

Joyfield Township

Zoning Ordinance

**Joyfield Township Planning Commission
10/10/2018**

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Table of Contents

5		
6	Article 1	6
7	TITLE AND PURPOSE	6
8	1.1 Title	6
9	1.2 Area of Jurisdiction	6
10	1.3 Purpose	6
11	1.4 Interpretation and Relationship to other Regulations	6
12	1.5 Conflict with State or Federal Regulations	6
13	1.6 Repeal of Prior Zoning Ordinance	6
14	Article 2	7
15	DEFINITIONS	7
16	2.1 Rules of Interpretation	7
17	2.2 Definitions	7
18	Article 3	27
19	PURPOSE AND ESTABLISHMENT OF DISTRICTS.....	27
20	3.1 Relationship of Zoning Ordinance to Community Master Plan	27
21	3.2 Districts Established	27
22	3.3 Rural District	27
23	3.4 Commercial	27
24	3.5 Compliance with District Regulations	27
25	3.6 Properties with Multiple Zoning Designations	28
26	3.7 Uses Contrary to Federal, State or Local Statutes, Laws, and/or Ordinances	28
27	3.8 Official Zoning Map.....	28
28	Zoning Map.....	30
29	ARTICLE 4	31
30	REGULATED USES AND DIMENSIONAL REGULATIONS.....	31
31	4.1 Land Use and Zoning District Table	31
32	4.2 Permitted Uses [P].....	31
33	4.3 Special Land Use [S]	31
34	4.4 Uses Not Allowed	31
35	4.5 Site-Specific Standards	31
36	4.6 Unlisted Uses	31
37	4.7 Land Use Type	31
38	4.8 Land Use and Base Zoning District Table	32
39	4.9 Sub-Zone Dimensions by County Road Frontage	33
40	4.10 Setbacks from Property Line	36
41	4.11 New Roads	36
42	Article 5	37
43	SPECIAL LAND USES.....	37

44	5.1 Purpose	37
45	5.2 General Provisions	37
46	5.3 Required Standards and Findings for Making Determinations.....	37
47	5.4 Amendments, Denial or Appeal of a Special Land Use	39
48	5.5 Land Uses Requiring Additional Standards	42
49	5.6 <i>Reserved for future use</i>	42
50	5.7 <i>Reserved for future use</i>	42
51	5.8 Sand or Gravel Pits, Quarries	42
52	5.9 Sewage Treatment and Disposal	43
53	5.10 Airports and Heliports	43
54	5.11 Wind Energy Conversion Systems (Commercial)	43
55	5.12 Private Wind Energy Conversion Facilities (Private WECF).....	66
56	5.13 Wireless Communication Facilities.....	68
57	5.14 Reasonable Conditions	73
58	Article 6	75
59	RESERVED.....	75
60	Article 7	76
61	GENERAL REGULATIONS	76
62	7.1 Purpose	76
63	7.2 Scope.....	76
64	7.3 General Provisions	76
65	7.4 Waste Accumulation and Outside Storage.....	77
66	7.5 Removal of Soil, Sand and Other Material	77
67	7.6 Fill	77
68	7.7 Lot, Principal Structure	77
69	7.8 Accessory and Non-Accessory Buildings, Garages and Structures	77
70	7.9 Dwellings	78
71	7.10 Incomplete Structure	79
72	7.11 Home Occupations.....	79
73	7.12 Creation of Ponds.....	80
74	All ponds must comply with any applicable MDEQ permitting requirements.	80
75	7.13 Temporary Dwelling Structures	80
76	7.14 Temporary Construction Structures	81
77	Article 8	82
78	LAND DEVELOPMENT OPTIONS	82
79	8.1 Purpose	82
80	8.2 Planned Unit Development.....	82
81	Article 9	90
82	SITE DESIGN STANDARDS	90

83	9.1 Off-Street Parking	90
84	9.2 Sign Regulations	92
85	9.3 Storage and Use of Recreational Vehicles	93
86	9.4 Exterior Lighting and Dark Sky Provisions	94
87	9.5 Access Controls and Private Roads	94
88	ARTICLE 10	96
89	ENVIRONMENTAL PROVISIONS	96
90	10.1 Purpose	96
91	10.2 Regulation of Environmentally Sensitive Areas	96
92	10.3 Provisions for the Protection of the Environment, Health, Safety and Overall Quality of Life for	
93	Joyfield Township	96
94	10.4 Exterior Lighting Regulations	100
95	10.5 Use, Storage and Handling of Hazardous Substances	102
96	Article 11	104
97	SITE PLAN AND PLOT PLANS	104
98	11.1 Purpose	104
99	11.2 Approval of Site Plan or Plot Plan Required	104
100	11.3 Optional Sketch Plan Review	104
101	11.4 Site Plan Review	104
102	11.5 Required Data for Site Plan	104
103	11.6 Required Data for Plot Plans	106
104	11.7 Required Data for a Site Plan Involving Special Groundwater Protection Provisions	107
105	11.8 Submittal and Distribution of Site Plans	108
106	11.9 Completeness of the Site Plan Application	108
107	11.10 Joyfield Township Planning Commission Review and Action	108
108	11.11 Approved Site Plans	109
109	11.12 Site Plan Approval Criteria	109
110	11.13 Conformity to Approved Site Plans	111
111	11.14 Amendment to a Site Plan	111
112	11.15 Amendments to a Plot Plan	111
113	11.16 Review Fees and Security Requirement	112
114	Article 12	113
115	NONCONFORMING USES	113
116	12.1 Purpose	113
117	12.2 Nonconforming Uses of Land	113
118	12.3 Nonconforming Structures	113
119	12.4 Nonconforming Uses of Structures and Land	114
120	12.5 Repairs and Maintenance	114
121	12.6 Change of Tenancy or Ownership	114

122	ARTICLE 13	115
123	ZONING BOARD OF APPEALS	115
124	13.1 Purpose & Scope.....	115
125	13.2 Creation of Board of Appeals	115
126	13.3 Rules, Limits on Authority of the Board of Appeals and Use Variance	116
127	13.4 Zoning Appeals.....	116
128	13.5 Variances.....	117
129	13.6 Special Rules for Variances	118
130	13.7 Interpretation and Other Powers	118
131	13.8 Determination of a Lot of Record	119
132	13.9 Nonconformity Appeals	119
133	13.10 Findings of Fact.....	119
134	13.11 Burden of Proof in Appeals and Variances	120
135	13.12 Re-Applications and Re-hearings.....	120
136	13.13 Bond Authorized	120
137	Article 14	121
138	ADMINISTRATION AND ENFORCEMENT	121
139	14.1 Enforcement	121
140	14.2 Duties of Zoning Administrator	121
141	14.3 Land Use Compliance Permits.....	121
142	14.4 Building Permit	123
143	14.5 Certificates of Occupancy	123
144	14.6 Inspection	123
145	14.7 Fees.....	123
146	14.8 Requests for Information and Complaints	124
147	14.9 Violations and Penalties	124
148	14.10 Rights and Remedies are Cumulative.....	124
149	14.11 Performance Guarantee	125
150	Article 15	126
151	CHANGES AND AMENDMENTS	126
152	15.1 Purpose	126
153	15.2 Petition for Amendments	126
154	15.3 Conditional Rezoning	126
155	15.4 Factors to Consider when Rezoning Any Parcel.....	130
156	Article 16	131
157	PUBLIC HEARINGS AND NOTIFICATION PROCEDURES.....	131
158	16.1 Public Notice.....	131
159	Article 17	132
160	INTERPRETATION AND CONFLICT	132

161	17.1 Interpretation	132
162	17.2 Vested Right	132
163	17.3 Severability	132
164		
165		

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.

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 and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and

dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Department of Agriculture & Rural Development.

Agricultural Related Industry: includes the following:

1. Packaging plants: May include but are not limited to the following activities: washing, sorting, crating and other functional operations such as drying, field-crushing or other preparation in which the chemical and physical composition of the agricultural product remains essentially unaltered. Does not include processing activities, slaughterhouses, animal reduction yards and tallow works.
2. Processing plants: A facility used for the cooking, dehydrating, refining, bottling, canning or other treatment of agricultural products which changes the naturally grown product for consumer use. May include warehousing and packaging as secondary uses. Does not include slaughterhouses or rendering plants.
3. Storage facilities: Includes controlled atmosphere and cold storage warehouses and warehouses for the storage of processed and/or packaged agricultural products.
4. Service or supply industries that directly support agriculture.

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

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

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

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

Animal: means a non-human zoological species.

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

Article: means the main divisions of this Ordinance, cited by the words "section XXX, et seq" ARTICLES are further divided by sections.

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

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

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

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

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

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

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

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

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

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

Building: means a combination of materials, whether portable or fixed, forming a structure affording a facility, enclosure or shelter for use or occupancy by persons, animals, or property. The term does not include a building incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. The term shall be construed as though followed by the words "or part or parts of the building and all equipment in the building" unless the context

clearly requires a different meaning.

Building Envelope: means that portion of a parcel of land excluding the setbacks as applied to that parcel by this “Ordinance”.

Building Height: See *Height*.

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

Campground: means a parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for recreational units. Campground does not include a seasonal mobile home park licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

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

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

Clear Cutting: see *Stripping*.

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

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

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

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

Concrete, Gypsum and Plaster Products: includes establishments primarily engaged in manufacturing concrete products, building block and brick from a combination of cement and aggregate; manufacturing portland cement concrete manufactured and delivered to a purchaser in a plastic and unhardened state; manufacturing quicklime, hydrated lime, and “dead-burned” dolomite from limestone, dolomite shells, or other substances; engaged in manufacturing plaster, plasterboard and other products composed wholly or chiefly of gypsum, except articles of plaster of paris and

paper-mâché.

Conditional Use: means a use which may be permitted by the Planning Commission. A conditional use may be granted in a zoning district only when there is a specific provision for such conditional use in this Ordinance. A conditional use is also referred to as a special land use as provided in Act 110, PA 2006, as amended, and the terms are intended to be used synonymously.

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

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

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

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

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

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

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

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

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

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

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

Driveway: a means of ingress and egress from a public or private road to a house, garage or parking area. Driveway shall not be construed as a “structure” and does not require a setback.

Duplex: means a structure containing two dwelling units, each of which has direct access to the outside.

Dwelling or Dwelling Unit: means any house, structure, or portion thereof which is occupied in whole or in part as a home, residence, living or sleeping place for one (1) or more human beings, either permanently or as transients designed to provide living, bathing, cooking and eating space. In no case shall a garage, accessory building, garden shed, trailer coach, automobile chassis, tent or portable structure be considered a dwelling.

Dwelling, Multiple-Family: means a building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units.

Dwelling, Single-Family: means a structure, including a mobile home, designed or used for residential occupancy by one family.

Dwelling, Single-Family Attached: means a building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes.

Earth Change: means an artificial change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state. Prior to engaging in any earth change activity within five hundred (500) feet of a lake, river or stream, a valid soil erosion and sedimentation control permit is necessary from the Benzie County Soil Erosion and Sedimentation Control Officer.

Easement: means a legal interest in land, granted by the owner to the public, quasi-public, or persons for specific purposes, which allows the use of all or a portion of the owner’s land, generally for a stated purpose including but not limited to access or placement of utilities.

Eating and Drinking Places: includes retail establishments selling prepared foods and drinks for consumption on the premises; and also lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption.

Electrical Repair Shops: includes establishments primarily engaged in repairs to radio and televisions, refrigeration and air-conditioning service, and other electrical and electronic repair shops not elsewhere classified.

Equipment Compound: means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

Erected: means built, constructed, reconstructed, moved upon, or any physical operation on the premises required for the building.

Erosion: means the removal of soil particles from the land by the action of water, wind, ice, or other geological agents.

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

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

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

Family: means,

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

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

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

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

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

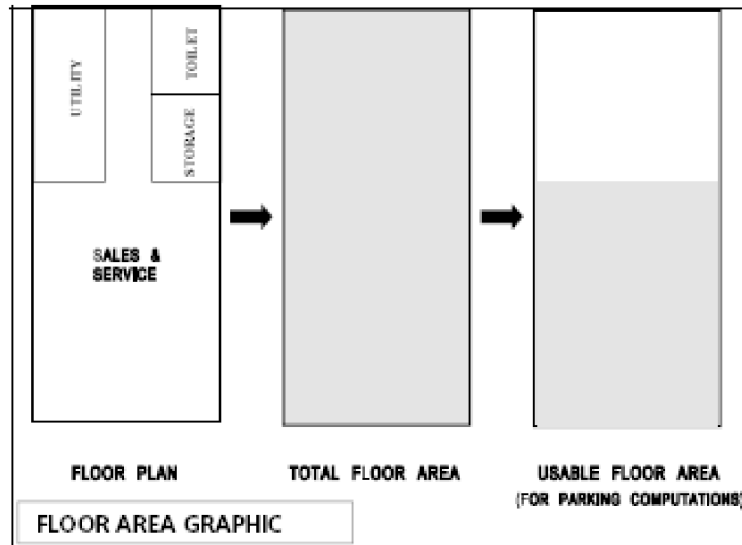
Fence: means a structure or planted hedgerow designed to restrict passage and/or vision through it; and/or for purposes of decoration.

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

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

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

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



Food and Kindred Products: includes establishments manufacturing or processing foods and beverages for human consumption, and certain related products, such as manufactured ice, chewing gum, vegetable and animal fats and oils, and prepared feeds for animals and fowl.

Garage: means any building or part thereof used principally for storage of motor vehicles or trailer coaches where no servicing for profit is conducted, which is accessory to a dwelling, duplex or apartment building.

Garage-non-accessory: means a stand-alone building designed or used principally for storage of motor vehicles or trailer coaches where no servicing for profit is conducted, which is not accessory to a dwelling, duplex or apartment building on the same building site. This term shall not include agricultural buildings.

Gasoline Service Stations: includes establishments primarily engaged in selling gasoline and lubricating oils that frequently sell other merchandise, such as tires, batteries, and other automobile parts, or perform minor repair work.

General Merchandise Stores: includes establishments primarily engaged in the retail sale of a general line of apparel, dry goods, hardware, housewares or home furnishings, groceries, and other lines in limited amounts.

General Warehousing and Storage: includes establishments primarily engaged in the warehousing and storage of a general line of goods.

Grade Plane: means a reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the

reference plane shall be established by the lowest points within the area between the building and lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

Grading: means any stripping, excavating, filling, stockpiling, or any combination thereof, and shall include the land in its excavated or filled condition.

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

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

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

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

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

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

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

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

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

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

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

Impervious Surface: means developed portions of a parcel that preclude or inhibit the infiltration of precipitation or storm water runoff. Impervious surfaces are typically covered by roofs, asphalt or

concrete, compacted gravel, or compacted soil, and include but are not limited to building envelopes/footprints, parking areas, driveways, walkways, pathways, patios, etc. Impervious surfaces do not include such areas covered with pervious surfaces such as pervious pavements, pavers, block, etc.

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

Legal Services: see *professional offices*

Legislative Body: means the Joyfield Township Board.

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

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

Light Source: means the bulb which creates the light.

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

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

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

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

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

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

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, planning 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.

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

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

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

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

Municipality: means Joyfield Township.

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

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

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

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

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

Nuisance: means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as: noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock, waves, heat, electronic or atomic radiation, objectionable effluent,

noise due to congregation of people, passenger traffic, invasion of non-abutting street frontage by traffic.

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

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

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

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

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

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

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

Planning Commission: means the Joyfield Township Planning Commission created under authority of PA 33 of 2008.

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

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

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

Principal Structure: means the main or permanent structure on a lot, which may include but is not limited to a residential, commercial, industrial, institutional, mobile home, or modular home structure,

and attached garages.

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

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

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

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

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

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

Recreational Equipment and Trailer: means equipment designed and used primarily for recreational use which includes, but is not limited to boats, small utility trailers and trailers

Recreational Unit: means a tent, cabin or vehicular-type structure, designed as temporary living quarters for recreational, camping, or travel use.

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

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

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

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

Research, Development and Testing Services: includes establishments engaged in commercial, physical and biological research and development; commercial business, marketing, opinion, and other

economic, sociological, and educational research on a contract or fee basis. Also includes establishments primarily engaged in performing noncommercial research into and dissemination of, information for public health, education, or general welfare and primarily operate on funds from endowments, contributions and grants. Also includes testing services.

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

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

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

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

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

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

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

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

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

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

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

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

Sensitive Ravine Areas: means a steep slope which abuts and rises from the valley floor of a creek or

stream and which was created by the wearing action of the water. Due to the presence of steep slopes, these areas are susceptible to erosion.

