

CHAPTER I

TITLE AND LEGAL BASIS

SECTION 1.01 TITLE

This Ordinance shall be known and may be cited as the "Hampton Charter Township Zoning Ordinance."

AMENDMENT

36A -11

EFF: 9-14-06

SECTION 1.02 LEGAL BASIS

This Ordinance is enacted in accordance with the authority granted townships under ~~Act 184 of 1943~~ Act 110 of 2006 of the Public Acts of Michigan, as amended, being the Michigan Zoning Enabling Act.

CHAPTER II

PURPOSE AND INTERPRETATION

SECTION 2.01 PURPOSE

The fundamental purpose of this Ordinance is to promote the public health, safety, morals and general welfare in and of the Township; to encourage the use of lands and natural resources in the Township in accordance with their character and adaptability; to limit and discourage the improper use of lands, buildings and other structures; to provide for the orderly development of the Township; to reduce hazards to life and property; to establish the location and size of and the specific uses for which dwellings, buildings and other structures may hereafter be erected, altered or moved into the Township; to regulate the minimum open spaces, sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures; to lessen congestion on the public roads, streets and other public places; to provide safety in traffic and in vehicular parking; to facilitate the development of adequate systems of transportation, education, recreation, sewage disposal, safe and adequate water supply and other public requirements; and to conserve life, property values and natural resources and the expenditure of funds for public improvements and services to conform with the most advantageous uses of land resources and properties.

SECTION 2.02 INTERPRETATION

It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or of any private restrictions placed upon property by covenant, deed or other private agreement. Where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or lot coverage, or requires greater lot areas, or larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations, or permits or by such private restrictions, the provisions of this Ordinance shall prevail.

CHAPTER III
GENERAL PROVISIONS

AMENDMENT

36A-8A

EFF: 4-11-02

By modifying the zoning map and rezoning the following described area currently in R-3 Zone as follows:

Changing from R-3, area north of Center, generally south of Nebobish, between Burns and Knight, excluding the current Trade Winds complex to **R-3A Zone**, property legally described as:

N 1/2 of SE 1/4 except E 3/4 of N 1/2 of NE 1/4 of SE 1/4 Section 19, T14N, R6E and N 1/2 of SW 1/4 and N 57.21 ft. of W 165 ft. of SW 1/4 of SW 1/4 Section 20, T14N, R6E.

AMENDMENT

36A-8b

EFF: 4-11-02

By modifying the zoning map and rezoning the following described area currently in R-3 Zone as follows:

Changing from R-3, area generally south of Center, bordered by Ridge on the south and Knight and Burns on the east and west to **R-3A Zone**, property legally described as:

S 1/2 of NW 1/4 of Section 29, T14N, R6E and S 1/2 of NE 1/4 except the N 33 ft. of W 449 ft. thereof Section 30, T14N, R6E.

SECTION 3.01 EXTENT OF REGULATIONS

These general provisions shall apply to all zoning districts except as otherwise noted.

Except as hereinafter specified, no building, structure, premises or piece and parcel of land in and throughout the Township shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations and provisions herein specified for the district in which it is located.

AMENDMENT

36A-17

EFF: 9-29-2011

No use shall be permitted in any district which is prohibited by state or federal law. This prohibition shall not apply to the following:

1. A qualifying patient engaged in the possession or use of marihuana in the patient's home in accordance with the Michigan Medical Marihuana Act. See MCLA § 333.26451 et seq.
2. A primary caregiver assisting no more than five qualifying patients with whom he or she is connected through the Michigan Department of Community Health's registration process with the possession or use of marihuana in the patient's home in accordance with the Michigan Medical Marihuana Act.

The following uses are considered to be unlawful and are prohibited from being established or operated in Hampton Charter Township.

1. Marijuana Collective or Cooperative which is operated for profit or non-profit and which is defined as follows: Any facility, structure, dwelling or other location where medical marijuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient as defined by the Michigan Medical Marijuana Act, PA 2008, Initiated Law 1 (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card.

The term "collective" or "cooperative" shall not apply to a registered primary caregiver that provides necessary care and marijuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marijuana Act, PA 2008, Initiated Law

1, MCL 333.26421 et seq. or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133 and the applicable requirements of this Zoning Ordinance. A "marijuana collective or cooperative" shall not include the following uses: a State licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan.

2. Marijuana Dispensary or Dispensary which is operated for profit or non-profit and which is defined as follows: Any facility, structure, dwelling or other location where medical marijuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marijuana Act, PA 2008, Initiated Law 1 (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card.

The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marijuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marijuana Act, PA 2008, Initiated Law 1, MCL 333.26421 et seq. or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133 and the applicable requirements of this Zoning Ordinance. A "marijuana collective or cooperative" shall not include the following uses: a State licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan.

SECTION 3.03 UNLAWFUL USE NOT AUTHORIZED

Nothing in the Ordinance or any amendment hereto shall be interpreted as authorization for or approval of the continuance of the unauthorized use of a structure, land or premises in effect at the time of the effective date of this Ordinance, or any amendment hereto.

SECTION 3.04 CONTINUATION OF EXISTING LAWFUL LAND USES

Any building, structure or use, lawfully in existence at the time of the effective date of this Ordinance may be continued except as hereinafter provided in "Chapter IV Nonconforming Uses."

SECTION 3.05 ASCRIBED PRINCIPAL USE OF PROPERTY

No more than one principal residential building with the customary accessory buildings and structures shall be erected on any individual lot or parcel of land, except as herein permitted.

SECTION 3.06 REGISTRATION OF PROPERTY

The description of and the deed for every parcel of land shall be required to be on record with the Bay County Register of Deeds, prior to the authorization of any use of the lot or parcel of land by the Township.

SECTION 3.07 ACCESSORY BUILDINGS AND STRUCTURES - GENERAL

For the purposes of maintaining orderliness, aesthetics and property values, especially in the residential areas, the following provisions are intended to regulate the location and character of accessory structures normally incidental to permitted principal uses. The following regulations are therefore intended to pertain to all accessory buildings and all accessory structures other than buildings, including but not limited to playground equipment, children's play houses, sports courts, swimming pools, pet accommodations, radio and television antennas and similar structures. Sidewalks, driveways, fences, light posts, utility poles and signs are excluded from these regulations unless specifically stated. In any zoning district an accessory building or structure may be erected detached from the permitted principal building or an integral part of the permitted principal building. Unless specifically regulated by other provisions of this Ordinance, accessory buildings and structures shall comply in all respects with the requirements of this Ordinance applicable to the principal building. In addition the following general standards shall apply to all accessory structures:

- (a) The architectural character of all accessory buildings shall be compatible to the principal building.
- (b) No accessory building or structure shall be constructed on any parcel on which there is no principal building, and further, if an accessory structure and principal building are to be erected concurrently, a building permit for the accessory structure shall not be issued until such time that

construction of the principal building has been at least fifty (50) percent completed.

