405(2). The reversion process shall be initiated by the Joyfield Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning

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187 classification. The procedure for considering and making this reversionary rezoning shall
188 thereafter be the same as applies to all other rezoning requests.

189
190 I. Subsequent Rezoning of Land: When land that is rezoned with a Statement of
191 Conditions is thereafter rezoned to a different zoning classification or to the same
192 zoning classification but with a different or no Statement of Conditions, whether as a
193 result of a reversion of zoning pursuant to Subsection H above or otherwise, the
194 Statement of Conditions imposed under the former zoning classification shall cease to
195 be in effect. Upon the owner's written request, the Joyfield Township Clerk shall record
196 with the Register of Deeds of the County in which the land is located a notice that the
197 Statement of Conditions is no longer in effect.

198
199 J. Amendment of Conditions:

200
201 1. During the time period for commencement of an approved development or use
202 specified pursuant to Subsection G above or during any extension thereof
203 granted by the Joyfield Township Board, Joyfield Township shall not add to or
204 alter the conditions in the Statement of Conditions.

205
206 2. The Statement of Conditions may be amended thereafter in the same manner
207 as was prescribed for the original rezoning and Statement of Conditions.

208
209 K. Township Right to Rezone: Nothing in the Statement of Conditions nor in the provisions
210 of this Section shall be deemed to prohibit Joyfield Township from rezoning all or any
211 portion of land that is subject to a Statement of Conditions to another zoning
212 classification. Any rezoning shall be conducted in compliance with this Ordinance and
213 the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended).

214
215 L. Failure to Offer Conditions: Joyfield Township shall not require an owner to offer
216 conditions as a requirement for rezoning. The lack of an offer of conditions shall not
217 affect an owner's rights under this Ordinance.

218
219 **15.4 Factors to Consider when Rezoning Any Parcel**

220 In reviewing an application for the rezoning of land, whether the application be made with or without an
221 offer of conditions, factors that should be considered by the Planning Commission and Joyfield Township
222 Board include, but are not limited to, the following:

223
224 A. Whether the rezoning is consistent with the policies and uses proposed for that area in
225 Joyfield Township's Master Land Use Plan;

226
227 B. Whether all of the uses allowed under the proposed rezoning would be compatible with other
228 zones and uses in the surrounding area;

229
230 C. Whether any public services and facilities would be significantly adversely impacted by a
231 development or use allowed under the requested rezoning; and
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D. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

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Article 16
PUBLIC HEARINGS AND NOTIFICATION PROCEDURES

16.1 Public Notice

All applicants for development approval requiring a public hearing, regardless of whether or not action to be taken is by the Joyfield Township Board, Planning Commission or Zoning Board of Appeals, shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006; Section 103; MCL 125.3103 with regard to public notification.

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Article 17
INTERPRETATION AND CONFLICT

17.1 Interpretation

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

17.2 Vested Right

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

17.3 Severability

If any part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not invalidate the remainder thereof, but shall be confined in its operation to the part thereof directly involved in the controversy in which said judgment shall have been rendered.

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