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

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

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

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

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

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

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

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

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

Specified Sexual Activity: means and includes any of the following:

1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated;

1006 4. The display of human genitals in a state of sexual stimulation, arousal or tumescence;
1007

1008 5. Excretory functions as part of or in connection with any of the activities set forth in subdivisions
1009 (1) through (4) of this subsection.
1010

1011 **State Licensed Facilities:** means a structure constructed for residential purposes that is licensed by the
1012 state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or the child
1013 care organizations act, 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or
1014 fewer individuals under 24-hour supervision or care.
1015

1016 **Steep Slope:** means land with a slope angle of 20% or greater for a minimum of 30 feet horizontally.
1017

1018 **Storage structure – non-accessory:** means a structure used for storage of belongings, not accessory to a
1019 dwelling, duplex or apartment building on the same building site, not designed for human habitation
1020 and not used for remunerative purposes. This term shall not include agricultural buildings.
1021

1022 **Street or Road:** means a private or public thoroughfare which affords the principal means of access to
1023 abutting property.
1024

1025 **Stripping:** means any activity which removes or significantly disturbs the vegetative surface cover
1026 including clearing and grubbing operations.
1027

1028 **Structure:** means anything constructed or erected which requires permanent location on the ground or
1029 attached to something having a permanent location on the ground. For the purpose of this ordinance,
1030 this definition excludes groundwater wells and structures built solely for the purpose of water supply for
1031 residential and agricultural purposes.
1032

1033 **Structurally Altered:** means significant and fundamental change in the configuration or framework of a
1034 building or system, resulting in essentially a different building or system.
1035

1036 **Substantial Completion:** means the work, or a specified portion thereof, that has been sufficiently
1037 completed in accordance with the contract documents, and can be utilized for the purposes for which it
1038 is intended, subject to the approval of the Zoning Administrator or other designated lawful authority.
1039

1040 **Sweetening Plant:** means a facility or plant which is designed for the removal of sulfur compounds from
1041 natural gas from gas wells.
1042

1043 **Temporary Structure or Use:** means a structure or use permitted by the Administrator to exist during
1044 periods of construction of the main structure or use. The Zoning Administrator shall review and extend
1045 or revoke a temporary structure or use permit at the end of each one hundred-eighty (180) day period.
1046

1047 **Timber Tracts and Forest Nurseries:** includes establishments primarily engaged in the operation of
1048 timber tracts, tree farms, forest nurseries, and related activities such as reforestation services and the
1049 gathering of gums, barks, balsam needles, maple sap, Spanish moss, and other forest products.
1050

1051 **Trailer:** means any house car, house trailer, trailer home, travel trailer, utility trailer, trailer coach or
1052 similar vehicle used or so constructed as to permit its use as a conveyance upon the public streets or
1053 highways, and duly licensed as such, including any self-propelled vehicles so designed, constructed, or

added to by means of accessories in such manner as will permit the occupancy thereof as dwelling or sleeping place by one or more persons.

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

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

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

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

Waterbody: means any lake or pond.

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

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

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

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

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

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

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

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

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

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

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

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

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

1134 **Article 3**

1135 **PURPOSE AND ESTABLISHMENT OF DISTRICTS**

1136
1137 **3.1 Relationship of Zoning Ordinance to Community Master Plan**

1138 The zoning ordinance is enacted to regulate the use of private and public property and structures with
1139 the purpose of protecting public health, safety and welfare. Standards and regulations within the
1140 ordinance regulate the amount, type and use of a building allowable on a piece of land. The zoning
1141 ordinance is a tool used by the community to effectuate the recommendations of the Joyfield Township
1142 Master Plan, which is a guide for the long-term physical development of Joyfield Township.

1143
1144 **3.2 Districts Established**

1145 Joyfield Township is hereby divided into districts, which shall be known as: Rural and Commercial
1146 Districts.

1147
1148 A. Rural District

1149 "R" Rural District

1150
1151 B. Commercial District

1152 "C" Commercial

1153
1154 **3.3 Rural District**

1155 The Rural designation includes residential uses, agricultural uses, ag-related industry, agricultural
1156 processing and home occupations. The coexistence of these uses creates the rural and scenic character
1157 of Joyfield Township, and all are encouraged and supported within the Rural District.

1158
1159 **3.4 Commercial**

1160 The Commercial category encompasses land near the US- 31/M-115 intersection and is intended for
1161 retail, service, office, and light industrial facilities. The area is condensed primarily to a small section of
1162 the US-31 corridor to discourage commercial corridor sprawl, a continuation of the pattern prescribed
1163 by the Benzie County Zoning Ordinance before its dissolution.

1164
1165 **3.4.1 C, Local Commercial:** Areas for general commercial activities serving the entire
1166 community primarily located at the convergence of M-115 and US-31 intersection.

1167
1168 **3.5 Compliance with District Regulations**

1169 Compliance with District regulations shall be required as follows:

1170
1171 A. No building or structure shall be erected, converted, enlarged, reconstructed, relocated or
1172 structurally altered, nor shall any building or land be used, except for a purpose or use
1173 permitted in the district in which the building or land is located, nor in excess of the height
1174 and bulk limits established for such district.

1175
1176 B. No building or structure intended for a dwelling use shall be erected, converted, enlarged,
1177 reconstructed or structurally altered except in conformity with the floor area regulations of
1178 the district in which it is located.

- 1180 C. No building or structure shall be erected, converted, enlarged, reconstructed, relocated or
1181 structurally altered except in conformity with the yard and lot area regulations and the
1182 off-street parking and loading regulations of the district in which such building is located.
1183
- 1184 D. The minimum yards, parking space and other open spaces, including lot area per family,
1185 required by this Zoning Ordinance for any building hereafter erected or structurally altered,
1186 shall not be encroached upon or considered open space or lot area requirement for any
1187 other building, nor shall any other lot area be reduced beyond the district requirements of
1188 this Zoning Ordinance.
1189
- 1190 E. Every building or structure hereafter erected or structurally altered shall be located on a lot
1191 as defined, and in no case shall there be more than one (1) main building on one (1) lot,
1192 except as provided in parts of this ordinance.
1193

1194 **3.6 Properties with Multiple Zoning Designations**

1195 When an individual recorded parcel, which exists at the time of adoption of this ordinance, has more
1196 than one zoning classification, the zoning designation which comprises the majority of the parcel area
1197 shall be applied to the entire parcel.
1198

1199 **3.7 Uses Contrary to Federal, State or Local Statutes, Laws, and/or Ordinances**

1200 Uses for enterprises or purposes that are contrary to Federal, State, and Township statutes, laws, and/or
1201 ordinances are prohibited.
1202

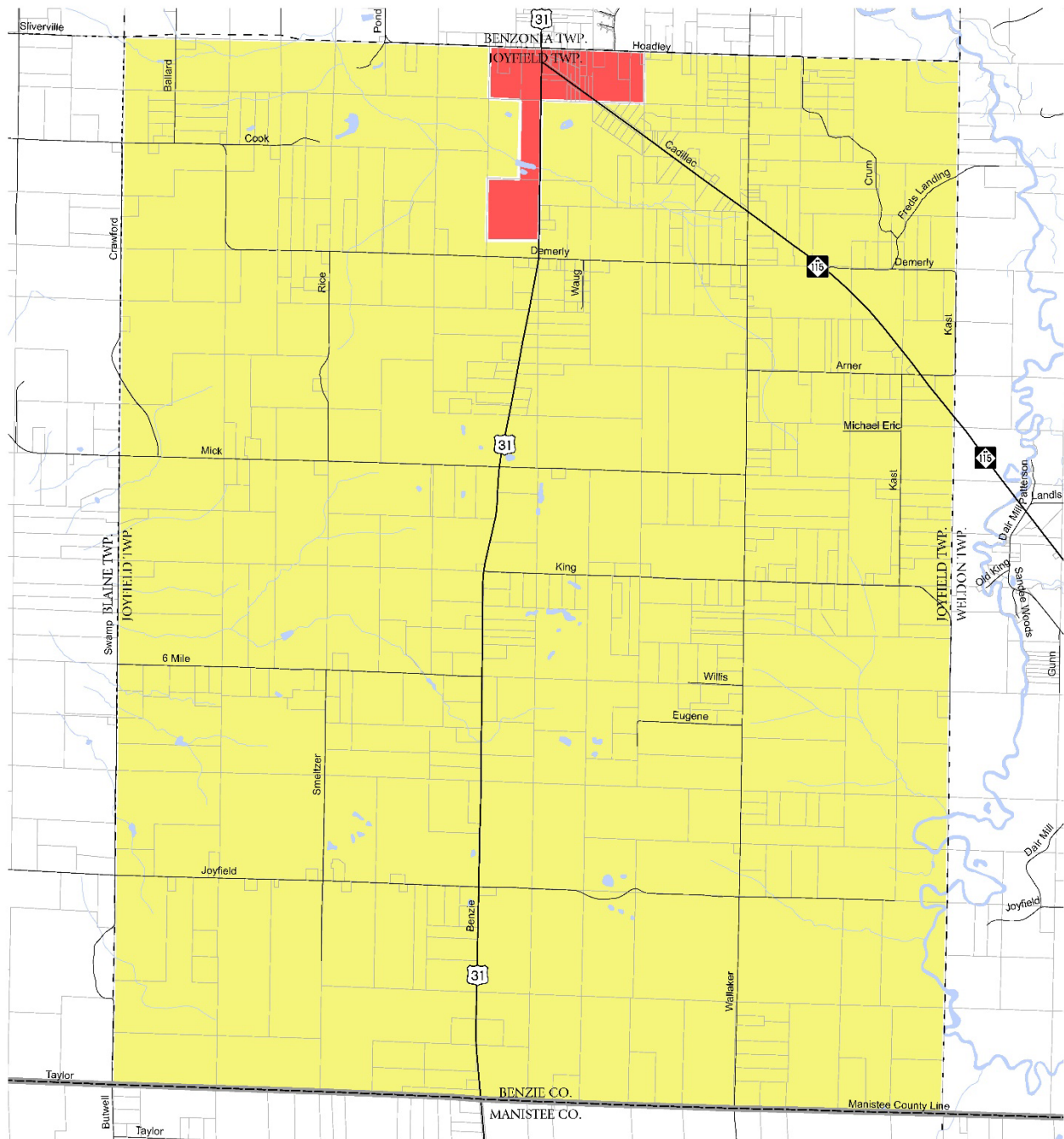
1203 **3.8 Official Zoning Map**

1204 The boundaries of the zoning districts established by the Zoning Ordinance are shown on a map or series
1205 of maps designated the "Official Zoning Map". The Official Zoning Map, including all notations,
1206 references, data and other information shown therein, is adopted and made a part of this Zoning
1207 Ordinance as fully as if it were contained within the pages of this Zoning Ordinance.
1208

- 1209 A. Location: The Official Zoning Map is filed in the office of the Joyfield Township Clerk.
1210
- 1211 B. Updates: The Joyfield Township Planning Commission is responsible for updating the
1212 Official Zoning Map to reflect amendments adopted by the Township Board.
1213
- 1214 C. Zoning District Boundaries: Where uncertainty exists with respect to the boundaries of
1215 the various districts, the following rules shall apply:
1216
- 1217 1. The district boundaries are public rights-of-way including either streets, places or
1218 alleys unless otherwise shown; where the districts designated on the Official Zoning
1219 Map are approximately bounded by street, road, place or alley lines, the same shall
1220 be construed to be the boundary of the district.
1221
 - 1222 2. Where the district boundaries are not otherwise indicated and where the property
1223 has been or may hereafter be divided into blocks and lots, the district boundaries
1224 shall be construed to be the lot lines; where districts designated on the Official
1225 Zoning Map are approximately bounded by lot lines, the same shall be construed to
1226 be the boundary of the districts, unless otherwise indicated on the Official Zoning
1227 Map.

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- 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.





LAKES TO LAND



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.

46 **4.8 Land Use and Base Zoning District Table**

Agricultural		Zone							
		Rural				Commercial			
		A	B	C	D	A	B	C	D
	Accessory Structure	P	P	P	P	P	P	P	P
	Agricultural Purposes	P	P	P	P	P	P	P	P
	Agricultural Related Industries	S	P	P	P	S	P	P	P
	Agricultural Worker Housing		P	P			P	P	
	Boarding Kennel		S	P	P		P	P	P
	Farm Product Warehousing & Storage	S	P	P	P	S	P	P	P
	Livestock & Dairy Farms	P	P	P	P			P	P
	Refrigerated Warehousing & Storage	S	P	P	P	S	P	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	
	Campgrounds		S	S	S		P	P	S
	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	
	General Warehousing and Storage		S	P	P		P	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

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.

Figure 4.1 Illustration of the Rural District Sub-Zone

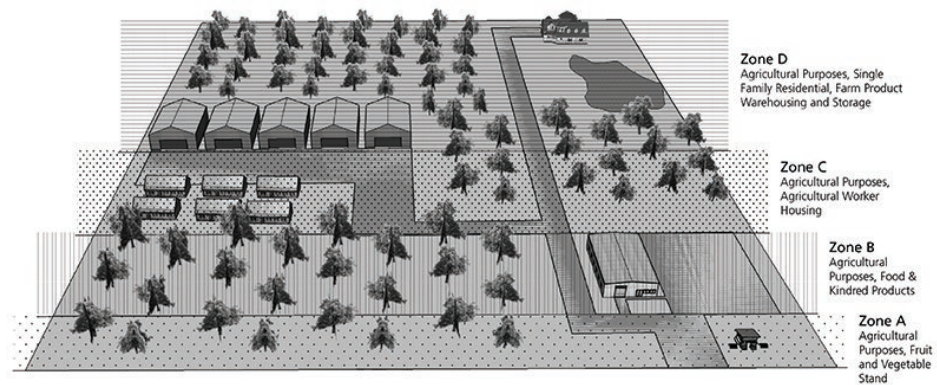
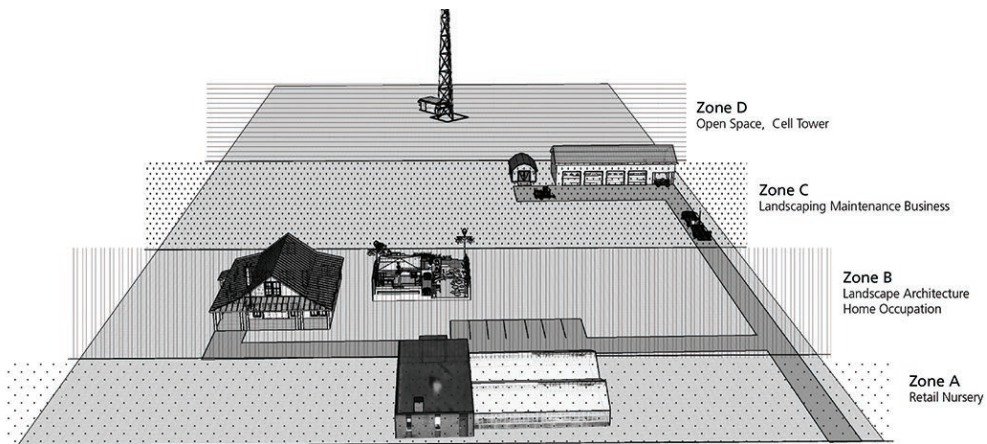


Figure 4.2 Illustration of the Commercial District Sub-Zone



Zoning District Typology	Distance from Road Centerline (ft)			
	A	B	C	D
Arner Road	0 - 65	65 - 145	145 - 205	205 +
Ballard Road	0 - 95	95 - 250	250 - 320	320 +
Benzie Highway (US-31)	0 - 85	85 - 245	245 - 395	395 +
Cadillac Highway (M-115)	0 - 95	95 - 195	195 - 290	290 +
Cook Road	0 - 80	80 - 210	210 - 345	345 +
Crawford Road	0 - 100	100 - 355	355 - 455	455 +
Crum Road	0 - 60	60 - 160	160 - 510	510 +
Demerly Road	0 - 80	80 - 210	210 - 345	345 +
Eugene Drive (PVT)	0 - 60	60 - 195	195 - 325	325 +
Fred's Landing	0 - 80	80 - 210	210 +	
Hoadley Road	0 - 75	75 - 195	195 - 295	295 +
Joyfield Road	0 - 75	75 - 190	190 - 320	320 +
Kast Road	0 - 65	65 - 170	170 - 290	290 +
King Road	0 - 80	80 - 170	170 - 410	410 +
Michael Eric Lane (PVT)	0 - 65	65 - 170	170 - 290	290 +
Mick Road	0 - 80	80 - 230	230 - 355	355 +
Pond Road	0 - 75	75 - 195	195 - 295	295 +
Rice Road	0 - 95	95 - 250	250 - 370	370 +
Ridgeley Road	0 - 85	85 - 195	195 - 295	295 +
Six Mile Road	0 - 80	80 - 210	210 - 385	385 +
Smeltzer Road	0 - 85	85 - 215	215 - 265	265 +
Swamp Road Segment #1	0 - 100	100 - 195	195 - 510	510 +
Swamp Road Segment #2	0 - 95	95 - 160	160 - 510	510 +
Swamp Road Segment #3	0 - 100	100 - 360	360 - 510	510 +
Taylor Road (County Line Road)	0 - 80 ft	80 - 210	210 - 385	385 +
Wallaker Road North #1	0 - 80	80 - 175	175 - 330	330 +
Wallaker Road North #2	0 - 100	100 - 225	225 - 345	345 +
Wallaker Road South	0 - 100	100 - 360	360 - 510	510 +
Waug Road (PVT)	0 - 75	75 - 140	140 - 210	210 +
Willis Road (PVT)	0 - 105	105 - 160	160 - 210	210 +

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

Swamp Road Segment #1: Mick Road to 6 Mile Road

Swamp Road Segment #2: 6 Mile Road to County Road 602

Swamp Road Segment #3: County Road 602 to the southernmost extent of Swamp Road; Swamp Road ends along with the southern extent of Joyfield Township at the intersection of Swamp, Taylor, and Butwell Roads

Wallaker Road North #1: South of Hoadley Road to Route 115

Wallaker Road North #2: South of Route 115 to Arner Road

Wallaker Road South: South of Arner Road to North County Line Road

107 **4.10 Setbacks from Property Line**

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

110
111 A. Side Yard – the side yard setback shall be determined by the width of the property along the
112 front property line multiplied by 8% for lots less than 300 feet in width and 30 feet for lots
113 greater than 300 feet.