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36A-4

EFF: 3-18-99

- (c) Accessory structures shall not be located in the front yard area of any lot. ~~except in cases of a lot having water frontage where a customary detached private garage is permitted if it is located behind the applicable required front yard setback line for the district.~~
- (d) Detached accessory buildings and structures may be located in the side or rear yard under the following provisions.
 - 1. Residential accessory building located in accord with Table 1 found on page III - 33.
 - 2. Agricultural accessory buildings located in accord with Table 1 found on page III - 33.
- (e) Accessory buildings shall be considered attached to the principal building when the area between the two is wholly or partially covered by a continuous breezeway, portico, covered colonnade, or similar architectural device.

SECTION 3.08 ACCESSORY BUILDING - RESIDENTIAL

As regulated by Table 1 on page III- 33.

SECTION 3.09 ACCESSORY STRUCTURES OTHER THAN BUILDINGS

The following provisions are intended to regulate certain accessory structures other than buildings which for reasons of health, safety, welfare and aesthetics require special attention.

- (a) Any detached accessory structures, not classified as buildings, may not project closer than ten (10) feet to any side or rear property in except that, boat docks, patios and pumphouses may be located at or near the water's edge, provided that the required side yard placement is maintained and all other applicable local and state permits are obtained prior to their erection or placement.
- (b) Satellite Dish Antennas: Prior to the issuance of a permit for the erection of a satellite dish antenna in any zoning district, the following provisions must be satisfied:
 - 1. A site plan is provided showing to scale, the proposed location and elevation of the antenna, other buildings, roads and natural features.

2. No portion of the antenna shall display any advertising message or other graphic representation other than a manufacturer's logo or nameplate, provided such logo or nameplate is of a size and character that it is not legible from adjacent properties.
3. Dish antennas shall be of a color or texture so as to blend into the adjacent background.
4. No dish antenna with support structures located on the ground shall exceed fifteen (15) feet in height. Roof mounted dish antennas located in residential districts shall not exceed the building height limitation for the district, and further, in any residential district no roof mounted antenna shall exceed four (4) feet of height as measured from the base of the mounting structure.
5. Special use permits under the provisions of Chapter XIX shall be required prior to the erection of dish antennas having one or more of the following characteristics:
 - a. Any dish antenna exceeding twelve (12) feet in height and ten (10) feet in diameter.
 - b. Any dish antenna which is not permanently anchored to a foundation located on the ground.
 - c. Any dish antenna which is to serve more than one structure.

(c) Accessory Structures Mounted on Buildings: Unless otherwise regulated, necessary mechanical appurtenances such as air exchange units and elevator bulkheads shall be effectively screened as viewed from an adjoining property line by a parapet wall or similar feature constructed of materials having a similar exterior appearance as materials used on the front exterior of the building.

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EFF: 3-18-99

SECTION 3.10 ANIMALS AND FOWL, DOMESTICATED - KEEPING OF

In any residential zoning district the keeping of domesticated animals such as horses, cattle, goats, hogs, sheep, llamas and fowl shall be considered an accessory use to the principal

residential use and shall be permitted under the following provisions:

- (a) The number of such animals shall not exceed one (1) animal for the first five (5) acres of lot area and one (1) additional animal for each additional acre of land area.
- (b) Any building or confined feeding area (other than open pasture area for grazing) in which such animals are kept or fed shall be at least on hundred (100) feet from any adjoining property or street right-of-way.
- (c) The foregoing provisions shall not apply to the keeping of ordinary household pets, such as dogs and cats or other animals or fowl customarily kept in cages within a residence or business office.

AMENDMENT

36A-1

EFF: 10-29-94

- (d) It shall be unlawful, in all zoning classifications within the Charter Township of Hampton, to keep or place onto private property any animals of a ferae naturae such as lions, tigers, bears, wolves, ferrets, poisonous snakes, pythons, boa constrictors, or other animals, reptiles, fowl or living creatures not ordinarily of a domestic nature or naturally tame in their natural environment.

AMENDMENT

36A-1

EFF: 10-29-94

- (e) Interpretation of whether a particular animal or class of animals and/or pets falls within the classifications in the above paragraphs shall originally be charged to the Building Inspector. All determinations made by the Building Inspector relative to classification of animals or pets may be appealable to the Zoning Board of Appeals as further provided in this ordinance. The Building Inspector and Zoning Board of Appeals shall consider the potential danger of keeping all animals within the township and whether they post a threat to the health, safety, and welfare of the residents of the charter Township of Hampton.

SECTION 3.11

AREA OR SPACE REQUIRED

- (a) No lot being part of a recorded plat and no parcel of unplatted land or site shall be so reduced that the yard, setback, open space or area is less than the minimum requirements of this Ordinance in effect at the time of such reduction.

~~(b) Accessory buildings, whether attached or unattached to the main building, including enclosed and unenclosed porches and garages attached to a dwelling or other main buildings shall be deemed a part of the main building for the purpose of determining yard space areas and setbacks.~~

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36A-4

EFF: 3-18-99

~~(e)(b)~~ In determining lot area or land area requirements, no area shall be ascribed to more than one (1) main building or use, and no area necessary for compliance with the space requirements therefore shall be ascribed to any building or use except in Planned Unit Development District.

(c) In determining lot area or land area requirements, no area shall be ascribed to more than one main building or use, and no area necessary for compliance with the space requirements therefore shall be ascribed to any other building or use.

SECTION 3.12 BASEMENT AND ILLEGAL DWELLINGS

The use of a basement or any portion of a basement as a dwelling or as sleeping quarters is prohibited unless it meets the Township Building Code requirements for ingress and egress. The use of the basement of a partially completed building as a dwelling unit is prohibited. Buildings erected as garages or other accessory buildings shall not be occupied for dwelling purposes.

SECTION 3.13 BUILDINGS, MOVING

The moving of a building to a new location shall be considered as the erection of a new building, and all provisions, regulations, or requirements relative to the erection of a new building shall be applicable thereto.

SECTION 3.14 BUILDINGS, RAZING

No building shall be razed until a permit has been obtained from the Building Inspector who shall be authorized to require a performance guarantee in the amount equal to one hundred twenty (120) percent of the cost estimate for the subject demolition. Said guarantee shall be conditioned on the applicant completing the razing with such reasonable period as shall be prescribed in the permit and complying with such reasonable regulations as to health and safety as the Building Inspector may reasonable require and this Ordinance may, from time to time, prescribe, including filling of excavations and proper termination of utility connections.

AMENDMENT
36A-16
EFF: 3-31-11

SECTION 3.15 BUILDINGS AND STRUCTURES, TEMPORARY

Mobile homes, mobile offices, tents dumpsters or other movable or erect structures intended for temporary use or occupancy incidental to construction work, or special events shall only be situated or erected upon land or premises within the Township and used for any permitted use under the following provisions:

- (a) Permits for temporary construction trailers, sheds and offices may be issued by the Building Inspector according to the following criteria:
1. Unless involved with a major public improvements project, temporary structures may only be located in commercial districts, industrial districts, or approved Planned Unit Development.
 2. No temporary permit may be issued prior to the issuance of a building permit. Temporary permits shall expire with the expiration of the building permit.
 3. Temporary structures shall be located on the same site as the construction.
 4. Temporary structures shall be located on the site such that:
 - a. On and off-site traffic hazards are minimized.
 - b. The aesthetic impacts are reasonably minimized.
 - c. No temporary structure is placed closer than ten (10) feet to any property line.
 - d. All applicable safety, health and fire codes are met.
 5. No final inspection shall be issued until all temporary structures have been removed from the site.
 6. Where alternate on-site locations are available, no temporary structure shall be located next to developed residences.
- (b) Permits for temporary structures such as tents used in conjunction with special short term outdoor events may be issued by the Building Inspector according to the following criteria:

1. On and off-site traffic hazards are minimized.
2. The structure is not placed within any required front or side yard green area of an existing building or otherwise within twenty-five (25) feet of any adjoining property or public or private street right-of-way.
3. The structure shall be anchored according to manufactures specifications and the Township is indemnified by the property owner against all property damage or personal injury that may result from potential hazards caused by the erection and placement or failure of the structure.
4. The structure will be in place for no longer than seventy-two (72) hours.
5. The event does not directly or indirectly involve the sale, distribution or consumption of alcoholic beverages.
6. The event is a public service event or an event sponsored by existing business(es) located on or adjacent to the parcel on which the structure is to be located and that the merchandise, services or goods displayed within the structure are of the variety normally offered by those existing businesses.

AMENDMENT

36A-16

EFF: 3-31-11

(c) The Building Inspector shall issue dumpster permits. Any permit not issued in conjunction with a permitted construction project shall be valid for 30 days from the date of issuance. Dumpster permits issued in conjunction with a permitted construction project will be valid for the same amount of time as the construction permit.

1. It shall be the responsibility of the property owner and agent whose property is being serviced to maintain the dumpster area free of odors, scattered debris, overflow, and other nuisances.

2. No dumpster shall be placed closer than 10 feet to any side or rear property line and 25 feet from a front property line unless approved by the Building Inspector

SECTION 3.16

DWELLINGS - SINGLE AND TWO-FAMILY

(a) General requirements for a single-family or two-family dwelling other than in the R-4 and R-5 zoning districts:

1. All construction and all plumbing, electrical apparatus and insulation within and connected to said dwelling shall be in accordance with either the Uniform Building Code or other similar uniform ordinances as adopted from time to time by the Township, or alternatively, the State Construction Code for Prefabricated Units.

2. It shall be constructed upon a basement or foundation around the entire exterior of the residence.

3. It shall be connected to public water and sewer service, if available, and/or a well or septic system approved by the Bay County Health Department as required by the Township Plumbing Code.

4. No personal property other than operable motor vehicles shall be stored outside, other than in the Agricultural zoned district where equipment necessary for the agricultural purpose may be stored.

5. It shall have a minimum width across any front, side or rear elevation of at least twenty-four (24) feet.

6. It shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, in an attached garage, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which

storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.

7. It is aesthetically compatible in design and appearance with other residences in the vicinity and, as a minimum, all exterior walls shall include 2 x 4's spaced on sixteen inch (16") centers and covered with at least seven-sixteenths inch (7/16") exterior grade sheathing as a base for the final exterior siding. The compatibility of design and appearance shall be determined in the first instance by the Township Building Inspector upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Building Inspector's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling," as well as the character, design and appearance of one or more residential dwellings located within the same zone district. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard design home.
8. It contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
9. The owner of a residence to be located in this district shall furnish the Building Inspector with a copy of detailed construction plans or a certificate that the residence has been or will be constructed in accordance with the Uniform Building Code as adopted by the Township or the State Construction Code for Modular Housing and a site plan showing the location of the residence on the lot prior to the issuance of a building permit.
10. Mechanical Appurtenances -- Mechanical appurtenances such as blowers, ventilation fans and air conditioning units must be attached to the principal building or in the rear yard not closer than twenty (20) feet to any adjoining lot line.
11. For purposes of this section, aesthetic compatibility is to be determined by reviewing the assembly of building components, materials or construction practices to insure that they are of a similar and like quality and to provide that all dwelling units within the same zone classification result in no distinguishable categorical differences in appearance

and the consistent homogenous appearance will be maintained over protracted periods of time to insure the general health, welfare and safety of the residents of that zone, as well as preserving land values.

(b) General requirements for a single-family or two-family dwelling in the R-4 Districts:

1. All construction and all plumbing, electrical apparatus, and insulation within and connected to said dwelling shall be in accordance with the Uniform Building Code or other similar national building codes as adopted by the Township from time to time or the State Construction Code for Prefabricated Housing Units or HUD standards for mobile homes as adopted from time to time.
2. It shall be constructed upon a basement or foundation around the entire exterior of the residence.
3. It shall be connected to public water and sewer service, if available, and/or a well or septic system approved by the Bay County Health Department as required by the Township Plumbing Code.
4. No personal property other than operable motor vehicles shall be stored outside.
5. It shall have a minimum width across any front, side or rear elevation of at least twenty-four (24) feet.
6. It shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a garage, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
7. It contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
8. The owner of a residence to be located in this district shall furnish the Building Inspector with a copy of detailed construction plans or a certificate that the residence has been or will be constructed in accordance with the Uniform Building Code as adopted by the Township, the State Construction Code for Modular Housing, or Mobile Home Construction Standards promulgated by the Department of Housing and Urban

Development and a site plan showing the location of the residence on the lot prior to the issuance of a building permit.

9. Mechanical Appurtenances - Mechanical appurtenances such as blowers, ventilation fans and air conditioning units must be attached to the principal building or in the rear yard not closer than twenty (20) feet to any adjoining lot line.
- (c) General requirements for a single-family or two-family dwelling located in the R-5 District, outside of mobile home parks:
1. All construction and all plumbing, electrical apparatus, and insulation within and connected to said dwelling shall be in accordance with the Uniform Building Code or other similar national building codes as adopted by the Township from time to time or the State Construction Code for Prefabricated Housing Units or HUD standards for mobile homes as adopted from time to time.
 2. It shall be connected to public water and sewer service, if available, and/or a well or septic system approved by the Bay County Health Department as required by the Township Plumbing Code.
 3. No personal property other than operable motor vehicles shall be stored outside.
 4. It shall have a minimum width across any front, side or rear elevation of at least twelve (12) feet.
 5. The owner of a residence to be located in this district shall furnish the Building Inspector with a copy of detailed construction plans or a certificate that the residence has been or will be constructed in accordance with the Uniform Building Code as adopted by the Township, the State Construction Code for Modular Housing, or Mobile Home Construction Standards promulgated by the Department of Housing and Urban Development and a site plan showing the location of the residence on the lot prior to the issuance of a building permit.
 6. Mechanical Appurtenances - Mechanical appurtenances such as blowers, ventilation fans and air conditioning units must be attached to the principal building or in the rear yard not closer than twenty (20) feet to any adjoining lot line.