114
115 B. Rear Yard – the rear yard setback shall be at least 25 feet from the rear property line
116 regardless of property width or depth.

117
118 **4.11 New Roads**

119 Roads established after the effective date of this ordinance shall be subject to construction standards
120 established in **9.5.3** and require Planning Commission approval in zones A-D for development patterns.
121 The minimum setback from the road centerline for Zone A is 60 feet.

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.

3. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
 4. Be consistent with the intent, purpose and recommendations in the Joyfield Township Master Plan.
 5. The proposed use will not be hazardous or disturbing to existing or future neighboring uses.
 6. The proposed use will not create excessive additional requirements at public cost for public facilities, utilities and services.
 7. Meet the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.
 8. The proposed use will be served adequately by essential public facilities and disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
 9. 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 or endangered species, air and water quality impacts, impacts to historic and cultural sites, and social and economic impacts.
- B. Notification: Joyfield Township shall provide notice of the request and public hearing on the special land use application in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3101 et seq. The notice of public hearing shall:
1. Describe the nature of the special land use request.
 2. Describe the property which is the subject of the request.
 3. State the date, time and place of the public hearing.
 4. Indicate when and where written comments will be received concerning the request.

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

100
101 D. Action of the Planning Commission: Upon completion of the Joyfield Township Planning
102 Commission's review and upon completion of the public hearing, the Planning Commission
103 may consider a motion for approval, approval with conditions, or denial of the special use
104 application and site plan request.

105
106 The Planning Commission may postpone a request to a date certain to allow verification,
107 compilation or submission of additional or supplemental information or to address other
108 concerns or issues. Announcement of the date for the Planning Commission to decide upon
109 the matter shall be announced in accord with the provisions of this Article and the Open
110 Meeting Act, PA 267 of 1976, as amended.

111
112 E. The conditions imposed with respect to the approval of a land use or activity shall be
113 recorded in the record of the approval action and remain unchanged except upon the
114 mutual consent of the approving authority and the landowner. The approving authority shall
115 maintain a record of conditions which are changed. Unchanged provisions shall run with the
116 parcel in the approval and shall be binding upon all successors and assigns.

117
118 F. The Township Planning Commission may recommend the imposition of the conditions in
119 approving special uses that it deems necessary to fulfill the purpose and requirements of
120 this Article. The conditions may include those necessary to ensure that public services and
121 facilities affected by a proposed land use or activity will be capable of accommodating any
122 increased service and facility loads caused by the special land use or any activity connected
123 with it, to protect the natural environment, conserve natural resources and energy, to
124 ensure compatibility with adjacent uses of land, and to promote the arrangement of the use
125 of land in a socially and economically desirable manner.

126
127 G. The discontinuance of a special use, after a specified period of time or by a specified date as
128 determined by the Planning Commission, may be a condition placed upon the issuance of
129 the approved special use. Renewal of a special use may be granted after a review and
130 determination by the Joyfield Township Planning Commission that continuing private need
131 and public benefit will be served by such renewal, provided that the renewal application
132 shall be in accord with Article provisions, standards and requirements in effect at the time
133 the renewal is requested.

134
135 H. Any special use which was approved or which existed prior to the effective date of this
136 Ordinance shall be deemed a use permitted in the district in which it is located and is not to
137 be considered a non-conforming use.

138 139 **5.4 Amendments, Denial or Appeal of a Special Land Use**

140
141 A. Determination and Imposition of Conditions: A review of an application and site plan
142 requesting a special land use permit shall be made by the Joyfield Township Planning
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

plan and application in order to bring them into compliance with the Ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. If the facts in the case do not establish competent, material and substantial evidence that the standards set forth in this Ordinance will apply to the proposed special land use, the Joyfield Township Planning Commission shall not grant a special land use permit. The Commission may impose conditions with the approval of a special land use permit application and site plan which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this or other applicable ordinances and regulations. Such conditions shall be considered an integral part of the special land use permit and approved site plan and shall be enforced by the Zoning Administrator. These conditions may include conditions necessary to ensure 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 ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

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

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

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

199 than one (1) year. Such extension shall be granted only based on evidence from the
200 applicant that the development has a reasonable likelihood of commencing
201 construction during the one (1) year extension period.
202

203 D. Appeal: Any party aggrieved by a decision of the Joyfield Township Planning Commission
204 resulting from the approval or denial of a special land use permit may appeal to the Circuit
205 Court. The Appeal may be taken by any person, firm or corporation and must be in writing
206 and filed with the Zoning Administrator.
207

208 E. Amendments and/or Modifications to a Special Land Use Permit.
209

210 1. The Zoning Administrator may authorize insignificant deviations in special use
211 permits if the resulting use will still meet all applicable standards and requirements
212 of this ordinance. A deviation is insignificant if the Zoning Administrator determines
213 it will result in no discernible changes to or impact on neighboring properties, the
214 general public, or those intended to occupy or use the proposed development and
215 will not noticeably change or relocate the proposed improvements to the property.
216

217 2. The Planning Commission may permit minor modifications in special use permits if
218 the resulting use will still meet all applicable standards and requirements of this
219 ordinance. The Planning Commission may decide minor modifications without a
220 formal application, public hearing, or payment of an additional fee. For purposes of
221 this section, minor modifications are those the Zoning Administrator determines
222 have no substantial impact on neighboring properties, the general public, or those
223 intended to occupy or use the proposed development.
224

225 3. All other requests for amendments to special use permits shall be processed in the
226 same manner as new special use permit applications. Joyfield Township may impose
227 new conditions on the approval of an amendment request if such conditions are
228 warranted. The holder of the special use permit may reject such additional
229 conditions by withdrawing the request for an amendment and proceeding under the
230 existing special use permit.
231

232 4. The holder of a special use permit may request changes under this section by
233 making the request in writing to the Zoning Administrator. Approval of all changes
234 must be given in writing.
235

236 F. Any use for which a special use permit has been granted and which ceases to continuously
237 operate for a one (1) year period shall be considered abandoned, and the special use permit
238 shall become null and void.
239

240 G. Revocation of a special land use may occur if its recipient fails to continuously abide by its
241 terms and conditions.
242

243 1. The revocation procedure is as follows:
244

245 a. The Planning Commission shall notify the recipient in writing of any
246 violations of Township codes or provisions of the special land use.
247

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.

E. All slopes and banks shall be graded and treated to prevent erosion or any other potential deterioration.

F. No building shall be erected on the premises except as temporary shelter for machinery or field office.

- 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;

3. Avoid potential damage to adjacent property from hazards associated with and/or failure of wind energy conversion systems;
4. Ensure the compatibility of adjacent land uses;
5. Protect property values;
6. Protect aesthetics, scenic views and viewsheds, and tourism based economy;
7. Protect sensitive receptors and wildlife habitat;
8. Define regulatory requirements and procedures for;
 - a. Permit application and review
 - b. Monitoring and compliance
 - c. Revocation and/or decommissioning

B. Applicability.

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

C. General Application Requirements.

Table 5.1

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.

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.
 - c. The property owner must sign a written agreement with the applicant/owner/operator and sign a hold harmless agreement to indemnify Township for adverse impacts from the flicker or glint.
7. Braking System: All WECS shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components.
8. Engineering Safety: The structural integrity of the WECS shall conform to the design standards of the International Electro Technical Commission; specifically, IEC 61400-1

"Wind Turbine Safety and Design," IEC 61400-2 and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.

9. Environmental Protection Requirements: Before a permit can be issued for WECS requiring a Special Land Use Permit, the site plan documents and drawings shall include the following environmental studies:

- a. Environmental Impact Study for the entire project footprint area. It shall include all environmentally sensitive areas identified in Township Zoning Ordinance. The studies must demonstrate that the minimum setbacks in this Ordinance, Section 5.11 - SETBACKS FOR WECS and ANEMOMETER TOWERS REQUIRING A SLUP, are sufficient to protect the wildlife and the Environmentally Sensitive Areas. The Study shall determine the environmental and wildlife impact of construction activities, operation through all four seasons and decommissioning. The Environmental Impact Study must include wildlife refuges, other areas where birds and/or bats are highly concentrated, such as wooded ridge tops that attract birds and bats, sites that are frequented by federally and/or state endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors. If there are environmental impacts, the Study must identify mitigation efforts, estimated impact of mitigation and what will be done if mitigation efforts are not effective. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law.
- b. 1-3 year Bat and Avian Study which follow "Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects" New York State DEQ, 2009 or US Fish and Wildlife Service Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbine, (2003), the US Fish and Wildlife Service Wind Turbine Guideline Advisory Committee, 2010 recommendation. Mitigation design must be identified for impacts on birds and bats if mortality estimates exceed 2 birds or bats per month for all turbines in Joyfield Township. A one year post construction mortality study shall be conducted to determine if the pre-construction mortality estimates were accurate. Based on the one year post construction mortality study the Joyfield Township Planning Commission may require an extension of the mortality study.
- c. Permit Applicants shall also submit a complete Life Cycle Assessment compliant with ISO 1440 for the wind project including infrastructure. Environmental Impact Studies will adhere to ASTM Guidelines.
- d. All environmental and wildlife study plans shall be approved by the MI DEQ. Any additional study recommended by the DEQ shall be required to be included in the Environmental Impact Study.
- e. Groundwater water quality study to demonstrate the installation of the industrial wind turbines will not impact the quality or volume of the groundwater. The study plan must be approved by a qualified hydro-geologist approved by the Joyfield Township Planning Commission.

All environmental and wildlife study designs must be reviewed and approved by a qualified Wildlife Biologist, Ornithologist, or Chiropterologist. All completed studies must be reviewed by a Wildlife Biologist, Ornithologist, or Chiropterologist approved by the Joyfield Township

Planning Commission and US Fish and Wildlife Service and the MI DEQ. All fees for the Wildlife Biologist, Ornithologist, or Chiropterologist, MI DEQ and US Fish and Wildlife Service will be paid for by the applicant/owner/operator.

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

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

10. Guy Wires: Anemometer towers may not exceed 199 feet. Visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight (8) feet above the ground. This must be reflected in the site plan drawing.
11. Ice Throw: The ice throw or ice shedding of the WECS shall not cross the Lease Unit Boundary/property line of the participating site on which the facility is located and shall not impinge on any public right-of-way, overhead utility line or occupied structure. Maximum ice throw in compliance with this section shall be provided in the application.
12. Lighting: No WECS shall exceed the height which requires lighting to be in compliance with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations, as amended or succeeded by FAA. Night time lighting shall not be permitted. Lighting shall be used only as needed for maintenance, inspection or emergencies.
13. Maintenance Facility: A WECS may include a maintenance facility for storing trucks, service equipment, spare parts, lubricants, and other supplies. The maintenance facility may be located in appropriate zoned districts. Turbine control and maintenance functions may be in one building. Maintenance facilities built in Joyfield Township require building and zoning permits and must meet all other applicable requirements.
14. Maximum Total WECS Height: The maximum height of any WECS is 199 feet. See table 5.11.C.
15. Safety: All WECS requiring a SLUP shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the WECS site. Applicant/owner/operator must demonstrate compliance with RCRA (Resource Conservation and Recovery Act) if hazardous waste is generated. Applicant/owner/operator must have an emergency plan, acceptable to the Township or its third party expert for fire to prevent the discharge of hazardous air pollutants, hazardous waste, to prevent the spread of fire to the surrounding environment and remediation of all hazardous material generated from the fire. The

emergency plan will also address tower collapse, blade disintegration and other emergency situations associated with WECS. Each turbine must have a fire suppression system adequate to extinguish all fires. All of the provisions above shall be provided for and depicted in the application.

16. Spacing: Adjacent WECS: All WECS requiring an SLUP must be spaced a minimum of 2640 feet apart. This must be depicted on the site plan with the application.

17. Setbacks for WECS and Anemometer Towers Requiring a SLUP: The setbacks set forth herein are minimum setbacks for single and multi-tower WECS. These setbacks may be greater based upon the noise regulatory standards set forth within this Ordinance, but in no case may they be less than set forth herein.

- a. Property line and road setback: The setback of a WECS and anemometer tower requiring a SLUP from a Lease Unit Boundary property line or any public or private road shall be no less than or five (5) times the tower height.
- b. Wetland setback: The setback of an anemometer tower or a WECS from the delineated boundary of wetlands shall be 2640 feet.
- c. Setbacks to other sensitive areas: The setback of an anemometer tower or a WECS from other sensitive areas, including conserved lands owned publicly or privately when funded publicly or lands that contain a conservation easement shall be no less than 2640 feet.
- d. Upper and Lower Herring Lakes setback: The setback of a WECS from the boundary of Upper and Lower Herring Lakes shall be a minimum of two miles. The Herring Lakes are part of a migratory flyway for birds and waterfowl that extends from the Platte Lakes to Crystal Lake, Betsie Bay, Betsie River, Arcadia Lake, Herring Lakes, Bear Lake and Portage Lake.
- e. Active eagles nest(s) setback: The setback of an anemometer tower or wind energy system from a known active eagle's nest shall be five (5) miles in accordance with the recommendations of the US Department of the Interior, Fish & Wildlife letter of recommendation to Citizens for Responsible Wind Development (March 30, 2011).

18. Signage: WECS requiring SLUP shall have only one sign, not to exceed four (4) square feet in area posted at the base of the tower and on a security fence, if applicable. The sign shall contain: a) Warning of high voltage; and b) Address and telephone number that allows a caller to directly contact an individual to deal with emergencies at any time during or after business hours, on weekends and holidays, 24/7. Signage must be depicted on the site plan in the application. Signs no more than four (4) feet square in area without advertising or promotional material shall be posted at each WECS tower and at substations. Proper signage addressing warnings or safety issues shall be displayed per this Ordinance.