As regulated by Chapter VII, Tables 2 and 5.

SECTION 3.18 LOTS, CORNER

Where a lot is bounded by two (2) or more streets, the front yard requirements of that district shall be maintained for each street.

SECTION 3.19 LOT, DOUBLE FRONTAGE

Buildings on lots having frontage on two (2) non-intersecting streets shall maintain a front yard setback on both streets.

SECTION 3.20 MODEL UNITS, TEMPORARY REAL ESTATE SALES OFFICES

The use of a building or dwelling unit as a model for the purpose of selling real estate may be permitted on a temporary basis subject to the following:

- (a) The building or unit is part of a large contiguous development in which the construction of other similar buildings or units is being actively carried out by the individual, firm, partnership or contractor having legal interest in the model building or unit.
- (b) No more than four hundred fifty (450) square feet of floor area contained within the model unit is devoted to sales office use, with the remainder being utilized for show or display of salient interior design and architectural features.
- (c) The address of the building or unit used as a model is not used as a principal business address for carrying out real estate transactions, or the properties offered, listed and sold from the model/temporary real estate office are contained entirely within the same contiguous development.
- (d) The use of a building or unit for such purposes shall only be authorized under the provision of Chapter XIX, "Special Use." In approving such use, the Planning Commission may establish reasonable time limitation.

SECTION 3.21 MOTOR VEHICLE REPAIR

Mechanical work on motor vehicles in residential districts shall be permitted, provided such vehicles are not used primarily for racing. Such vehicle must be owned by the occupant of the dwelling on the premises. All work must be performed within a

building, and no parts or vehicles not in legally operating condition may be stored outside.

SECTION 3.22 NUISANCE PARKING AND STORAGE

The outdoor storage or parking of trucks rated at more than three-fourths (3/4) ton or the parking or outdoor storage of any recreational vehicle, such as airplanes, boats, floats, camping or travel trailers, detachable travel equipment of the type adaptable to light duty trucks, snowmobiles, and other equipment or vehicles of a similar nature, shall be prohibited for a period greater than seventy-two (72) hours in any thirty (30) day period in all residential districts except where otherwise permitted by this Ordinance, unless the following minimum conditions are met:

- (a) All such vehicles and equipment shall be placed within a completely enclosed building or located behind the front face of the main building, but no closer than five (5) feet to any side or rear lot line. No storage of such vehicle shall be permitted on a corner lot in the required yards adjacent to the street.
- (b) Storage of parking shall be limited to a parcel of land upon which is located an inhabited dwelling unit and the vehicle or equipment so stored or parked is owned by the occupant.
- (c) The parking or storage of commercial trucks and/or vehicles including truck-tractors or semi-trailers is prohibited in all residential district; provided, however, that this shall not be deemed to prevent the temporary location of any such vehicle in said districts while engaged in a delivery, pick-up or service to the premises where located.

SECTION 3.23 PUBLIC SERVICES, ESSENTIAL

- (a) It shall be lawful for public utilities, municipal departments or commissions to erect construct, alter or maintain defined essential services, but not including buildings.

AMENDMENT

36A-4

EFF: 3-18-99

- (b) The Township Planning Commission is granted the power to permit any public service corporation contemplated in the foregoing paragraph, to erect and use a building or an addition to an existing building or a structure for the aforesaid public utility purposes in any district and to permit such building at greater height or of a greater area than the district requirements herein established; provided ~~such Board of Appeals~~ the Planning Commission shall find

such use, height, area, building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such district.

- (c) Public utilities and municipal departments may use trailer coaches or motorhomes or mobile homes for temporary housing on their properties in emergency situations, when necessary, to discharge their duty to provide essential public services, including the generation of electricity, and shall be excluded from the provisions of this zoning ordinance.

SECTION 3.24 OUTDOOR LIGHTING

Outdoor lighting located on privately owned property shall be so arranged that it will not shine directly on streets or occupied dwellings.

AMENDMENT

36A-1

EFF: 10-29-94

SECTION 3.25 RIGHT-OF-WAY

No building shall hereafter be erected unless the premises upon which it is to be constructed shall abut upon a public or private street, with a minimum of forty (40) feet of continuous frontage on said public or private street, to be maintained continuously at the minimum of forty (40) feet throughout the entire depth of the lot and for the exclusive use of the lot of which it is a part.

SECTION 3.26 SITE PREPARATION - EXCAVATION AND EXTRACTION

Prior to the commencement of site preparation, the approval of a grading plan and the primary purpose for carrying out the site preparation must be obtained from the appropriate township official or body having authority to grant such approval. In addition, a building permit must be obtained which specifies the terms and conditions under which the site preparation shall be carried out.

SECTION 3.27 TRAFFIC VISIBILITY ACROSS CORNERS

In any residential, business, or industrial district on any corner, whether it be a platted lot or other parcel of land, no fence, structure or planting over thirty-six (36) inches in height shall be erected or planted or allowed to grow within a twenty (20) foot radius of the intersection of the front lot lines so as to interfere with traffic visibility across the corner.

AMENDMENT

36A-14

EFF: 10-28-10

SECTION 3.28

WALLS AND FENCES

- (a) All fences shall consist of materials commonly used in conventional fence construction, such as wood or metal. Agricultural or farm type fences including, but not limited to, fences constructed of chicken wire, hog wire, wire fabric, and similar welded or woven wire fabrics; chain; netting; cut or broken glass; paper; unapproved corrugated metal panels; galvanized sheet metal; plywood; or fiberglass panels in any fence, or any other materials that are not manufactured specifically as fencing materials, are not permitted in residentially zoned areas.
- (b) Exception: Electric fences are allowed in residential and agricultural zoning districts on parcels that are at least five (5) acres in size, keep a legal livestock operation, and are approved by the Zoning Administrator. Regarding electric fences, the Zoning Administrator is authorized to require a setback that is not more than fifty (50) feet from the property line, including the option of requiring the installation of a secondary property line fence when deemed appropriate.
- (c) The use of barbwire fencing is prohibited except ~~on a farm~~ in an agricultural district as part of a farm operation or as may be required for security reasons to protect publicly owned buildings or business or industrial operations with approval of the Building Inspector. Razor Wire Fences are not allowed anywhere within the Township.
- (d) No walls, fences, hedges, or clumps of shrubs higher than thirty-six (36) inches above the average grade, measured at the location of the planting, berm, wall or fence, shall be permitted within twenty (20) feet of the front lot line or other lot line adjoining a public street. All other walls and fences shall not exceed a height of six (6) feet above the lot grade.
- (e) For fence enclosure requirements for swimming pools, see Section 3.36(d).
- (f) Permit and fee required. Prior to construction, reconstruction or establishment of a fence, wall, or screen regulated by this section, a permit shall be obtained from the Zoning Administrator.
 - 1. Applications for permits shall be on forms prescribed by the Zoning Administrator and shall be accompanied by such plans or drawings required

by the Zoning Administrator and required permit fee.

2. The issuance of a fence permit is not intended, nor should it be construed to abrogate or modify the applicant's duties as contained in covenants and restrictions arising from a deed or other document.
3. Permits shall continue until revoked or for such period of time as designated therein at the time of issuance. The issuance or granting of a permit shall not be construed to be a permit for or an approval of any violation of the provisions of this Zoning Ordinance. No permit presuming to give authority to violate the provisions of this Zoning Ordinance shall be valid.
4. The Zoning Administrator may, in writing, suspend or revoke a permit issued under the provisions of this section whenever the permit is issued in error or on the basis of incorrect information supplied or in violation of any ordinance or regulation or any of the provisions of the Zoning Ordinance.

SECTION 3.29 OTHER REGULATIONS

All other applicable federal, state, or local laws or regulations shall be followed and necessary permits obtained prior to the lawful use of any property.

SECTION 3.30

CONDOMINIUM OWNERSHIP PERMITTED

Condominium ownership is permitted in any zone district as a form of ownership and as defined in Section 141 of the Condominium Act (MCLA 559.241), being Act No. 59 of the Public Acts of 1978, as amended; provided that they comply with the requirements of the zoning ordinance and Public Act 59 of 1978.

- (a) Prior to the construction of any condominium project, a site plan review and approval described in Chapter XXV is required. Additionally, prior to construction of any condominium development, all necessary permits required by any other federal, state or local governmental agency must be secured and approval obtained.
- (b) Prior to construction of any condominium project, approval from the Board of Trustees of the Charter Township of Hampton is required for all utilities to service said project.

SECTION 3.31

CONDOMINIUM SUBDIVISION REQUIREMENTS

Condominium subdivisions, as defined in Section 52 of Chapter XXX, are permitted in any zone district in accordance with the following conditions:

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- (a) All condominium subdivisions, structures and uses therein shall comply with all use, area, parking, general requirements, and conditions of the zone district within which the project is located. All mobile home condominium requirements shall satisfy the minimum requirements of Section ~~12.3(d)~~ 7.04(c).
- (b) All information included in a Condominium Project Plan defined in Section 68 of Chapter III shall be submitted.
- (c) Condominium Layout - Design and Approval.
 - 1. All condominium subdivision plans shall conform to the plan preparation requirements; review and approval procedures; design, layout and improvement standards of Sections 3.1 and 3.2 of the Charter Township of Hampton Subdivision Ordinance (Ordinance 27) (see also 3.1, 3.2 and 3.3 of Ordinance 27a), as amended. The requirements of final plat approval in Section 3.3 of the Subdivision Ordinance shall not apply to condominium subdivision plans, except that a deposit in the form of cash, certified check, or irrevocable bank letter of credit shall be made with the Charter

Township of Hampton to guarantee the installation and completion of any required public sanitary sewer, water supply, and drainage facilities, within a length of time agreed upon from the date of final approval of the condominium subdivision plan by the Planning Commission. Nothing in this Section shall be construed as requiring a condominium subdivision to obtain plat approval under the Hampton Township Subdivision Ordinance or the Subdivision Control Act.

(d) Condominium Master Deed.

1. A copy of the condominium master deed, all attachments and any amendments thereto as required by Public Act 59 of 1978, as amended, shall be filed with the Hampton Township Clerk within ten (10) days after recording with the Bay County Register of Deeds.

SECTION 3.32 MOBILE HOME CONDOMINIUM DEVELOPMENT

Mobile Home Condominium development shall be allowed under the same terms and conditions as any other mobile home park within the applicable zoning districts. A mobile home condominium development shall conform to all requirements of the applicable zone district for which it is proposed as any other mobile home park and further, it shall comply with all applicable requirements of the Mobile Home Commission Act being Act 96 of Public Acts of 1987, as amended and the Mobile Home Code and Rules promulgated thereunder, and this ordinance.

SECTION 3.33 SINGLE FAMILY CONDOMINIUM PROJECTS

Single family condominium projects are allowed in any zone district which allows single family homes and subdivisions under the same terms and conditions as a single family home or subdivision. Additionally, in a single family condominium project, all internal roadways, not dedicated to the public as a public street, shall be private streets and conform to the requirements of Section 16.06. Additionally, all area requirements for single family homes contained in the applicable zone shall be maintained in a single family condominium project and the internal private street right-of-way shall be deemed to be the right-of-way of a definition of a lot found in Section 101 of Chapter XXX of this ordinance.

For purposes of single family condominium projects, the dwelling unit shall maintain the minimum spacial requirement for yards and setbacks as required by the applicable zone district for single family homes or subdivisions. For purposes of this requirement, the special setback or yard may be part of the condominium unit, a limited common element or a general common element. In no

instance shall the yard or setback be used for more than one unit.

SECTION 3.34 MULTIPLE DWELLING CONDOMINIUM PROJECT

Multiple dwelling condominium projects are allowed in any zone district which allows multiple family dwelling units or apartments, under the same terms and conditions as a multiple dwelling unit or apartment. Additionally, as part of the site plan review process for a multiple family condominium project, the planning commission has the full right, authority and discretion to approve or disapprove any internal vehicular traffic circulation patterns in its sole discretion.

SECTION 3.35 PONDS

Ponds, as defined in Chapter XXX, Section 122, are permitted within any zone district as an accessory use provided a special use permit is granted by the Planning Commission. The following conditions and criteria must be met for the Planning Commission to grant a special use permit.

- (a) The pond shall comply with all of the yard requirements for the zoning district in which it is located. A pond may be located in any zoning district and shall be considered as an accessory use in any zoning district. As part of its authorization of a pond, the Planning Commission may approve the location of a pond in a front yard, providing the required setbacks are maintained.
- (b) If the Planning Commission determines in the course of its approval of a pond that the protection of the general public requires that the pond be enclosed, the Planning Commission shall require that the pond be enclosed by a wall, fence, or other type of enclosure.

The wall, fence, or other enclosure shall:

- 1. Be not less than four (4) feet above the grade line;

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- 2. Be designed to restrict a child from passing through, under, or climbing over the fence, wall or other enclosure except at a gate or door. ~~Be designed so that a child cannot pass through or under or climb over the fence, wall or other enclosure except at a gate or a door.~~ All gates or doors leading to a pond, except a door in any building forming part of the enclosure, shall:

- a. Be kept closed when the pond is not in actual use;
and
- b. The gates and doors shall be fitted with a positive latching device which automatically latches when the gate or door is closed.

Unless the pond is in actual use, all gates and doors leading to the pond shall be kept locked at all times when the occupant of the building situated on the property where the pond is located is absent or away. In the event that any pond shall be located on a parcel of land where there is no building actually occupied by the owner, then all gates or doors to the pond shall be kept securely closed, latched, and locked when the pond is not in actual use.