Signs shall display:

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

19. Signal Interference: Operation of a WECS shall not interfere with communication systems such as, but not limited to, radio, telephones, cell phones, television (both broadcast and satellite), internet, satellite or emergency communication systems. The applicant/owner/operator must demonstrate no interference will occur with the communications listed.
20. Soil Conditions: A proposal for any WECS requiring a SLUP shall be accompanied by a hydrologic study and report prepared by a qualified professional. A soil erosion plan must be submitted with the SLUP application. The soil erosion plan must be approved before the construction can start. Any soil erosion into the Herring Lakes Watershed must be mitigated within five (5) working days.
21. Pre-Construction Background Noise Survey: A pre-construction background noise survey is required for each proposed wind turbine location conducted per procedures provided in 5.11.F (Noise Measurement Protocols) showing long-term background sound levels. This must be completed and accepted prior to approval of the final layout and issuance of project permits.
- The pre-construction baseline studies shall be conducted by a Qualified Acoustical Consultant/Engineer.
- At his or her discretion, the Joyfield Township Zoning Administrator, or its consultant, may refer the application to a qualified acoustical consultant for further review and comparison of the long-term background sound levels against the predicted sound levels reported for the model. The reasonably necessary costs associated with such a review shall be the responsibility of the applicant, in accordance with the terms of this Ordinance.
- All WECS requiring a SLUP shall provide in the application evidence of compliance with the following maximum sound levels:
- Audible Noise Standard: From 9:00 a.m. until 9:00 p.m. for wind speeds from cut-in to cut-out power for the WECS the A scale equivalent noise level due to WECS at the Lease Unit Boundary property line and beyond shall not exceed the established outdoor background (residual) sound level LA90 by more than five (5) dBA.
 - From 9:00 p.m. until 9:00 a.m. for wind speeds from cut-in to cut-out power of the WECS the A scale equivalent noise level due to WECS at the Lease Unit Boundary property line and beyond shall not exceed the established outdoor residual sound level LA90. Background sound levels shall be established separately for daytime (9:00 a.m. to 9:00 p.m.) and nighttime (9:00 p.m. to 9:00 a.m.) values.
 - Low Frequency Noise or Infrasound: No low frequency noise or infrasound noise from WECS operations shall exceed pre-construction noise levels and 50 dBC maximum beyond the Lease Unit Boundary property line.
 - Tonality and/or Repetitive, Impulsive Tone penalty: In the event the audible noise due to WECS operation exhibits tonality between 20-60 Hz, contains a pure tone and/or repetitive, impulsive noise, the Audible Noise Standard shall be reduced by a total of five (5) dBA at the Lease Unit Boundary property line.

22. Documentation for Wind Energy Systems Requiring SLUP:

a. Site Plan: Each application for Site Plan Review shall contain the requirements set forth in Article 11. The required quantity of drawings is set forth in Article

11. The following documentation must also be included in the application:

- i. The site plan shall show locations of equipment identified as a source of sound, how that equipment is placed, and the sound levels based on the analysis, so that the WECS will not exceed the maximum permitted sound levels. Measurements, modeling and analysis shall follow the "Noise Measurement Protocols" and shall conform to the most current version of ANSI S12.18, IEC 61400 and ISO 9613. All sound models and studies must be reviewed and approved by Joyfield Township Planning Commission and their Acoustical Engineering Consultant. A copy of a sound modeling analysis report must be submitted with the application.
- ii. The shadow flicker and glint analysis report for each turbine.
- iii. Final reports for all Environmental Protection Studies.
- iv. A copy of that portion of the applicant's lease(s) with the lessee(s) granting authority to install the anemometer tower and/or WECS; legal description of the property(ies); Lease Unit(s); and the site plan showing the boundaries of the lessees as well as the boundaries of the Lease Unit Boundary(ies).
- v. Phases, or parts, of construction, along with a construction schedule.
- vi. The project area boundaries, including Lease Unit Boundaries.
- vii. The location (including GPS coordinates), grades, average cross-section and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road.
- viii. Any new infrastructure above or below ground related to the project not specified in Section 14 of the Ordinance.
- ix. A copy of the Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- x. The contact information of owners/operators as well as contact information for all property owners on which the WECS are located.
- xi. If any information, studies, or data submitted by the applicant/owner/operator in support of the permit is found to be misrepresented or fraudulent, the application shall be denied or the permit shall be revoked.
- xii. Engineering data concerning the construction of the WECS and its foundation which will include but not be limited to soil boring data and hydrological study.
- xiii. Verification that a Michigan Certified Engineer has certified that the WECS meets or exceeds the manufacturer's construction and installation requirements.
- xiv. A copy of a microwave analysis of possible interference with aeronautic and/or cell phone, internet, local broadband networks, WiFi, TV (both broadcast and satellite) and emergency communication signals shall be submitted.
- xv. Property value and economic impact study on Joyfield Township.

- xvi. Documented compliance with all applicable local, state and federal regulations.
- xvii. A description of the traffic logistics associated with transportation and construction of the WECS components and equipment including construction transport routes.
- xviii. Written description of how the applicant/owner/operator will meet decommissioning requirements of this Ordinance.
- xix. Power Purchase Agreement with a Michigan Public Utility Company.
- xx. Interconnectivity Agreement.
- b. A copy of an Environmental Analysis by a qualified professional to identify and assess any potential impacts on the natural environment, including but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, antiquities following the guidelines in Section 5.11.C.9. The applicant/owner/operator shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis and shall show those measures on the site plan. If mitigation efforts are required to minimize adverse impacts the applicant/owner/operator must obtain approval of the mitigation plan from the Joyfield Township Planning Commission and their independent environmental consultant. The applicant/owner/operator shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. After WECS operations commence, the applicant/owner/operator must demonstrate the mitigation efforts provided the effects modeled. If mitigation does not eliminate the adverse effects, the WECS may be shut down until further mitigation is evaluated and implemented.
- c. A one to three year Avian and Wildlife Impact Analysis by a qualified professional to identify and assess any potential impacts on wildlife and endangered species that must be completed, reviewed and approved by Joyfield Township Planning Commission and their independent environmental consultant. If the applicant/owner/operator identifies adverse impacts they must develop an appropriate plan to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The mitigation plan must be approved by Joyfield Township Planning Commission and their independent environmental consultant. After WECS operations commence, the applicant/owner/operator must demonstrate the mitigation efforts provided the effects modeled. The applicant/owner/operator shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. If mitigation does not eliminate the adverse effects, the WECS may be shut down until further mitigation is evaluated and implemented. Post operation monitoring programs shall be established for the impact on birds and bats, bird migration for a minimum of one (1) year and may be extended by the Joyfield Township Planning Commission.
- d. Sites requiring special scrutiny include wildlife refuges, other areas where birds and/or bats are highly concentrated, such as wooded ridge tops that attract birds and bats, sites that are frequented by species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection law, bird migration pathways, and areas that have landscape features and inland lakes known to attract large numbers of raptors shall be specifically identified.

Setbacks shall be strictly followed in order to protect these areas and species. The analysis shall include the potential effects on all wildlife, birds and bats, migration and sound impact on wildlife.

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

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

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

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

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

- i. Documentation confirming manufacturer's specifications for each WECS.
- ii. GPS coordinates for each WECS.
- iii. A copy of the maintenance and operation plan.
- iv. Description of the procedures for lowering or removing nacelle or blade for maintenance.
- v. A description of the traffic logistics associated with transportation and construction of the WECS components and equipment including construction transport routes, intersection reconstruction, restoration of roads, curbing, culverts, signage, land features, buildings or other infrastructure, construction timetable and description of at least one alternative transport route and the rationale for the one chosen.

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

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

- 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.
788

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

standards. All Off-grid WECS are exempt from compliance with MPSC and FERC requirements.

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

4. Disposal of Hazardous Materials. All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner. All hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA) must be disposed in compliance with all appropriate regulations.
5. Engineering Safety: The structural integrity of the WECS shall conform to the design standards of the International Electro Technical Commission; specifically IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-2 and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.
6. Post Construction Permits. Construction codes, towers and interconnection standards shall comply with all applicable State construction and electrical codes and local building permit requirements.
7. Sound Regulations Compliances. A WECS shall be considered in violation of the use permit unless the applicant/owner/operator demonstrates that the project complies with all the sound level limits using the procedures specified in this Ordinance. Sound levels in excess of the limits established in this Ordinance shall be grounds for the Joyfield Township Board to order immediate shut down of all noncompliant wind turbine units.
8. Survival Speed. Neither the turbine nor tower shall be erected unless the survival speed as certified by the manufacturer is 10% greater than the highest winds on record for the area.
9. Utilities. Power lines between WECS and substations must be placed underground. After substations all above ground lines, transformers or conductors should comply with the Avian Power Line Interaction Committee published standards to prevent avian mortality.
10. Complaint Resolution. For WECS requiring a SLUP the applicant/owner/operator of the WECS shall provide a 24/7 Complaint Hotline to document and respond to complaints. The applicant/owner/operator shall notify the Joyfield Township Zoning Administrator in writing of the complaint within two (2) business days. The applicant/owner/operator will attempt to mitigate the complaint within two (2) business days after being notified of a complaint by any property owner.
 - a. A non-participating property owner shall be allowed four (4) complaints assumed to be valid. After the fourth invalid complaint, the non-participating property owner may have to share in fifty percent (50%) of the cost of the complaint investigation.

- b. Operational Complaints: Joyfield Township shall undertake an investigation of the alleged operational violation by a qualified individual acceptable to Joyfield Township.
- c. Noise Complaints: Joyfield Township shall undertake an investigation of the alleged noise violation. All required testing shall be performed by a qualified independent acoustical consultant acceptable to the complainant and Joyfield Township.
- d. For all complaints:
- i. Any testing required for the complaint resolution shall commence within ten (10) business days of the request. If required testing cannot be initiated within ten (10) business days, the WECS(s) in question shall be shut down until testing can be started.
 - ii. A copy of any required test results shall be sent to the applicant/owner/operator of the WECS, the property owner, the Township Zoning Administrator, or Joyfield Township's designee within ten (10) days of test completion.
 - iii. The reasonable cost and fees incurred by Joyfield Township in retaining said qualified individual shall be reimbursed by the applicant/owner/operator of the WECS or complainant as designated in paragraph 1 above.
 - iv. Funds for this assessment/investigation shall be withdrawn from the administrative escrow account prior to the complaint investigation and payment shall be independent of the investigation findings.
 - v. After the investigation, if Joyfield Township reasonably concludes that noise violations are shown to be caused by the WECS, the applicant/owner/operator shall use every effort to mitigate such problems on a case-by-case basis. The applicant/owner/operator shall take measures such as not operating during the night time or other noise sensitive periods if such operation was the cause of the complaint(s). If the WECS is in violation and both night and day and mitigation efforts are not successful, Joyfield Township may require the WECS be shut down and decommissioned.
 - vi. If such resolutions cannot be obtained, Joyfield Township may take action as authorized by Article 14 of this Ordinance. If mitigation efforts are not successful, Joyfield Township may require the WECS be shut down and decommissioned.
- e. The applicant/owner/operator shall document each complaint by maintaining a record including at least the following information:
- i. Name of the WECS and the applicant/owner/operator.
 - ii. Location of the WECS.
 - iii. Name of complainant, address and telephone number.
 - iv. Date and time of the complaint.
 - v. Date and time of response to complaint.
 - vi. Date and time complaint mitigated.
 - vii. Copy of the written complaint.
 - viii. Specific property description (if applicable) affected by complaint.
 - ix. Nature of the complaint including weather conditions, if germane.
 - x. Name of the person receiving the complaint.

- xi. Person/company responding to complaint.
- xii. Person/company investigating complaint.
- xiii. Date reported to Joyfield Township Zoning Administrator.
- xiv. Initial response, testing if applicable, action plan or mitigation.
- xv. Final resolution, date and signature of complainant, and signature of Township Zoning Administrator.
- f. Applicant/owner/operator must maintain a chronological log of complaints received summarizing the above information. A copy of the log shall be submitted April 15, July 15 and October 15 to the Zoning Administrator. An annual summary shall be submitted on or before January 15.
- g. Joyfield Township may designate a person to seek a complaint resolution that is acceptable to complainant, Joyfield Township and the applicant/owner/operator. If such a resolution cannot be obtained, Joyfield Township may: a) seek arbitration or b) take action as authorized by the enforcement section of this Ordinance.
- h. Joyfield Township may at any time determine the complaint is subject to enforcement and penalties as defined in this Ordinance.
11. Discontinuation, Decommissioning and Abandonment.
- a. Removal Cost Guarantee: The cost of removal and site restoration is the full responsibility of the applicant/owner/operator and property owner of record. In order to provide the greatest possible financial assurance that there will be sufficient funds to administrate the removal of the WECS and to restore the site, the following steps shall be followed:
- i. For each WECS, the applicant/owner/operator and property owner of record shall determine an amount of money equal to the estimated removal and restoration costs plus 50%. Recycle or salvage value cannot be included as a credit in the estimate.
- ii. The Planning Commission shall require independent verification of the adequacy of this amount.
- iii. This money shall be deposited in an escrow account specified by Joyfield Township which may be an interest bearing account. There shall be no alternative to such account. For administration of the Escrow Account, see Article 14.
- iv. Withdrawals from the Escrow Account will be monitored and approved by Joyfield Township or its designee, only to pay for removal and site restoration of the WECS as provided for in this Ordinance.
- v. If the applicant/owner/operator abandons, goes into bankruptcy or is unable to fund the decommissioning, the property owner of record and/or property owner will be responsible for the decommissioning.
- vi. If the applicant/owner/operator defaults, the property owner of record with the approval of Joyfield Township, or Joyfield Township, will use the Escrow Account to fund the WECS removal and restoration of the land.
- b. Separation and Management of each Removal Cost Account: If more than one WECS is owned by the same applicant/owner/operator or landowner, the

removal/restoration guarantee accounts may be joined together by Joyfield Township into a single account for that applicant/owner/operator or landowner. However, accounts for different applicant/owner/operators or landowners shall be kept separate. Joyfield Township may, from time to time, change the financial institution in which such accounts are deposited.

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

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

- 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

1001 *** if Joyfield Township determines the SLUP is expired or has been
1002 revoked.
1003 ii. Failure to begin to remove a WECS or anemometer tower within the
1004 ninety (90) day period provided in this subsection shall be grounds for
1005 either the Property Owner of Record or Township to remove the wind
1006 turbine generator or anemometer tower at the
1007 applicant/owner/operator and/or landowner's expense.
1008 iii. All equipment associated with the WECS or anemometer tower
1009 including all materials above and below ground shall be removed and
1010 the site shall be restored to a condition that reflects the specific
1011 character of the site, including topography, vegetation, soils, drainage
1012 and any unique environmental features. The restoration shall include:
1013 road repair, if any, and all re-grading, soil stabilization, and
1014 re-vegetation necessary to return the subject property to a stable
1015 condition consistent with conditions existing prior to establishment of
1016 the WECS. The restoration process shall comply with all State, county,
1017 or local erosion control, soil stabilization and/or runoff requirements or
1018 ordinances and shall be completed within one (1) year of removal
1019 notification.
1020

- 1021 12. Certification of Insurance. The applicant/owner/operator and landowner shall
1022 indemnify and hold harmless Joyfield Township Trustees, Planning Commission
1023 members, Zoning Administrator and the non-participating township residents. All of
1024 the aforementioned shall be named as additional insureds against any and all claims
1025 arising out of the existence and installation, operation and decommissioning of the
1026 WECS. Applicant/owner/operator, lessee, and property owner of record shall procure
1027 comprehensive general liability, casualty, wrongful acts insurance policies, and any
1028 other policies customary to the wind energy system industry. This insurance shall be in
1029 the amount of \$3,000,000.00 (Three Million and 00/100 Dollars) per wind energy
1030 system, but not to exceed \$100,000,000.00 (One Hundred Million and 00/100 Dollars) in
1031 the aggregate if the applicant/owner/operator owns more than one wind energy system
1032 in Joyfield Township. The Joyfield Township Board may adjust these amounts
1033 periodically to reflect inflation. The applicant/owner/operator, lessee, and property
1034 owner of record shall maintain these insurance coverages for the duration of the
1035 construction, operation, decommissioning, removal and site restoration of the WECS.
1036 The insurance carrier shall be instructed to provide Joyfield Township with certificates of
1037 the existence of such insurance coverages (annually), and shall be instructed to notify
1038 Joyfield Township if such insurances expire for any reason. The
1039 applicant/owner/operator, lessee, and property owner of record shall continuously
1040 meet the conditions of the insurance policy (policies) to ensure that any future claims on
1041 the insurance policy will be paid in full. Failure of the applicant/owner/operator,
1042 lessee, and property owner of record to maintain these insurance coverages at all times
1043 and to meet the conditions to ensure full reimbursement of a claim shall result in
1044 termination of the permit. A copy of the full insurance policy (policies) including all
1045 attachments, endorsements, waivers, or other special conditions associated with the
1046 policy (policies) shall be provided to Joyfield Township Zoning Administrator (or other
1047 Township designee) upon request.
1048

1049 E. Small Roof-Mounted or Single Tower WECS less than 95ft in Height. (refer to Section 5.12)

1050
1051 F. Noise Measurement Protocols

1052
1053 1. Purpose

1054 The potential impact of sound and sound induced building vibration associated with the
1055 operation of wind powered electric generators is often a primary concern for citizens
1056 living near proposed wind energy conversion systems (WECS). This is especially true of
1057 projects located near homes, residential neighborhoods, businesses, schools, and
1058 hospitals in quiet residential and rural communities. Determining the likely sound and
1059 vibration impacts is a highly technical undertaking and requires a serious effort in order
1060 to collect reliable and meaningful data for both the public and decision makers.