- (c) No pond shall be used or maintained unless adequate public health measures are periodically taken to ensure that the existence or use thereof does not cause the spread of disease, stagnation or otherwise provide conditions dangerous or injurious to the public health.
- (d) The discharge pipe from any pond without a direct outlet to an established drain shall:
 1. Not exceed two (2) inches in diameter;
 2. Be construed with galvanized iron or such other standard and durable material as may be approved by the building inspector.

No pond shall be wholly or partially emptied in any manner that will cause water to flow upon the land of another, and no pond shall be wholly or partially emptied upon any land if a storm drain is readily accessible to the premises on which the pond is located. Discharge into the public sanitary sewer is strictly prohibited.

- (e) No public water shall be used in connection with the filling or operation of a pond when limitations on the consumption and use of the public water is in effect. When public water is used to fill any pond, an adequate back-flow check valve mechanism or system shall be installed to prevent the pond water from flowing into the public water supply system.
- (f) The slopes of the banks or sides of the pond shall be constructed so that for each one (1) foot of rise there shall be a minimum of three (3) foot of run. This minimum slope angle must be maintained and extended into the pond water to a depth of three (3) feet.

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- (g) No pond shall be constructed, installed or maintained which either causes or contributes to the erosion of any adjacent, abutting, or nearby lands. If the soil to be removed to create the pond is to be left on the site and used to fill any portion of the site, a detailed grading plan shall be submitted which indicates the number of cubic yards of material to be left on the site, the proposed elevations of the area to be altered or filled and the proposed final grading which must clearly indicate that there will be no storm water runoff onto adjacent or nearby lands.
- (h) An application for approval of a special use permit for a pond shall be on forms provided by the township and shall include:
1. The safety precautions to be taken to protect those using the pond or who might be endangered by it;
 2. The size, depth, and water capacity of the pond;
 3. The water source and method of water discharge;
 4. The method of filtration and treatment of the water, if required;
 5. That the applicant has sought and obtained all necessary soil erosion permits or has been informed that no said erosion permits are necessary for the construction of said pond; and
 6. Any further information necessary for the protection of the public health and safety as may be required by the Planning Commission.
- (i) A building permit for a pond for which a special use permit has been granted under this subsection shall be requested and issued within one year of the date of grant of the special use permit. Failure to obtain a building permit within the one-year period of limitations will result in the termination of the special use permit, and it will be necessary for the applicant to apply for a new special use permit.

SECTION 3.36

SWIMMING POOLS

- (a) Pools used for swimming or bathing shall be in conformity with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred and fifty (250) square feet, except where such pools are permanently equipped with a water recirculating system or involve structural materials.

- (b) A swimming pool or appurtenances thereto shall not be constructed installed, enlarged, or altered until a building permit has been obtained from the Building Inspector.
- (c) The outside edge of the pool wall shall not be located closer than then (10) feet from any side property line; and shall not be located closer than twenty (20) feet from any rear property line. No pool shall be located under any electrical wiring or in a front yard.
- (d) Each swimming pool shall be enclosed by a fence or wall with a height of at least four (4) feet, sufficient to make the swimming pool inaccessible to small children. Such enclosure, including gates, must not be less than four (4) feet above the underlying ground; all gates must be self-latching with latches placed four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children. A natural barrier, hedge, pool cover, or other protective device approved by the Board of Appeals may be used as long as the degree of protection afforded by the substituted devices or structures is equal to the protection afforded by the enclosure, gate and latch described herein.

Provided, however, that any aboveground swimming pool constructed in such a manner that the deck is at least four (4) feet above ground shall not be required to be enclosed by a fence or wall, but any access point such as stairways or ladders shall be enclosed with gates and latches or otherwise made inaccessible from the outside to small children.

- (e) All swimming pool installations shall comply with the following standards:
 - 1. All swimming pool and equipment shall be equipped to be completely emptied of water, and the discharged water shall be disposed of in an approved manner that will not create a nuisance to adjoining property.
 - 2. Private swimming pools shall not encroach upon any front or side yard required by this ordinance.
 - 3. All swimming pools shall be provided with a recirculating skimming device or overflow gutters to remove scum and foreign matter from the surface of the water.
 - 4. One or more means of egress shall be provided from the pool. Treads of steps or ladders shall have slip resistant surface and handrails on both sides.

5. All appurtenant structures, installations and equipment, such as showers, dressing rooms, equipment houses or other buildings and structures including plumbing, heating and air conditioning, among others, appurtenant to a swimming pool, shall comply with all applicable requirements of this ordinance and the Township Building Code.
6. The pool structure shall be engineered and designed to withstand the expected forces to which it will be subjected.
7. Any electrical wiring within twenty-five (25) feet of the water's edge of the pool shall be placed underground and in an appropriate conduit approved for such purposes to prevent electricity from being conducted into the water. No electric wires of any kind shall cross or be over the water surface. Any underwater lighting shall be accomplished by the use of methods and materials approved for such purposes. In addition, all electrical equipment and related components shall conform to the current National Electrical Code, as adopted by the Hampton Charter Township Board.
8. There shall be no cross-connections of any public water supply with any other source of water supply for the pool. The line from the public water supply to the pool shall be protected against back flow of water by means of an air gap and shall discharge at least six (6) inches above the maximum high-water level of the makeup tank or the pool.

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~~SECTION 3.37 STORAGE OF FIREWOOD~~

~~Outside storage of firewood in residentially zoned districts within the township shall only be permitted in side and rear yards. Such firewood shall be stored at a location no closer than five (5) feet from any side or rear lot line.~~

SECTION 3.37 OUTDOOR FURNACES AND FUEL STORAGE

Description & Purpose: It is the intent for the and purpose of this Chapter to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of citizens of the Township by regulating Outdoor Furnaces and the storage of fuel.

SECTION 3.37(a) APPLICABILITY

This Chapter applies to all Outdoor Furnaces in the Township. However, this regulation does not apply to the following:

- (1) Grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- (2) Burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used primarily for human or animal habitation; and
- (3) The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

SECTION 3.37(b) DEFINITIONS

As used in this Chapter the words defined in this section shall have the following meaning:

- (1) "Building Inspector" or "Zoning Administrator" means the Township Building Inspector of Zoning as appointed by the Township Board or Supervisor.
- (2) "Fire Chief" means the Chief of Hampton Charter Township Fire Department or other person designated by the Fire Chief.
- (3) "Outdoor Furnace" means a stove or furnace that is not located within a building. An Outdoor Furnace may also be referred to as an Outdoor Boiler or Heater.
- (4) "Chimney" means any flue or flues that carry off exhaust from an Outdoor Furnace.
- (5) "Refuse" means any waste including, but not limited to trash, plastics, gasoline, rubber, naphtha, household garbage, materials painted or treated with petroleum products (particle board, railroad ties and pressure treated wood), leaves, grass clippings and cardboard.

SECTION 3.37(d) OUTDOOR FURNANCE

An Outdoor Furnace may be located within any zone district and shall be installed and used in the Township only in accordance with all of the following provisions:

- (1) All Outdoor Furnaces, including those existing as of the effective date of these provisions shall be installed, constructed, operated, maintained, and used only when all of the manufacturer specifications or these requirements, whichever is greater, have been complied with and adhered to.
- (2) The Outdoor Furnace shall not be used to burn refuse.
- (3) The Outdoor Furnace shall be located at least 25 feet from all property lines. In no event shall an Outdoor Furnace be allowed to be placed in the front yard of a lot. An Outdoor Furnace is permitted in a side yard if adequate side yard distances exist to allow the minimum setback of 25 feet from the property line and the minimum separation between the furnace and the structure is required by the manufacturer's specifications.
- (4) The Outdoor Furnace shall have a chimney that extends at least 25 feet in height above the ground surface. Notwithstanding the foregoing, the height of the chimney shall be no less than the minimum height recommended by the manufacturer.
- (5) The Outdoor Furnace shall be located at least 15 feet from all other structures unless the manufacturer's specifications allow a lesser distance. In such case if the manufacturer's specifications allow a less than 15 foot separation from other structures the structures shall be constructed with a fire rated wall as determined by the Building Official/Building Inspector.
- (6) The property owner on which the Outdoor Furnace is located shall submit a type 1 site plan to the Building Inspector showing the location of the Outdoor Furnace, applicable setbacks and fuel storage location as well as waste removal program. The Building Inspector may require additional information on a case-by-case basis to determine compliance with this Chapter and other applicable Township laws.
- (7) The property owner on which the Outdoor Furnace is located shall obtain a mechanical permit from the Building Inspector.
- (8) An Outdoor Furnace shall be laboratory tested and listed to appropriate safety standards such as UL

(Underwriter Laboratories), CAN/CSA (Canada National Standard/Canadian Standards Association), or ANSI (American National Standards Institute) standards or other industry recognized safety standards.

- (9) All fuel not consumed in an Outdoor Furnace within one week shall only be stored in the rear yard of the lot on which the Outdoor Furnace is located. Fuel, such as wood, corn, or other combustibles to be used in Outdoor Furnaces or indoor stoves or fireplaces and delivered some place other than the rear yard, shall be relocated to the rear yard within a maximum of 10 days after delivery. In all cases, a minimum distance of 10 feet shall be maintained between the storage area and any property line of the lot on which the storage area is located. No ashes, cinders, or other residual fuels, after the burning process, shall be allowed to accumulate on the lot.

SECTION 3.37(e) RIGHT OF ENTRY AND INSPECTION

The Fire Chief and Building Inspector or another authorized officer, agent, employee or representative of the Township who present credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this Chapter.

SECTION 3.38 ADEQUATE LOT DRAINAGE

Prior to construction of any residential, commercial, or industrial development within the Charter Township of Hampton, all drainage plans shall be approved by the Township Building Inspector or Township Engineer.

Where construction of a one (1) or two (2) family dwelling is proposed on a lot or parcel that is not part of an overall development with an approved drainage plan, the Township Building Inspector shall require, at a minimum, that drain tiles be installed along the property line on the left-hand side of the property, as viewed from the street, the entire depth of the property and across the entire rear property line of the residential parcel. If, in the Building Inspector's opinion, the lot is larger than ordinarily used for residential purposes, the tile may be installed in such a manner as to provide positive drainage for the normal residential area to be occupied by the house to be erected, but in no event less than one hundred twenty (120) feet of depth of tile and one hundred (100) feet of width of tile parallel to the street.

For all other residential, commercial, and industrial construction, the drainage plans shall be approved by the Township Engineer.

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SECTION 3.39 YARD OR GARAGE SALES AN VEHICLE SALES

(a) Within the "Agricultural" or any "Residential" district, no outside storage of personal property such as clothing, appliances, furniture, or other similar items shall be permitted unless it is not more than three (3) days before or after yard or garage sales, including auction, which are permitted as follows:

1. There must be a residential dwelling located on the same parcel.
2. A maximum of three (3) sales are permitted during any calendar year.
3. No sales shall last longer than (3) consecutive days.
4. Any signs used to advertise such sales shall only be used during the time period of the sale.

(b) Within the "Agricultural" or any "Residential" district, vehicles sales are permitted as follows:

1. There must be a residential dwelling located on the same parcel.
2. A maximum of five (5) vehicles including cars, trucks, motor homes, travel trailers, tractors or boats can be offered or sale during any calendar year.
3. No vehicle offered for sale, shall be located on any street right-of-way or closer than (10) feet to any side property line.
4. No vehicle can be offered for sale for more than thirty (30) consecutive days.
5. Any sign used to advertise the sale of a vehicle shall be placed on the vehicle.
6. Only one (1) vehicle can be offered for sale at a time.

Chapter III, Table 1, shall be changed to read as follows:

**CHAPTER III
RESIDENTIAL ACCESSORY BUILDINGS CONDITIONS & REQUIREMENTS
TABLE 1**

LOT SIZE (SQ.FT.)	MAX. ACCESSORY BUILDING SIZE LESSOR OF COLUMN (A) OR (B)		MAXIMUM HEIGHT (FEET)		MINIMUM SETBACKS (FEET)		
	(A) MAX. ACC. BLDG. SIZE (SQ.FT.)	(B) MAX. % OF DWELLING FLOOR AREA	PEAK	SIDEWALL	*SIDE OR REAR YARD	FROM THE PRINCIPAL BLDG	FROM ANY OTHER BLDG./STRUCTURE
LESS THAN 5,000	<u>4% OF LOT AREA</u>	50	11	8	<u>10</u>	20	<u>15</u>
5,000 - 11,999	<u>4% OF LOT AREA</u>	50	12	8	<u>10</u>	20	<u>15</u>
12,000 - 26,666	<u>4% OF LOT AREA</u>	50	16	10	<u>10</u>	20	<u>15</u>
26,667 - 40,000	<u>4% OF LOT AREA</u>	80	20	12	<u>10</u>	<u>20</u>	<u>15</u>
OVER 40,000 IN RESIDENT. DISTRICT	<u>1,600</u>	100	20	13'4"	<u>10</u>	<u>20</u>	<u>15</u>
OVER 40,000 IN THE AGR. DISTRICT	<u>2,000</u>	133	20	13'4"	<u>10</u>	<u>20</u>	<u>15</u>

CONDITIONS:

1. These requirements apply to any residential lot within any residential or agricultural zone district.
2. No residential accessory building is allowed in the front yard area.
3. Residential accessory buildings cannot be used for commercial purposes.
4. There shall be no second story in a residential accessory building.
5. Lots cannot be divided or reduced in any manner that would cause the accessory building to exceed the size limitation imposed upon the remaining lot.
6. Only one residential accessory building is permitted per lot in addition to an attached or detached garage.
7. Subject to further regulation pursuant to section 3.07 of this ordinance.
8. Maximum grade elevation for an accessory building shall be one vertical foot of rise to the floor of the building for each 10 horizontal feet from the grade existing on the neighboring property.
9. Subject to further regulation pursuant to section 4.13 of this ordinance.
10. The minimum setback requirements for side or rear yard are contingent upon the property owner providing positive drainage for the accessory building as required by the building inspector, up to and including catch basins and drain tiles.
- *11. Any building equal to or less than 144 square feet is only required to maintain a five (5) foot rear or side yard setback no matter what size lot the building is placed on.