1061
1062 2. Sites with no existing Wind Energy Systems (Baseline Sound Study)

1063 a. All properties within the proposed WECS project boundaries will be considered
1064 for this study. One test shall be conducted during the period defined by the
1065 months April through November with the preferred time being the months of
1066 June through August. These months are normally associated with more contact
1067 with the outdoors and when homes may have open windows during the evening
1068 and night. Unless directed otherwise by the Joyfield Township Planning
1069 Commission, the season chosen for testing will represent the background
1070 soundscape for other seasons.

1071 b. All measurement points (MPs) shall be located with assistance from the
1072 Township Planning Commission property owner(s) and Joyfield Township's
1073 Acoustical Consultant and positioned such that no significant obstruction
1074 (buildings, trees, etc.) blocks sound and vibration from the nearest proposed
1075 WECS site.

1076 c. Sound level managements shall be taken as designated by Joyfield Township
1077 Acoustical Consultant.

1078 d. Duration of measurements shall be a minimum of ten (10) continuous minutes
1079 for all criteria at each location. The duration must include at least six (6) minutes
1080 that are not affected by transient sounds from near-by and non-nature sources.
1081 The measurements shall consist of the metrics specified in Section 5.12.F.3.a.ii
1082 and Section 5.12.F.3.b.ii. Multiple ten (10) minute samples over longer periods
1083 such as 30 minutes or one (1) hour may be used to improve the reliability of the
1084 LA90 and LC90 values. For any sample to be valid, both LA10 minus LA90 and
1085 LC90 cannot be greater than 10dB and the maximum wind speed at the
1086 microphone must be less than 2 m/s during the same ten (10) minute period as
1087 the acoustic data. Of the valid samples, the ten (10) minute sample with the
1088 lowest valid L90 values will be used to define long term background sound.

1089 e. The tests at each site selected for this study shall be taken during the expected
1090 'quietest period of the day or night' as appropriate for the site. For the purpose
1091 of determining long term background sound characteristics, the preferred
1092 testing time is from 10 p.m. until 4 a.m. If circumstances indicated that a
1093 different time of the day should be sampled, the test may be conducted at the
1094 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 from the combined wind turbines in the project.

3. Reporting

- a. For each Measurement Point and for each qualified measurement period, provide each of the following measurements:
 - i. LAeq, LA10, and LA90, and
 - ii. LCEq, LC10, and LC90
- b. A narrative description of any intermittent sounds registered during each measurement. This may be augmented with video and audio recordings.
- c. A narrative description of the steady sounds that form the background soundscape. This may be augmented with video and audio recordings.
- d. Wind speed and direction at the microphone (Measurement Point), humidity and temperature at time of measurement shall be included in the documentation. Corresponding information from the nearest 10 meter weather reporting station may also be obtained. Measurements taken only when wind speeds are less than 2 m/s (4.5 mph) at the microphone location will be considered valid for this study. A windscreen of the type recommended by the monitoring instrument's manufacturer must be used for all data collection.
- e. Provide a map and/or diagram clearly showing (using plot plan provided by Township or Applicant):
 - i. The layout of the project area, including topography, the project boundary lines, and property lines.
 - ii. The locations of the Measurement Points.
 - iii. The distance between any Measurement Points and the nearest wind turbine(s).
 - iv. The location of significant local non-WECS sound and vibration sources.
 - 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
1163 boundary layer and/or other sources of in-flow turbulence. These
1164 conditions increase the wind turbine sound emissions above those
1165 reported by the IEC 61400-11 test procedure which test sound
1166 emissions during operation in a neutral atmosphere with wind shear of
1167 0.2 or lower, very low in-flow turbulence, and a steady gradient of wind
1168 speed from ground level to a height greater than the top of the blades
1169 at their highest point of rotation. If this data is not available, a
1170 correction of five (5) dB shall be added to the predicted overall sound
1171 levels (dBA, dBC and dBLin/unweighted) using the IEC data to
1172 account for the higher sound emissions.
1173 iii. The sound propagation of low frequency sounds in the 125 Hz octave
1174 band and below shall be assumed to be at a rate of 3 dB per doubling of
1175 distance to account for atmospheric conditions. Sound propagation of
1176 sounds above the 125 Hz octave band may be either at 3 dB or 6 dB per
1177 doubling of distance depending on the arrangement of the wind
1178 turbines. If the arrangement is generally linear, then all frequencies
1179 shall be calculated using a 3 dB per doubling decay rate.
1180

- 1181 b. The qualifications of the firm should be presented along with details of the
1182 procedure that will be used, software applications, and any limitations to the
1183 software or prediction methods as required elsewhere in this Ordinance for
1184 models.
1185

- 1186 c. Provide the manufacturer's sound power level (L_{Aw}) and (L_{ew}) characteristics
1187 for the proposed WECS operating at full load utilizing the methodology in IEC
1188 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 LAeq levels of 30 dBA and above. The same area shall be used for reporting the predicted LCEq levels. Contour lines shall be in increments of 5 dB.

- d. Present tables with the predicted sound levels for the proposed WECS as LAeq and LCEq 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, the tables should include the sites tested (or likely to be tested) in the background study.
- f. Provide a contour map of the expected sound level from the new WECS using 5 dB and LAeq and LCEq increments created by the proposed WECS extending out to a distance of two (2) miles from the project boundary, or other distance necessary, to show the 25 LAeq and 50 LCEq boundaries.
- g. Provide a description of the impact of the proposed sound from the WECS project on the existing environment. The results should anticipate the receptor sites that will be most negatively impacted by the WECS project and to the extent possible provide data for each measuring points (MPs) that are likely to be selected in the background sound study (note the sensitive receptor measuring points):
 - i. Report expected changes to existing sound levels for LAeq and LA90.
 - ii. Report expected changes to existing sound levels for LCEq and LC90.
 - iii. Report the expected changes to existing sound pressure levels for each of the 1/3 or 1/1 octave bands in tabular form from 6.3/8 Hz to 10,000 Hz octave band centers.
 - iv. Report all assumptions made in arriving at the estimate of impact, any limitations that might cause the sound levels to exceed the values of the estimate, and any conclusions reached regarding the potential effects on people living near the project area. If the effects of coherence, worst case weather, or operating conditions are not fully reflected in the model, a discussion of how these factors could increase the predicted values is required.
 - v. Include an estimate of the number of hours of operation expected from 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
1256 been reported as high noise conditions by formal or informal complaints. The post
1257 construction tests must include specific tests for all conditions that result in high wind
1258 turbine noise either outside or inside homes of non-participating residential property
1259 owners.

1260
1261 Report post-construction measurements to the Joyfield Township Planning Commission
1262 using the same format as used for the background study.

1263
1264 6. Instrumentation/Measurement Standard/References.

1265 All instruments and other tools used to measure audible, inaudible and low frequency
1266 sound shall meet the requirements for ANSI or IEC Type 1 Integrating Averaging Sound
1267 Level Meter Standards. The principle standard reference for this Ordinance is ANSI
1268 S12.9-Part 3 with important additional specific requirements for the measuring
1269 instrumentation and measurement protocol.

1270 1.5 Windscreen: Required

1271 5.1 Background sound: Use definition (1) 'long-term'

1272 5.2 Long-term background sound: The L90 excludes short-term background sounds

1273 5.3 Basic measurement period: Ten (10) minutes L90 (10 minutes)

1274 5.6 Sound Measuring Instrument: Type 1 Integrating Meter meeting ANSI S1.43 or
1275 IEC 61672-1. The sound level meter shall cover the frequency range from 6.3 Hz
1276 to 20,000 Hz and simultaneously measure dBA LN and dBC LN. The instrument
1277 must also be capable of accurately measuring low-level background sounds
1278 down to 20 dBA.

1279 6.6(a) An anemometer accurate to $\pm 10\%$ at 2 m/s (4.5 mph) to full scale accuracy. The
1280 anemometer shall be located 1.5 to 2 meters above the ground and oriented to
1281 record the maximum wind velocity. The maximum wind velocity, wind direction,
1282 temperature and humidity shall be recorded for each ten (10) minute sound
1283 measurement period observed within five (5) meters of the measuring
1284 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 microphone. Compliance sound measurements shall be taken when winds shall be less than 4 m/s at the microphone.
- 8.3(c) In addition to the required acoustic calibration checks, the sound measuring instrument internal noise floor, including microphone, must also be checked at the end of each series often minute measurements and no less frequently than once per day. Insert the microphone into the acoustic calibrator with the calibrator signal off. Record the observed dBA and dBC reading on the sound level meter to determine an approximation of the instrument self-noise. Perform this test before leaving the background measurement location. This calibrator covered microphone test must demonstrate the results of this test are at least 5 dB below the immediately previous ten-minute acoustic test results, for the acoustic background data to be valid.
- This test is necessary to detect undesired increase in the microphone and sound level meter internal self-noise. As a precaution, sound measuring instrumentation should be removed from any air conditioned space at least an hour before use. Nighttime measurements are often performed very near the meteorological dew point. Minor moisture condensation inside a microphone or sound level meter can increase the instrument self-noise and void the measured background data.
- 8.4 The remaining sections starting at 8.4 in ANSI S12.9 - Part 3 Standard do not apply.

G. Other Applicable Standards

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

This American National Standard describes procedures for the measurement of sound pressure levels in the outdoor environment, considering the effects of the ground, the effects of refraction due to wind and temperature gradient, and the effects due to turbulence. This standard is focused on measurement

of sound pressure levels produced by specific sources outdoors. The measured sound pressure levels can be used to calculate sound pressure levels at other distances from the source or to extrapolate to other environmental conditions or to assess compliance with regulation.

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

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

This standard describes instruments for the measurement of frequency weighted and time-average sound pressure levels. Optional, sound exposure levels may be measured. This standard is consistent with the relevant requirements of ANSI S1.4 - 1983 (R 1997) American National Standard Specification for Sound Level Meters, but specifies additional characteristics that are necessary to measure the timeaverage sound pressure level of steady, intermittent, fluctuating, and impulsive sounds.

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

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

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

Supplemental - IEC 61400-11

Second edition 2002-12, Amendment 1 2006-05

Supplemental - IEC 61400-11

Second edition 2002-12, Amendment 1 2006-0

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

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

Supplemental - End of Measurement Procedure

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

5.12 Private Wind Energy Conversion Facilities (Private WECF)

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

1. Approval Procedures.

- a. Zoning Administrator Approval. A private WECF that meets the conditions of subsection (1) or (2) below is subject to Zoning Administrator approval. The applicant shall submit a plot plan containing the information required by Section 11.4 and any additional information necessary to demonstrate conformance with the standards of subsection (B) below. The Zoning Administrator shall approve such application upon finding that the WECF application complies with the standards and regulations of this Section and Ordinance.
- b. The private WECF is no greater than sixty (60) feet in height, measured from the ground elevation below to the highest point of the wind turbine including to a blade tip in its highest vertical position if such tip is the highest point, and is to be located a minimum of one-hundred fifty (150) feet from an existing building on another lot.
- c. The private WECF is no greater than twenty (20) feet in height, measured from the ground elevation below to the highest point of the wind turbine including to a blade tip in its highest vertical position if such tip is the highest point, and is to be no closer to a lot line than two (2) times the height of the WECF.
- d. Planning Commission Approval. A private WECF that is not subject to Zoning Administrator approval according to subsection (a) above shall be subject to Planning Commission approval. The applicant shall submit a plot plan containing the information required by Section 14.3 and any additional information necessary to demonstrate conformance with the standards of subsection (B) below. The Planning Commission shall approve such application upon finding that the WECF application complies with the standards and regulations of this Section and Ordinance, and that the WECF is sited to maximize compatibility with surrounding conditions to the greatest extent practical.

B. Standards:

1. Visual Appearance.
 - a. A private WECF shall be a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of the turbine, tower and any ancillary facility shall be maintained throughout the life of the WECF.
 - b. A private WECF shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.
 - c. A private WECF shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.
2. Ground Clearance.
 - a. The lowest extension of any exposed blade or other exposed moving component of a private WECF shall be at least twenty (20) feet above the ground, at the highest point of the natural grade within fifty (50) feet of the WECF, and at least twenty (20) feet above any outdoor surfaces intended for human use including balconies or roof gardens, that are located below the WECF.
 - b. There shall be required no minimum clearance for any exposed blade or other moving component where the movement is of a horizontal nature and the design and construction of the WECF does not permit access below such moving features or the moving features are a minimum of five (5) feet above the ground below
3. Noise. Noise emanating from the operation of a private WECF shall not exceed the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural used parcel or from the property line of parks, schools, hospitals and churches. Noise emanating from the operation of a private WECF shall not exceed, at any time, the lowest ambient noise level plus 5 dBA that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a non-residential or non-agricultural use parcel.
4. Vibration. Vibrations shall not be produced which are humanly perceptible beyond the lot on which the WECF is located.
5. Guy Wires. Guy wires are prohibited.
6. Electrical System. All electrical systems shall comply with all state, county and National Electrical Codes.
7. Design. The design of a private WECF shall conform to industry standards.
8. Height. A private WECF shall not exceed a height of eighty (80) feet, measured from the normal ground elevation below to the highest point of the wind turbine including to a blade tip in its highest vertical position.
9. Setbacks.

- 1476 a. 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 b. 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 c. 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.
- 1488
- 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.

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

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

1. Application Review Time Frame and Fees

a. After a Class One application for a wireless communication facility is filed with the Planning Commission, the Planning Commission shall determine whether the application is administratively complete. Unless the Planning Commission proceeds as provided under subsection (b) below, the application shall be considered to be administratively complete when the Planning Commission makes that determination or the passing of fourteen (14) business days after the Planning Commission receives the application, whichever occurs first.

b. If, before the expiration of the fourteen (14) day period under subsection (a) above, the Planning Commission notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection (a) above is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.

c. The Planning Commission shall approve or deny the application not more than sixty (60) days after the application is considered to be administratively complete. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

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

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

1. Application Review Time Frame and Fees: The provisions of subsection (C)(1) above shall apply to Class Two applications for wireless communication equipment except that the Planning Commission shall approve or deny the application not more than ninety (90) days after the application is considered to be administratively complete.

2. Additional Application Requirements: In addition to submitting the information required for all special land use applications, including a site plan pursuant to Article 11, each applicant for a Class Two wireless communication facility shall provide the following additional information. Any information of an engineering nature that the applicant submits, whether civil, mechanical, electrical, or structural, shall be certified by a licensed professional engineer of applicable expertise registered in the State of Michigan.

a. An inventory of its existing towers, antennas, or sites approved for towers or antennas, that are within Joyfield Township and one (1) mile of the border thereof, including specific information about the location, height

and design of each tower, the distance from the proposed tower, the owner(s)/operator(s) of the existing tower(s), and any additional information that is relevant in terms of potential collocation or in demonstrating the need for the proposed facility.

- b. Elevation drawings of the proposed tower and any other structures.
- c. The distance between the proposed tower to dwellings within a one-half (1/2) mile radius, and the distance to Residential districts and platted and similar neighborhood developments.
- d. Method of fencing and finished color and, if applicable, the method of camouflage.
- e. A written statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennae for future users.
- f. Identification of the entities providing the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, long distance providers, and/or the public switched telephone network (backhaul routes) for the tower(s) described in the application, and other cellular sites owned or operated by the applicant in Joyfield Township.
- g. A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures, to provide the services of the proposed new tower.
- h. A certification by a professional engineer of applicable expertise licensed in Michigan that all construction features of the tower comply with the requirements of all agencies having jurisdiction and the State Construction Code.

E. Compliance with Table 5.2:

See Table 5.2 for standards pertaining to minimum lot area, width, frontage and yard setbacks, and maximum building height and lot coverage, except as follows:

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

F. Additional Standards:

- 1. Separation Distances: The following separation distances shall apply to Class Two wireless communication facilities except that the approving body may reduce the standard separation distance by no greater than twenty-five percent (25%) upon a finding that there exist on-site or surrounding conditions that mitigate the need for such separation distances and that the purpose of this Ordinance will be preserved.