SECTION 3.40 WIRELESS TELECOMMUNICATIONS TOWERS & ANTENNAS

(a) Purpose

It is the general purpose and intent of the Township to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. It also is the purpose of this section to establish general guidelines for the siting of wireless communications towers and antennas which authorizes their use in a manner that will retain the integrity of neighborhoods and the aesthetic quality of the overall community. It is the further purpose and intent of this section to:

1. Encourage the location of towers in non-residential areas.
2. Minimize the number of towers throughout the Township.
3. Facilitate adequate and efficient provision of sites for needed facilities.
4. Promote the public health, safety and welfare.
5. Minimize the adverse impact of technological obsolescence of wireless communications towers and antennas.
6. Encourage the joint use of existing and new tower sites.
7. Enable tower and antenna users to provide facilities and services to the Township quickly, efficiently and effectively.
8. Ensure that facilities are situated in appropriate locations with respect to other land use, structures and buildings.

(b) Use Regulations

1. The following are permitted uses subject to the Planning Commission granting Site Plan approval in accordance with the requirements of Chapter XIV and provided that all of the requirements of Section "(c)" are met.
 - a. Wireless telecommunications towers and antennas located in the "I-1", I-2" or "B-3" Districts.
 - b. Telecommunication antennas that are mounted on an existing building or structure provided that the antenna does not extend more than thirty (30) feet above the highest point of the building or structure and provided further that the Zoning Administrator determines that the antenna would not have an adverse impact on other properties or uses in the vicinity.
 - c. An antenna, that is to be collocated on an existing tower, which has previously been approved for such collocation by the Township.
 - d. Antennas or towers located on property owned, leased or otherwise controlled by the Township and provided a lease authorizing such antenna or tower, has been approved by the Township.
2. Telecommunications towers and antennas may be permitted within any zone district, subject to the issuance of a Special Use Permit by the Planning Commission in accordance with the requirements of Chapter XIX, if it is demonstrated by an applicant that a wireless communication facility cannot be reasonable established as a permitted use under paragraph (b).1. immediately above. Any application submitted must also satisfy all of the requirements of sections "(c)." and "(d)." unless a particular requirement is determined to be unnecessary and specifically waived by the Planning Commission.

(c). Conditions & Requirements Applicable to all Wireless Telecommunications Towers and Antennas.

All applications shall include a Site Plan and shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission in its discretion.

1. Facilities shall not be demonstrated to be injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
2. Facilities shall be located and designed to be harmonious with the surrounding areas.
3. Wireless communication facilities shall comply with all applicable federal and state standards including standards relative to the environmental effects of radio frequency emissions.
4. Applicants shall demonstrate a justification for the proposal height of the structures and an evaluation of alternative designs, which might result in lower heights.
5. The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for communication by the applicant. Any building necessary to enclose switching or other related equipment shall be limited to the maximum height permitted for other buildings within the zone district in which the facility is being proposed.
6. The front, side and rear yard setbacks of any new support structure shall be equal to or greater than the height of the support structure unless the application includes a signed certification by a State of Michigan licensed professional engineer indicating the maximum distance, from the base, that any portion of the support structure and antenna can fall. If that distance is less than the height of the structure, the Planning Commission may reduce the required setbacks as deemed appropriate based on that certification and other characteristics of the particular site.
7. The front, side and rear yard setbacks for any building related to the facility shall be the same as those required for any other building permitted with the particular zone district.
8. There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided by an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.

9. The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning and land division requirements and conditions are met.
10. Where an attached wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principle building. The equipment enclosure may be located within the principal building or may be proposed as a separate building. If proposed as a separate building, it shall conform with all district yard setback requirements for principal building.
11. The Planning Commission shall, with respect to the color of the support structure and all accessory buildings, review and approve the application so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surrounds. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly manner.
12. The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission and all other governmental agencies with regulatory authority shall be noted.
13. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure continuous, long-term maintenance of the structure.
14. Towers and structures shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and the design chosen must cause the least disturbance to the surrounding area.
15. No signs shall be allowed on any tower or antenna except as may be required by a governmental agency with the authority to require a sign.

16. Any support structure, except those permitted in paragraph "(b).1.b" shall be enclosed with "chain link" type of fencing with a height of six (6) feet and with a lockable gate. Said fencing shall be a minimum of ten (10) feet from the nearest portion of any support structure.

17. The Planning Commission may require a performance bond, irrevocable bank letter of credit, cash deposit or other surety to guarantee the removal of the facility in the event its removal is required in accordance with paragraph "(f)".

(d) Additional Conditions & Requirements Applicable to Wireless Telecommunications Towers & Antennas Approved Only Upon the Issuance of a Special Use Permit.

1. The applicant shall demonstrate the need for the facility to be located at the proposed specific site based upon one or more of the following factors:

a. Proximity to an interstate or major thoroughfare.

b. Areas of population concentration.

c. Concentration of commercial, industrial, and/or other business centers.

d. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.

e. Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.

f. Other specifically identified reason(s) creating facility need.

2. The minimum front, side and rear yard setback distances for the support structure must be equal to the height of the tower and cannot be reduced in accordance with the provisions of paragraph "(c).6." above.

3. In granting a special use permit, the Planning Commission may waive any requirement, except paragraph "(d).2" above, if it is deemed to be unnecessary and may impose additional conditions which it deems necessary to minimize any adverse effect of the proposed tower on adjoining or near by properties.

(e). Factors to be Considered in Granting Special Use Permits

In addition to any standards for consideration of special use permit applications pursuant to Chapter XIX of the Zoning Ordinance, the Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this ordinance are better served thereby:

1. Height of the proposal tower;
2. Proximity of the tower to residential structures and residential district boundaries;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree coverage and foliage;
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. Proposed ingress and egress; and
8. Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower or structure can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers or other structures. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
 - a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provision required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

f. Removal of Abandoned or Unused Wireless Communications Tower or Antenna.

- 1. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
 - a. When the facility has not been used for six (6) months or more. For purposes of this section, the removal of antennas or other equipment from the facility or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
 - b. Upon a determination by the Building Inspector, any tower which is in use or out of use for any period of time, but due to age, obsolescence, damage or lack of maintenance may pose a threat to public safety.
 - c. Failure to comply with the maintenance plan approved in paragraph "(c).13".
- 2. The situations, in which removal of a facility is required, as set forth in paragraph (1) above, may be applied and limited to portions of a facility.
- 3. Upon the occurrence of one or more of the events requiring removal, specified in paragraph (1) above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with the complete removal and restoration of the premises to an acceptable condition

as reasonably determined by the Township Building Inspector.

4. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.