Separation distances shall be measured from the base of the tower to the lot line of the off-site use except where otherwise noted.

Table 5.2

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

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 by law.
 - 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.

- 1650 5. Presence of Personnel: No persons shall be located on a communication tower
1651 site except for the occasional presence of personnel associated with periodic
1652 maintenance or emergency conditions.
- 1653 6. General Design: The design of buildings and structures shall, to the greatest extent
1654 practical, use materials, colors, textures and screening that will encourage their
1655 compatibility with surrounding buildings. Where an antenna is installed on a
1656 structure other than a tower, the antenna and supporting equipment shall be of a
1657 color to make the antenna and equipment as visually unobtrusive as reasonably
1658 practical.
- 1659 7. Collocation
- 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:

i. A permit for the construction and use of a communication tower shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.

G. Discontinuation, Decommissioning, and Abandonment:

Refer to Section 5.11.D.11 for compliance standards.

H. Removal

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

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 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

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.

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

7.4 Waste Accumulation and Outside Storage

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

7.5 Removal of Soil, Sand and Other Material

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

7.6 Fill

A soil erosion permit from the Benzie County Building Department is required for the following activities:

1. Earth disturbance of more than one acre
2. Earth disturbance within 500' of a stream
3. Earth disturbance on an environmentally sensitive parcel
4. Commercial or industrial activities
5. Subdivision or condominium development

7.7 Lot, Principal Structure

No more than one (1) principal structure shall be erected on any lot of land unless such lot of land is used for multiple family dwellings, mobile home parks, or for agricultural, commercial, or manufacturing purposes, or as may be allowed by another section of this Ordinance.

7.8 Accessory and Non-Accessory Buildings, Garages and Structures

Accessory buildings, non-accessory garages and non-accessory storage structures, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

- A. Building and structures used in active farm operations and agricultural related industries are not considered accessory buildings and shall not be subject to this section, except that no buildings or structures shall be located within a required yard. The building or structure must be located on a parcel of land that contains an active farm operation.
- B. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building. Structurally attached buildings are exempted from the maximum allowable square footage.

- C. Accessory buildings or structures shall not be erected in subzone A nor in any required setback.
- D. No detached accessory building shall be located closer than ten (10) feet to any main building. In no instance shall an accessory building be located within a dedicated easement right-of-way.
- E. Accessory buildings in the Commercial District (C) may occupy 100 percent of the permitted yard area
- F. Accessory buildings in the Rural District (R): the total floor area (being the entire area enclosed with the exterior walls) of all detached accessory buildings on a parcel of land, shall be 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
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.

- G. Accessory buildings in the Rural District (R) exceeding maximum floor area in table above may be allowed with a special use permit.
- H. Only one non-accessory garage or non-accessory storage structure may be constructed on a parcel in the Rural District (R) prior to the erection of a principal structure.

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.

- 121 B. The minimum dimension shall be at least twenty (20) feet in length or twenty (20) feet
122 in width in its core living area. Core living area shall be the main or central part of a
123 dwelling, excluding wings, attached garages, enclosed porches, expansions, or any part
124 of a building added after initial completion or added to a mobile home after delivery
125 and setup on site and it is occupied.
126
- 127 C. It shall comply in all respects with the Michigan State Construction Code as promulgated
128 by the Michigan State Construction Code Commission under provisions of 1972, Public
129 Acts 230, as amended, (MCL 125.1501-1531) including minimum heights for habitable
130 rooms. Where a dwelling is required by law to comply with any federal or state
131 standards or regulations for construction and where such standards or regulations for
132 construction are different than those imposed by the Michigan Building Code, then and
133 in that event such federal or state standard or regulation shall apply.
134
- 135 D. It shall be enclosed around the perimeter at the ground level with masonry or other
136 approved weather and rodent proof materials.
137
- 138 E. It shall contain no additions or rooms or other areas which are not constructed with
139 similar quality workmanship as the original structure including permanent attachment
140 to the principal structure as long as such attachment does not include a bearing load on
141 a mobile home and construction of a foundation as required herein.
142
- 143 F. Each dwelling unit shall be connected to public water and sanitary sewer lines, or to
144 on-site water and sanitary sewerage facilities approved by the District Health
145 Department.
146
- 147 G. Each dwelling unit and any addition thereto shall comply with all pertinent building and
148 fire codes. In the case of a mobile home, all construction and all plumbing, electrical
149 apparatus and insulation within and connected to said mobile home shall be of a type
150 and quality conforming to the "Mobile Home Construction and Safety Standards" as
151 promulgated by the United States Department of Housing and Urban Development,
152 being 24 PART 1700 to End, PART 3280 et. seq. CFR. Additionally, all dwellings shall
153 meet or exceed all applicable roof snow load and strength requirements.
154
- 155 H. An accessory building, garage, non-accessory garage, or non-accessory storage structure
156 shall not be used or occupied as a dwelling.
157

158 **7.10 Incomplete Structure**

159 No basement, cellar, garage or structure may be occupied as a dwelling and no primary structure may
160 be occupied without completing the exterior in a watertight manner, including finished siding, windows
161 and roofing; until all exterior and interior construction is completed and a Land Use Compliance Permit
162 or Temporary Permit is issued by the Zoning Administrator or legally designated authority.
163

164 **7.11 Home Occupations**

165 Home occupations shall not be allowed in any zoning district in Joyfield Township except as hereinafter
166 provided:
167

1. The home occupation(s) takes place at a home, dwelling or accessory building on property 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.
8. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in that neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided for on the premise.

7.12 Creation of Ponds

All ponds must comply with any applicable MDEQ permitting requirements.

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.

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

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
58 criteria 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

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

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

8.2.2 Uses Permitted

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

8.2.3 Height, Bulk, Density and Area Standards

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

8.2.4 Submittal and Request for Qualification

- A. Any person owning or controlling land in Joyfield Township may make application for consideration of a planned unit development. Such application shall be made by presenting a request for a preliminary determination to whether a parcel qualifies for the PUD option.
- B. Prior to the submission of an application for planned unit development approval, the applicant is encouraged to meet with the Zoning Administrator to review required information and procedures.
- C. A request shall be submitted to Joyfield Township. The submission shall include the information required below:
 1. Proof the criteria set forth in the Criteria for Qualification section above, are or will be met.
 2. A schematic land use plan containing enough detail to explain the role of open space; site drainage and stormwater mitigation, location of land use areas,

streets providing access to the site, pedestrian and vehicular circulation within the site; dwelling unit density and types; and buildings or floor areas contemplated, as applicable.

3. A plan to protect natural features or preservation of open space or greenbelts.

D. Based on the documentation presented, the Joyfield Township Planning Commission shall make a preliminary determination about whether a parcel qualifies for the PUD option under the Criteria for Qualification in Section 8.2.4(C).

E. The Joyfield Township Planning Commission shall review the applicant's request for qualification. If approved, the applicant may then continue to prepare a PUD Plan on which a final determination will be determined. Approval shall confer upon the applicant the right to proceed to preparation of the PUD Plan, but shall not bind Joyfield Township to approval of the Plan.

8.2.5 Submittal of the PUD Plan and Application Materials

The application, reports, and drawings shall be filed in paper and digital format. All drawings shall be provided to Joyfield Township in the most recent release of a computer aided design format acceptable to the Joyfield Township Planning Commission. Other graphics and exhibits, text and tabular information shall be provided in a "pdf" format. The site plans must meet the scale requirements and all submittal requirements in Article 11.

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

A. A boundary survey of the exact acreage prepared by a registered land surveyor or civil engineer.

B. A topographic map of the entire area at a contour interval of not more than two (2) feet. This map shall show all major stands of trees, bodies of water, wetlands and unbuildable areas. Should the topography of the site have significant slope, the Joyfield Township Planning Commission may increase the contour interval to no more than five (5) feet, however, the integrity and intent of the map may not be compromised due to this interval change.

C. A proposed development plan shall show the following:

1. Land use areas.

2. Vehicular circulation including major drives and location of vehicular access including cross sections of public streets or private places.

3. Transition treatment, including minimum building setbacks to land adjoining the PUD and between different land use areas within the PUD.

- 190 4. The general location of nonresidential buildings and parking areas, estimated
191 floor areas, building coverage and number of stories or height.
192
- 193 5. The general location of residential unit types and densities and lot sizes by area.
194
- 195 6. Location of all wetlands, water and watercourses, proposed water detention
196 areas and depth to groundwater.
197
- 198 7. The boundaries of open space areas that are to be preserved or reserved and an
199 indication of the proposed ownership.
200
- 201 8. A schematic landscape treatment plan for open space areas, streets and
202 border/transition areas to adjoining properties.
203
- 204 9. A preliminary grading plan, showing the extent of grading and delineating any
205 areas, which are not to be graded or disturbed.
206
- 207 10. A public or private water distribution, storm and sanitary sewer plan.
208
- 209 11. A written statement explaining in detail the full intent of the applicant, showing
210 dwelling units types or uses contemplated and resultant population, floor area,
211 parking and supporting documentation, including the intended schedule of
212 development.
213
- 214 12. Written documentation from the Fire Department providing fire protection to
215 Joyfield Township acknowledging their review of the plans and outlining any
216 recommendations for modifications, if any.
217
- 218 D. If requested by the Joyfield Township Planning Commission, the applicant shall submit
219 the following:
- 220 a. Market Study – components of the study should include a definition of
221 the market, analysis of data pertaining to the market problem, the type
222 and amount of market supportable real estate, and absorption rate(s)
223 needed to sell and/or occupy the property within the project.
- 224 b. Traffic Impact Study – components of this study should include an
225 assessment of existing traffic counts and movements, forecast of
226 additional traffic based on ITE traffic/trip generation manual, and
227 improvements necessary to accommodate and/or mitigate the
228 increased traffic resulting from the proposed project.
- 229 c. Environmental Impact Assessment – components of the study should
230 include a statement of the purpose and need of the proposed project,
231 description of the affected environment, range of alternatives to the
232 proposed action, analysis of environmental impacts such as threatened
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
- 240 A. Joyfield Township Planning Commission Review of Proposed PUD Plan:
- 241
- 242 1. The Joyfield Township Planning Commission shall hold a public hearing on the
- 243 PUD plan in accord with the Michigan Zoning Enabling Act, PA 110 of 2006, MCL
- 244 125.3103 *et seq.*
- 245
- 246 2. The Joyfield Township Planning Commission shall review the proposed PUD plan
- 247 and make a determination about the proposal's qualification for the PUD option
- 248 and for adherence to the objectives and requirements in this Article.
- 249
- 250 3. Upon its review, the Planning Commission shall take one of the following actions:
- 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
- 264 A. On receiving the report of approval of the Preliminary Plan, the Joyfield Township
- 265 Planning Commission's attorney will prepare a contract setting forth the conditions on
- 266 which such approval is based. Once the contract is prepared, it shall be signed by
- 267 Joyfield Township and the applicant.
- 268
- 269 B. The agreement shall become effective on execution after its approval. The agreement
- 270 shall be recorded at the Benzie County Register of Deeds office.
- 271
- 272 C. Once an area has been included with a plan for PUD and Joyfield Township has
- 273 approved such plan, no development may take place in such area nor may any use of it
- 274 be made except under such plan or under an approved amendment, unless the plan is
- 275 terminated.
- 276
- 277 D. An approved plan may be terminated by the applicant or the applicant's successors or
- 278 assigns, before any development within the area involved, by filing with Joyfield
- 279 Township and recording in the County records an affidavit so stating. The approval of
- 280 the plan shall terminate on such recording.
- 281
- 282 E. No approved plan shall be terminated after development begins except with the
- 283 approval of the Joyfield Township Planning Commission and of all parties in interest in
- 284 the land.
- 285

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

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

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

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

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

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

1. All portions of the project area shown on the approved plan for the PUD for use by the public or the residents of lands within the PD have been committed to such uses under the PUD contract;
2. The final plats or site plans are in conformity with the approved contract and plan for the PUD;
3. Provisions have been made under the PUD contract to provide for the financing of any improvements shown on the project area plan for open spaces and common areas which are to be provided by the applicant and that maintenance of such improvements is assured under the PUD contract.
4. If development of approved final plats or site plans is not substantially completed in three years after approval, further final submittals under the PUD shall stop until the part in question is completed or cause can be shown for not completing same.

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

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.

334
335 **8.2.11 Amendments to PUD Plan**

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

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

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

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

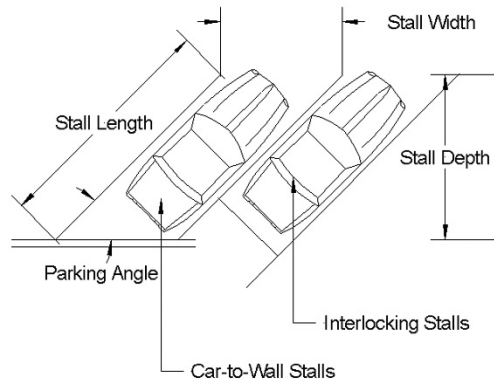
9.1.2 Required Off-Street Parking

<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>	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		

- A. Parking for Handicapped: Off-street parking facilities required for physically handicapped-accessible buildings shall be provided in all parking areas in accord with provisions of the Americans with Disabilities Act (ADA). An individual vertical free standing or wall mounted "handicapped" signage is required.
- B. Parking space layout standards shall be provided in accordance with the specification in the following table:

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.



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 Billboards

Billboard 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: Billboard 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: Billboard structures may not be illuminated.
- C. Maintenance: Billboard structures shall be adequately maintained. Such maintenance shall include proper alignment of structure, continued readability of message, and preservation

of structure with paint or other surface finishing material. If a Billboard structure is not maintained, written notice of any disrepair shall be issued by the chief building inspector to the owner of such structure. If the disrepair is not corrected within thirty (30) days, such structure shall be removed at the owner's expense.

- D. Size: No Billboard structure shall exceed one hundred twenty-eight (128) square feet in surface display area per side.
- E. Required spacing: No Billboard structure shall be located within a distance of one thousand (1000) feet of any other Billboard structure, such distance to be measured along a line parallel to the right-of-way of the highway upon which the Billboard structure fronts.
- F. Such signs and sign structures shall not exceed twenty four (24) feet in height.
- G. Billboard signs shall be set back a minimum of fifty (50) feet from the Highway Right of Way.
- H. All Billboard signs shall, prior to construction, require a land-use permit from Joyfield Township or designated enforcement.

9.2.4 On-Premise or Off-premise Advertising Structures

- A. Location: On-premise advertising structures in the R and C districts shall only be located immediately adjacent to the public road. Such structures shall be located in Zone A and in accordance with the property line setback requirements of the district.
- B. Size:
 - 1. Commercial District: signs shall not exceed 40 square feet in area and shall not exceed 16 feet in height above road grade except by special permission granted as a condition of site plan approval.
 - 2. Rural District: signs shall not exceed 24 square feet in area and shall not exceed 7 feet in height above road grade.

9.3 Storage and Use of Recreational Vehicles

- A. The parking or storage of any recreational vehicle in any residential occupied lot shall be subject to all the following:
 - 1. Recreational vehicle must be the property of the owner or lessee of entire property and must have current registration or license unless it is a removable truck camper.
 - 2. The number of recreational vehicles parked or stored shall not exceed two (2) of any type and not exceed six (6) in combination.
 - 3. 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.

- 160
- 161 4. Storage of recreational vehicles is not permitted between November 1st and March
- 162 31st of each calendar year, except in a rear or side yard and then only if the vehicle
- 163 is not closer than five (5) feet to any lot line.
- 164
- 165 5. Recreational vehicles shall not be used or occupied as a dwelling.
- 166

167 **9.4 Exterior Lighting and Dark Sky Provisions**

168

169 Refer to Section 10.4.

170

171 **9.5 Access Controls and Private Roads**

172

173 **9.5.1 Access to Roads**

174

- 175 A. In any district every use, building or structure established after the effective date of this
- 176 Ordinance shall be on a lot which has its minimum frontage on a public or private road as
- 177 specified in each respective district.
- 178
- 179 B. If the lot exists prior to the effective date of this Ordinance and it does not meet the
- 180 standards of 9.5.1.A, then that lot shall be allowed even if it does not meet the terms of this
- 181 section.
- 182
- 183 C. If the lot has the required frontage on a public road right-of-way in an existing subdivision
- 184 and/or planned development, that shall be considered to be a lot which has met the
- 185 required access to a public road, even if the road has not been constructed, and can be
- 186 made passable without substantial earth movement or trespass off the road right-of-way.
- 187

188 **9.5.2 Curb Cuts and Driveways**

189

- 190 A. Curb cuts and driveways shall be located and constructed in accordance with the Private
- 191 Commercial Driveway and Private Residential Road Approach Specifications of the Benzie
- 192 County Road Commission.
- 193
- 194 B. No driveway shall serve more than one (1) single family dwelling or more than one (1) dwelling
- 195 unit in a two (2) family dwelling unless adjoining property owners execute a cross access
- 196 easement agreeable in form and content to Joyfield Township.
- 197
- 198 C. No driveways providing access to nonresidential uses and structures shall cross residentially
- 199 occupied property.
- 200

201 **9.5.3 Construction of New Roads**

202

203 A. Private Roads:

204

- 205 1. Private roads shall be designed and constructed in accordance with the Private Road
- 206 standards and specifications issued by the Benzie County Road Commission.
- 207

208 2. Private roads that will be constructed as part of a subdivision, site condominium,
209 cluster housing project or other private development shall comply with the Benzie
210 County Road Commission Standards and Specifications for Subdivisions, Site
211 Condominiums and Other Development Projects.

212
213 B. Public Roads:

214
215 1. Public roads that will be constructed as part of a subdivision, site condominium,
216 cluster housing project or other private development shall comply with the Benzie
217 County Road Commission Standards and Specifications for Subdivisions, Site
218 Condominiums and Other Development Projects.

219

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 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.
 - c. Exhaust Noises. The discharge into the open air of the exhaust of any

97 steam engine, stationary internal combustion engine, or any other form
98 of engine, whether in a boat, motor vehicle, motorcycle, off-road
99 vehicle, or tractor, except through a muffler or other device which
100 effectively prevents or reduces loud or explosive noises.

101
102 d. Construction, Repairing or Maintenance of Buildings or Yards. The
103 erection (including excavation), demolition, alteration or repair of any
104 building or structure other than between the hours of seven o'clock
105 (7:00) a.m. and nine o'clock (9:00) p.m. where such activity results in
106 the creation of unusually loud noise or noise that annoys, disturbs,
107 injures or impairs the comfort, repose, health, peace or safety of others
108 except in the case of urgent necessity in the public interest of the public
109 health and safety, for the duration of such emergency.

110
111 e. Business Operations And Other Premises Activities. The carrying on of
112 any business operations, or other activities upon any premises in such a
113 manner so as to create any excessive, unnecessary, unnatural, repeated,
114 prolonged or unusual noise which annoys, disturbs, injures, irritates, or
115 impairs the comfort, repose, health, or peace of another person.

116
117 f. The operation of any race track, proving grounds, testing area, or
118 obstacle course for vehicles, motorcycles, snowmobiles, boat racers,
119 automobiles, off-road vehicles, or vehicles of any kind or nature in
120 Joyfield Township where such noise emanating from the identified
121 vehicle would be unusually loud or continuous, unreasonably disturbing,
122 or upsetting to another person in that vicinity.

123
124 5. The noise prohibitions set out herein before shall not apply to the
125 following:

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127 a. Any police vehicle, ambulance, fire engine, or other emergency vehicle
128 while engaged in necessary emergency activities.

129
130 b. Excavation or repair of bridges, streets, and highways on behalf of the
131 State of Michigan, Joyfield Township, of the County of Benzie, between
132 sundown and seven o'clock (7:00) a.m. when the public welfare, health,
133 safety or convenience renders it impossible to perform such work
134 during other hours.

135
136 c. Noises emitted from warning devices for the purpose of notifying
137 individuals or the public at large as authorized by law.

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139 d. Normal agricultural (orchard or crop management) practices.

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141 e. Agricultural processing in compliance with the Michigan Department of
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).

- f. Livestock or other large animal operation in which the land is zoned for including domestic pets which from time to time may communicate.
- g. Noise emanating from the discharge of firearms.
- h. Fireworks are permitted July 3-5th and December 31st between the dusk and 1AM.

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

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

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

Applicants must comply with all Michigan DNR/DEQ requirements and regulations. The Applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. If mitigation efforts are required to minimize adverse impacts, the Applicant must obtain approval of the mitigation plan from the Joyfield Township Zoning Administrator, the Planning Commission and their Independent Environmental Consultant. The Applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts including, but not limited to wildlife (birds, bats, etc.) wetlands and other fragile ecosystems, historical and cultural sites, and antiquities following the guidelines.

- 193
- 194 D. Viewsheds: No tall structure shall be erected on a ridge or in a viewshed as defined in
- 195 the Master Plan. No structure on a ridge line will be higher than the highest tree thus
- 196 interrupting the natural view and nature of the ridge.
- 197
- 198 E. All proceedings of the Planning Commission, Zoning Board of Appeals, and Township
- 199 Board of Trustees shall be conducted, and all decisions shall be made with due
- 200 consideration given to the above referenced environmental concerns. Maintenance of
- 201 reasonable circumstances regarding: emission and transmission of injurious or
- 202 obnoxious noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas
- 203 fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress,
- 204 ease of police and fire protection, drainage, lateral land support, blighting influence,
- 205 effect on property values, adequate light and air, overcrowding of persons, sanitation,
- 206 general appearance of the area, surface and groundwater quality, and other similar
- 207 considerations having an effect on public health, safety and general welfare of the
- 208 people of the surrounding area.
- 209

210 **10.4 Exterior Lighting Regulations**

211 The purpose of the exterior lighting regulations is to:

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- 213 1. Permit reasonable uses of outdoor lighting for nighttime safety, utility, security,
- 214 and enjoyment while preserving the ambiance of the night.
- 215
- 216 2. Curtail and reverse any degradation of the nighttime visual environment and the
- 217 night sky.
- 218
- 219 3. Minimize glare and obtrusive light by limiting outdoor lighting that is
- 220 misdirected, excessive, or unnecessary.
- 221
- 222 4. Conserve energy and resources to the greatest extent possible.
- 223
- 224 5. Help protect the natural environment from the damaging effects of night
- 225 lighting.
- 226

227 B. Requirements:

- 228 1. Exterior lighting is required to use either a or b noted below:
- 229 a. All outdoor light fixtures shall have full cut-off shielding such that no light is
- 230 emitted above an imaginary horizontal plane passing through the fixture
- 231 below the light source regardless of type or wattage, EXCEPT for gas lighting,
- 232 glass tubes filled with Neon, Argon or Krypton, and small decorative fixtures
- 233 such as porch lights.
- 234
- 235 b. Baffles or shields shall be required as needed so that light sources are not
- 236 visible beyond the property on which they are installed, so that direct light
- 237 rays are not directed above a horizontal plane passing through the fixture,
- 238 and also so that vehicular and pedestrian traffic are protected from
- 239 unnecessary and dangerous glare and from the intense light of directly
- 240 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. Billboard 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. Back-lit and internally illuminated signs in the Commercial District (C) shall not cause excessive glare, and light emitted from such signs shall not encroach onto surrounding properties.
10. 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.
11. 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.
12. 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.
13. 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.
14. Lighting of building facades shall be from the top and directed downward with full cut-off shielding and additional shielding to keep the light source from the view of vehicular and pedestrian traffic and adjacent property.
15. Security lighting shall be directed away from and/or shielded from road traffic and adjacent properties.
16. Limit the type of LED light to a "warm-white" or filtered LED's (with a Correlated Color Temperature – CCT lower than 3,000K) to minimize blue emissions.
17. LED rope lights, or lighting that flashes or scrolls are prohibited.

289 18. Electronic message boards, of any type, are prohibited.

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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 (EIS) standards and has the Fixture
295 Seal of Approval (FSA) from the International Dark Sky Association.

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

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300 1. Lighting in swimming pools and other water features governed by Article 680 of
301 the National Electrical Code.
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303 2. Exit signs and other illumination required by building codes.
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305 3. Lighting for stairs and ramps, as required by the building code.
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307 4. On-premise signs are regulated by the sign code, but all sign lighting is
308 recommended to be fully shielded.
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310 5. Holiday and temporary lighting (less than thirty days' use in any one year).
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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.
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319 **10.5 Use, Storage and Handling of Hazardous Substances**

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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.
325

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
328 appropriate permits or approval from the State of Michigan, and/or other designated
329 enforcing agencies.
330

331 C. Any person, firm, corporation or other legal entity operating a business or conducting an
332 activity which uses, stores or generates hazardous substances or petroleum products
333 shall complete a Hazardous Chemicals Survey and a Pollution Incidence Protection Plan
334 (PIPP) in conjunction with the following:
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- 336 1. Upon submission of a site plan.

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- 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 must comply with the guidelines in Fire Marshall Bulletin-9. Compliance guidelines may include the following:

- 1. Firefighters Right-to-Know
- 2. MIOSHA Hazardous Waste Operations and Emergency Responses (HAZWOPER)
- 3. Superfund Amendments and Reauthorization Act (SARA) Title III

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

- 49 A. Each site plan as may be required by this Zoning Ordinance shall be provided on a
50 professional quality drawing of scale not less than one (1) inch equals one hundred (100)
51 feet. All information depicted shall be designed and sealed by an engineer, architect or
52 landscape architect licensed in Michigan. In addition to the applicant's full name(s),
53 address(es) and phone number(s), cell phone number, e-mail address, the following
54 data shall be submitted with applications for zoning permits for uses requiring a site
55 plan:
56
- 57 1. A survey showing property dimensions and legal description, including angles,
58 lot area and dimensions and an arrow pointing north.
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 - 60 2. A project description, including the total number of structures, units, bedrooms,
61 offices, square feet, total and usable floor area, carports or garages, employees
62 by shift, amount of recreational and open space, type of recreation facilities to
63 be provided and related information as pertinent or otherwise required by this
64 Zoning Ordinance.
65
 - 66 3. A plan showing the location of all buildings and structures existing and proposed
67 on the site including building elevation drawings and all of the following listed
68 items:
69
 - 70 a. The natural features such as woodlands, streams, flood plains, drains,
71 ponds, topography (at two (2) foot intervals on-site and within one
72 hundred fifty (150) feet of the site) and man-made features such as
73 existing roads and structures, with indication as to which are to be
74 retained and which are to be removed or altered.
75
 - 76 b. The existing public rights-of-way, private easements, private places of
77 record and deed restrictions.
78
 - 79 c. The proposed streets and alleys, including cross-sections, acceleration,
80 deceleration or right-turn lanes, driveways, parking spaces and
81 sidewalks with indication of the direction of travel and the inside radii of
82 all curves including driveway curb returns. The width of streets,
83 driveways and sidewalks, the total number of parking spaces, the
84 dimensions of a typical individual parking space and associated aisles.
85 Proposed traffic control measures including signs and proposed street
86 or road names shall also be indicated.
87
 - 88 d. A vicinity sketch showing the location of the site in relation to the
89 surrounding street system and other land uses within three hundred
90 (300) feet in every direction of the proposed use including land uses on
91 the opposite side of any public street.
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 - 93 e. The location of utilities, water supply and the location and design of
94 waste water systems as well as any easements that exist or are
95 proposed to be established for installation, repair and maintenance of
96 utilities.

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- f. The proposed location of trash receptacles, accessory buildings and uses and signs.
 - g. A landscaping plan indicating the locations of plant materials to be preserved and locations of proposed planting and screening, fencing and lighting in compliance with the requirements of this Zoning Ordinance. Also, the plan must include the proposed locations of common open spaces, if applicable.
 - h. A storm drainage and storm water management plan for all streets and impervious surfaces.
 - i. The location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures or clear zones required by government authorities.
 - j. The location of exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water or waste water. The point of discharge for all drains and pipes shall also be specified on the site plan.
 - k. A statement from the applicant identifying all Federal, State and local permits required, if any.
 - l. Such other information and/or assessments as necessary to enable the Municipality to determine whether the proposed site plan will conform to the provisions of this Zoning Ordinance.

11.6 Required Data for Plot Plans

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- A. The following data shall be submitted with applications for zoning and/or land use permits for uses requiring a plot plan:
 - 1. An accurate, readable, scale drawing showing the following shall be required except in the case of minor alterations, repair and demolitions as determined by the Joyfield Township Planning Commission. The Commission may establish and make available written guidelines as to the scale and level of detail needed for applications for various types of uses requiring a zoning permit or for information to be submitted to the Board of Zoning Appeals in order to make a decision on an appeal or request for Zoning Ordinance interpretation or variance:
 - a. Name, address and telephone number of the applicant(s) (and owner(s) if different).
 - b. The location, shape, area and dimension of the lot.

- c. The location, dimensions, height and bulk of the existing and/or proposed structures to be erected, altered or moved on the lot.
- d. A description of proposed use of the building(s), land or structures.
- e. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users.
- f. The yard, open space, parking lot and space dimensions and number of spaces.
- g. A vicinity sketch showing the location of the site in relation to the surrounding street system and adjacent land uses within five hundred (500) feet in every direction including on the opposite side of any public street.
- h. Location of any septic system or drain field and well.
- i. Configuration of the driveway and parking.
- j. Drains and site drainage patterns.
- k. Existing public rights-of-way or easements.
- l. All public utilities.
- m. Any other information deemed necessary by the Joyfield Township Planning Commission to determine and provide for the enforcement of this Zoning Ordinance.

11.7 Required Data for a Site Plan Involving Special Groundwater Protection Provisions

- A. All businesses and facilities which use or generate hazardous substances except:
 - 1. Fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor.
 - 2. Materials in a five (5) gallon, or smaller, pre-packaged sealed containers for purposes of resale and located inside a retail establishment.
- B. In addition to all the data required for a Site Plan, the following shall also be shown in the site plan:
 - 1. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.

2. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water, and all similar uses.
3. Location of exterior and interior drains, on-site sewage systems, dry wells; catch basins; retention/detention areas; sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
4. Location of all water wells on the site and within one hundred and fifty (150) feet surrounding the parcels property boundaries.
5. Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of site cleanup.

11.8 Submittal and Distribution of Site Plans

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

11.9 Completeness of the Site Plan Application

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

11.10 Joyfield Township Planning Commission Review and Action

After conducting a review, the Joyfield Township Planning Commission shall reject, approve or conditionally approve the Site Plan as it pertains to requirements and standards contained in the Zoning Ordinance. Any conditions required by the Commission for approval shall be stated in writing, together with the reasons and delivered to the applicant. Decisions and recommendations by the Commission shall be made within sixty (60) days of the receipt of the completed application unless, in the opinion of the Joyfield Township Planning Commission, an extension of time is necessary to adequately collect and review information pertinent to a decision or recommendation. A Site Plan shall be approved by the Commission if it contains the information required by and is in compliance with this Zoning Ordinance, the conditions imposed pursuant to the Zoning Ordinance, other planning documents, other applicable Codes and County, State and Federal laws and statutes.

11.11 Approved Site Plans

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

11.12 Site Plan Approval Criteria

A. Each Site Plan shall conform to the applicable provisions of this Zoning Ordinance and the criteria listed below in addition to any conditions imposed by the Joyfield Township Planning Commission:

1. All elements of the Site Plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Zoning Ordinance.
2. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree, other vegetative material and soil removal and by topographic modifications which result in maximum harmony with adjacent areas. Landscape elements shall minimize negative impacts and allow for the appropriate blending of the Site Plan with the surrounding community and in the case of parking lots, provide directional guidance to drivers. Landscaping, buffering and screening shall conform to the requirements of this Zoning Ordinance.
3. Special attention shall be given to proper site drainage so that removal of storm waters will not increase off-site sedimentation or otherwise adversely affect neighboring properties, Herring Lakes or its tributaries.
4. The Site Plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Special attention shall be given to ensure the peaceful surroundings of any nearby dwellings or other types of communities so as to lend continuity and that adequate natural light that may be currently enjoyed and continued to be enjoyed by the surrounding structures. Fences, walks, 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.

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- 290 7. A pedestrian circulation system shall be provided which is insulated as
- 291 completely as reasonably possible from the vehicular circulation system.
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- 293 8. Exterior lighting shall be designed and arranged so that it is deflected away from
- 294 adjacent streets and adjoining properties. Flashing, twinkling or intermittent
- 295 lights shall not be permitted.
- 296
- 297 9. The arrangement of public or common ways for vehicular and pedestrian
- 298 circulation shall respect the pattern of existing or planned streets and
- 299 pedestrian or bicycle pathways in the area. Streets and drives which are part of
- 300 an existing or planned street pattern which serves adjacent development shall
- 301 be of a width appropriate to the traffic volume they will carry and shall have a
- 302 dedicated right-of-way according to the standards of the Benzie County Road
- 303 Commission.
- 304
- 305 10. All roads dedicated to public use shall be developed in accordance with Benzie
- 306 County Road Commission specifications.
- 307
- 308 11. All parking areas shall be so designed to facilitate efficient and safe vehicular
- 309 and pedestrian circulation, minimize congestion at ingress and egress points to
- 310 intersecting roads, including the use of service drives as appropriate and
- 311 minimize the negative visual impact of such parking areas.
- 312
- 313 12. Residential and nonresidential development shall not include unnecessary curb
- 314 cuts and commercial service drives shall be used where the opportunity exists.
- 315
- 316 13. The Site Plan shall provide for the appropriate location of all necessary and
- 317 proposed utilities. Locational requirements shall include underground facilities
- 318 to the greatest extent feasible.
- 319
- 320 14. Site Plans shall conform to all applicable requirements of State and Federal
- 321 statutes (i.e. Soil and Sedimentation Control, Wetlands, Critical Dunes, High Risk
- 322 Erosion, etc.) and approval may be conditioned on the applicant receiving
- 323 necessary State and Federal permits before the Site Plan approval is granted.
- 324
- 325 15. The applicant shall demonstrate that reasonable precautions will be made to
- 326 prevent hazardous materials from entering the environment including:
- 327
- 328 a. Sites at which hazardous substances are stored, used or generated shall
- 329 be designed to prevent spills and discharges to the air, surface of the
- 330 ground, ground water, lakes, streams, rivers or wetlands.
- 331
- 332 b. Secondary containment for above ground areas where hazardous
- 333 substances are stored or used shall be provided. Secondary
- 334 containment shall be sufficient to store the substances for the
- 335 maximum anticipated period of time necessary for the recovery of any
- 336 released substances.

- 337
- 338 c. State and Federal agency requirements for storage, spill prevention,
- 339 record keeping, emergency response, transport and disposal of
- 340 hazardous substances shall be met. No discharges to ground water,
- 341 including direct and indirect discharges, shall be allowed without
- 342 required permits and approvals.
- 343

344 **11.13 Conformity to Approved Site Plans**

345 Property which is the subject of Site Plan approval must be developed in strict compliance with the

346 approved Site Plan and any amendments thereto which have received approval from the body which

347 had approved the original site plan. If construction and development does not conform with such

348 approved plans, the approval and associated permits shall be revoked. Upon revocation of such

349 approval, all construction activities shall immediately cease upon the site, other than for the purpose of

350 correcting the violation.

351

352 **11.14 Amendment to a Site Plan**

353 No changes shall be made to an approved Site Plan prior to or during construction except where the

354 Joyfield Township Planning Commission and applicant mutually agree according to the following

355 procedures:

356

- 357 A. Minor Changes: Minor changes to an approved Site Plan involving changes of less than
- 358 five (5) feet in the location of walkways, vehicular circulation ways and parking areas or
- 359 exterior building and structure walls; adjustment of utilities; and similar minor changes
- 360 as may be approved by Joyfield Township.
- 361
- 362 B. Major Changes: Major changes or amendments to an approved Site Plan involving
- 363 changes in excess of five (5) feet in the location of walkways, vehicular circulation ways
- 364 and parking areas or exterior building and structure walls; the number and location of
- 365 accesses to public streets and alleys; a reduction in the number of parking spaces; an
- 366 increase in the gross floor area or heights of buildings; a reduction in the open space;
- 367 and similar major changes, shall require the approval of the Joyfield Township Planning
- 368 Commission, or in the case of a Planned Unit Development project, in the same manner
- 369 as the original application was submitted, reviewed and approved and subject to the
- 370 finding of all of the following:
- 371
- 372 1. Such changes will not adversely affect the initial basis for granting approval;
- 373
- 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

approved final site plan may be incorporated without amendment to the approved preliminary site plan at the discretion of the Planning Commission.

11.16 Review Fees and Security Requirement

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

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

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

Article 12
NONCONFORMING USES

12.1 Purpose

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

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

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

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

12.2 Nonconforming Uses of Land

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

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

12.3 Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be 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

503 **12.6 Change of Tenancy or Ownership**

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.

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 shall be appointed not more than 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.

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

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

13.4 Zoning Appeals

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

- A. The appeal shall be taken within such time as prescribed by the rules or by-laws of the Zoning Board of Appeals.
- B. A fee, prescribed by Joyfield Township Board, shall be submitted to the Zoning Administrator at the time of the filing of the application form.
- C. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency, or bureau of Joyfield Township, county, state, federal, or other legally constituted form of government.
- D. The person, firm, agent, or attorney thereof making the appeal shall file by completing and signing the application form provided by Joyfield Township.
- E. All persons shall file a written statement signed by the principal stating the agent's right to act upon their behalf.
- F. A completed application form shall be submitted to the Zoning Administrator. The application shall state the reasons for the appeal and the order or ruling appealed. When applicable, the legal description of the property involved shall be stated in the notice of appeal. Before the application is processed, the fees shall be collected. If the Zoning Administrator determines that the application does not fully comply with the submittal requirements, the application and fee shall be returned to the applicant. If the

application is approved, the Zoning Administrator shall forthwith transmit to the recording secretary for the Zoning Board of Appeals the application and all papers constituting the record from which the appeal was taken.

- G. An appeal stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the Board of Appeals that by reason of facts stated in the appeal application, a stay would in his or her opinion cause imminent peril to life and property.
- H. When a properly executed application form has been filed, the recording secretary, upon consultation with the chairman for the Zoning Board of Appeals, shall schedule the matter for a public hearing.
- I. Notice of the public hearing shall be provided per Section 103 of Public Act 110 of 2006.
- J. Following the public hearing, the Board of Appeals shall return a decision on a case in a timely manner, or if time frames are included within its rules of procedure, then within the time specified in the rules of procedure.
- K. No Land Use Compliance Permit shall be issued by the Zoning Administrator based on a decision of the Board of Appeals before eight (8) days have expired.

13.5 Variances

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

- A. That strict compliance with the Ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity with such restrictions unnecessarily burdensome.
- B. That the problem is due to a unique circumstance of the property.
- C. That the specific conditions relating to the property are not so general or recurrent in nature, in the zoning district, so as to require an amendment to the zoning ordinance, instead of a variance.
- D. The property problem was not created by the action of the applicant.
- E. That the granting of the variance will not cause a substantial adverse effect upon property values in the immediate vicinity, or in the district in which the property of the applicant is located.
- F. That the requested variance will relate only to the property under the control of the applicant.
- G. That the non-conforming dimensions of other lands, structures, or buildings in the same

zoning district shall not be considered grounds for the issuance of a variance.

- H. That the variance is the minimum variance that will make possible the reasonable use of the land, building or structure in the zoning district in which it is located.
- I. That the proposed use of the premises is in accord with the Zoning Ordinance.
- J. That the variance would do substantial justice to the applicant as well as to other property owners in the district.
- K. That the granting of the variance will ensure that the spirit of the ordinance is observed, public safety secured and substantial justice applied.
- L. That the requested variance shall not amend the permitted uses of the zoning district in which it is located.

13.6 Special Rules for Variances

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

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

13.7 Interpretation and Other Powers

The Board of Appeals shall have the power to:

- A. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.
- B. Determine the precise location of the boundary lines between zoning districts.
- C. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. The classification of the unmentioned use does not automatically permit the use, it only identifies the district in which it may be located and the zoning regulations with which it must conform.
- 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.
- 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 guarantee be furnished to insure compliance with the requirements, specifications and conditions imposed with the granting of a variance.

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 administer and enforce all provisions of this Ordinance and shall have the power to grant land use 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 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.
- 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

49 having service connections within the building such as water, electric, gas, sewer, and
50 other connections. A permit to wreck a building shall not be issued unless a release is
51 obtained from the utilities stating that their respective service connections and
52 appurtenant equipment, such as meters and regulators, have been removed and/or
53 sealed and plugged in a safe manner; nor shall a wrecking permit be issued until a report
54 has been received from the public utility companies concerned, that said wrecking
55 operations may be accomplished in such a manner as not to create a hazardous
56 condition as a result of the proximity of such public utility installations.
57

- 58 1. The wrecking company and the person who secures the permit for the razing of
59 the structure, will be held responsible for the compliance with these regulations
60 and other laws and ordinances covering this subject. They will also be held
61 responsible and liable for the acts of subcontractors or other persons who do
62 any work of removal or destruction in the wrecking of the building. The
63 methods to be used in wrecking shall not involve undue hazards to the public or
64 unnecessary danger to the workmen and shall be in accordance with good
65 practice. Crane, back hoe, bulldozer, high loader, ball, clam-bucket, chain, cable,
66 and other similar mechanical devices shall not be used to wreck buildings or
67 structures except in individual cases wherein detailed plans and proposed
68 procedures are submitted with the application for wrecking permit and are
69 approved by the building official. Suitable provision shall be made for the
70 disposal of materials which are accumulated during the wrecking operations. No
71 part of the structure shall be overloaded by excessive storage of materials or
72 debris. Chutes, scaffolds, derricks, and hoists shall be strong and substantial,
73 and safe for the purpose for which they are intended. Materials, which in their
74 removal, would cause an excessive amount of dust, shall be well wet down to
75 prevent the creation of a nuisance. No open fires or other sources of flame
76 except necessary cutting torches will be permitted on the inside of the building
77 which is being wrecked, and may not be in close proximity to flammable
78 materials outside of the building. Every precaution shall be taken to prevent
79 the possibility of fire.
80
- 81 2. Blasting and use of explosives shall be done only by a person licensed by the
82 State of Michigan and approved by the Fire Marshall and Zoning Administrator
83 to perform such work and notification shall be given to Joyfield Township and
84 surrounding property owners within three hundred (300) feet of the site and
85 within five (5) calendar days of the work.
86
- 87 3. The requirements of this section are designated as the minimum necessary for
88 average conditions and, in the case of unusual or dangerous situations,
89 adequate provision shall be made and every precaution taken to protect the
90 safety of the public and workmen. All abandoned basements or cellars and
91 holes shall be filled to grade, and all excess materials, rubbish, and debris shall
92 not be permitted to remain on the premises above grade. The Fire Department
93 shall be notified before removing standpipes, sprinklers, or fire protection water
94 supplies.
95

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

G. Timing of Permits

1. The Zoning Administrator or appropriate governing body has the power to require a permit to be obtained on a prompt basis.
2. The Zoning Administrator or appropriate governing body may require construction to commence within a specified date from the date of issuance of the permit, that the construction be pursued in a diligent manner, and that the construction be completed by a specified date.
3. Any time periods specified in the ordinance for the start and completion of a project may be modified by the applicable body as a condition of project approval.

14.4 Building Permit

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

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

14.5 Certificates of Occupancy

A Certificate of Occupancy shall be required prior to occupancy or use of any land, building, structure, or part thereof.

14.6 Inspection

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

14.7 Fees

Fees for inspection and the issuance of permits or certificates or copies thereof, required or issued under the provisions of this Ordinance, may be collected by the Zoning Administrator in advance of

issuance. The amount of such fees shall be established by resolution of Joyfield Township Board and shall cover the cost of inspection and supervision resulting from enforcement of this Ordinance. No certificate or permit shall be issued unless required fees have been paid in full.

14.8 Requests for Information and Complaints

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

14.9 Violations and Penalties

- A. Nuisance per se: Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
- B. Inspection: The Zoning Administrator shall have the duty to investigate each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to the ensure compliance with the plans and conditions of the zoning permit or approved site plan.
- C. Penalties
 - 1. Any person, partnership, limited liability company, corporation, or association who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of the Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with provisions of this Ordinance.
 - 2. The Township Zoning Administrator is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
 - 3. In addition to enforcing this Ordinance, as a municipal civil infraction, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

14.10 Rights and Remedies are Cumulative

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

190
191 **14.11 Performance Guarantee**
192

- 193 A. Where in this Ordinance there is delegated to the Zoning Board of Appeals and the
194 Joyfield Township Planning Commission the function of establishing certain physical site
195 improvements as a contingency to securing a zoning amendment, site plan approval,
196 special approval or variance, the Zoning Board of Appeals or the Joyfield Township
197 Planning Commission shall, to ensure strict compliance with any regulation contained
198 herein or required as a condition of the issuance of a permit, require a cash,
199 performance, or surety bond executed by a reputable surety company authorized to do
200 business in the state, or irrevocable letter of credit or cash escrow account in an amount
201 determined by the Zoning Board of Appeals or the Joyfield Township Planning
202 Commission to be reasonably necessary to ensure compliance hereunder; provided,
203 however, that in fixing the amount of such cash, performance, surety bond, irrevocable
204 letter of credit or cash escrow account, consideration shall be given to the size and
205 scope of the proposed improvement project, current prevailing cost of rehabilitating the
206 premises upon default of the operator, estimated expenses to compel the operator to
207 comply by court decree, and such other factors and conditions as might be relevant in
208 determining the sum reasonable in light of all facts and circumstances surrounding each
209 application.
210
- 211 B. The performance guarantee shall be deposited with Joyfield Township at the time of the
212 issuance of the permit authorizing the activity or project.
213
- 214 C. The Joyfield Township Planning Commission shall establish procedures whereby a
215 rebate of cash deposits, in reasonable proportion to the ratio of work completed on the
216 required improvements, will be made as work progresses.
217
- 218 D. As used in this section, “improvements” means those features and actions associated
219 with a project which are considered necessary by the body or official granting approval
220 to protect natural resources or the health, safety and welfare of the residents of Joyfield
221 Township and future users or inhabitants of the proposed project or project area,
222 including but not limited to roadways, paving, walls, curbing, striping, lighting, utilities,
223 sidewalks, screening, landscaping and drainage.
224
- 225 Objection to a performance guarantee requirement must be in writing and filed with the
226 Joyfield Township Planning Commission within thirty (30) days of notice of the
227 requirement. The determination of the Commission shall be final.

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 without any offer of conditions, except as modified by the requirements of this 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
- 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.

E. Approval:

1. If the Joyfield Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Joyfield Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall:
 - a. Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Joyfield Township Board.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by Joyfield Township with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.
 - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Joyfield Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
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

145 authority to waive this requirement if it determines that, given the nature of the
146 conditions and/or the time frame within which the conditions are to be satisfied,
147 the recording of such a document would be of no material benefit to Joyfield
148 Township or to any subsequent owner of the land.

- 149
- 150 5. Upon the rezoning taking effect, the use of the land so rezoned shall conform
151 thereafter to all of the requirements regulating use and development within the
152 new zoning district as modified by any more restrictive provisions contained in
153 the Statement of Conditions.

154

155 F. Compliance with Conditions:

- 156
- 157 1. Any person who establishes a development or commences a use upon land that
158 has been rezoned with conditions shall continuously operate and maintain the
159 development or use in compliance with all of the conditions set forth in the
160 Statement of Conditions. Any failure to comply with a condition contained
161 within the Statement of Conditions shall constitute a violation of this Zoning
162 Ordinance and be punishable accordingly. Additionally, any such violation shall
163 be deemed a nuisance per se and subject to judicial abatement as provided by
164 law.

- 165
- 166 2. No permit or approval shall be granted under this Ordinance for any use or
167 development that is contrary to an applicable Statement of Conditions.

- 168
- 169 G. Time Period for Establishing Development or Use: Unless another time period is
170 specified in the Ordinance rezoning the subject land, the approved development and/or
171 use of the land pursuant to building and other required permits must be commenced
172 upon the land within 18 months after the rezoning took effect and thereafter proceed
173 diligently to completion. This time limitation may upon written request be extended by
174 the Joyfield Township Board if (1) it is demonstrated to Joyfield Township Board's
175 reasonable satisfaction that there is a strong likelihood that the development and/or
176 use will commence within the period of extension and proceed diligently thereafter to
177 completion and (2) Joyfield Township Board finds that there has not been a change in
178 circumstances that would render the current zoning with Statement of Conditions
179 incompatible with other zones and uses in the surrounding area or otherwise
180 inconsistent with sound zoning policy.

- 181
- 182 H. Reversion of Zoning: If approved development and/or use of the rezoned land does not
183 occur within the time frame specified under Subsection G above, then the land shall
184 revert to its former zoning classification as set forth in MCL 125.3405(2). The reversion
185 process shall be initiated by the Joyfield Township Board requesting that the Planning
186 Commission proceed with consideration of rezoning of the land to its former zoning
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
232

233 D. Whether the uses allowed under the proposed rezoning would be equally or better suited to
234 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.

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.