

ARTICLE XIII. SPECIAL LAND USES

Section 1301. POLICY OR PURPOSE

The formulation and enactment of this Ordinance is based upon the division of the Township into districts each of which are permitted specific land uses which are mutually compatible. In addition to such permitted compatible land uses, it is recognized that there are certain other land uses which may be necessary or desirable to allow in certain locations in certain districts but which, due to their actual or potential impact on neighboring land uses or public facilities, need to be carefully regulated with respect to their location for the protection of the Township. Such land uses, due to their peculiar location need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted land use with the advisability of such land uses to be considered by the Township on the basis of the submission of a site plan and other required materials. Provision is made in this Article for the location of such land uses through either the special land use or planned unit development process for allowing such land uses. Other land uses which are considered acceptable for a particular zoning district may still require site plan approval, if so specified in this Ordinance, in order to insure the compatibility of adjacent land uses, and provision is made in this Article for such approval.

Special land uses are those uses of land which are not essentially incompatible with the land uses permitted in a particular zoning district, but which require, because of their unique characteristic or location qualities, individual review and restriction in order to avoid incompatibility with the surrounding area, public services and facilities, and adjacent uses of land.

Section 1302. APPLICATION PROCEDURE

- A. Application - Any person owning or having an identified proprietary interest in the subject property may file an application for a special land use permit in the zoning district in which the land is situated. Applications for special land use permits shall be submitted to the Zoning Administrator. The application must contain, as a minimum, the following: (1) the name and address of the land owner, (2) the legal description of the subject parcel of land, (3) the parcel's area, (4) the present zoning classification in which the special land use is sought, (5) a general description of the proposed development. All applications must be filed by the land owner(s) and any individuals having an identified proprietary interest therein. Each application shall be accompanied by the payment of the applicable application fee. An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until the application is properly prepared and submitted, the application fee is paid in full, and the information or materials required to be submitted is received. In addition to the required application, including payment of the application fee, the following documents or information must be submitted:

1. Satisfactory evidence of ownership of the premises which are the subject of the application.
 2. A site plan or scaled drawing in conformance with Article XIV of this Ordinance.
 3. A statement or affirmation by the applicant that the applicant will, at all times after approval is granted, comply or be in compliance with all the standards required for approval and with any conditions imposed by the Planning Commission as a condition of approval and that noncompliance on the part of the applicant will result in the loss of the special land use.
- B. 1. Notice of Request for Special Land Use. (amended December 20, 2006)
Upon receipt of an application for a special land use, the Township shall provide notice of the request as follows:
- (a.) The Township shall cause a notice of the request to be published in a newspaper of general circulation in the local unit of government not less than fifteen (15) days prior to the date on which the special land use application will be considered by the appropriate public body.
 - (b.) Notice shall also be sent by regular U.S. mail or by personal delivery to the owner of the property for which the special land use is being considered and to the applicant, if different from the owner.
 - (c.) Notice shall also be sent to all persons to whom real property is assessed within three hundred (300) feet of the property for which the special land use to be considered and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located within Wayne Township or an adjoining municipality. If the name of the occupant is not known, the term "occupant" by be used in making notification.
2. Content of Notice. (amended December 20, 2006)
The notice of the request for a special land use shall:
- (a.) Describe the nature of the request.
 - (b.) Identify the property which is the subject of the request by street address. If more than one property is to be considered for the special land use, the notice shall include a listing of all existing

street addresses within the scope of consideration for a special land use.

(1.) The Township shall not be required to create a street address where one does not exist. If no street address is available, other means of identification may be used.

(c.) Indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within three hundred (300) feet of the property being considered for a special land use regardless of whether the property or occupant is located in Wayne Township; and

(d.) Indicate when and where written comments will be received concerning the request.

C. Public Hearing. (amended December 20, 2006)

1. Request for a Public Hearing: At the initiative of the Zoning Administrator, the Planning Commission or upon a request of the applicant, a real property owner whose real property is assessed within three hundred (300) feet of the property, or the occupant of a structure located within three hundred (300) of the property, a public hearing shall be held by the Township Planning Commission.

2. Notice of Public Hearing: If a public hearing is to be held by the Township Planning Commission, notice of the date and time of the public hearing shall be published once in a newspaper of general circulation within the Township not less than fifteen (15) days prior to said hearing. Notice of the date and time of the public hearing shall be mailed or personally delivered to the applicant, the property owner of the property for which the special land use is being considered, to all owners of property within three hundred (300) feet of the property whether the three hundred (300) foot radius is within Wayne Township or an adjoining municipality.

D. Decision - The Planning Commission may deny, approve, or approve with conditions the application for a special land use at the conclusion of the public hearing. If the proposed special land use does meet and comply with all of the standards for approval set forth in subsection E hereof, the application must be granted. If on the other hand, the proposed special land use does not meet all of the requirements of subsection E hereof the application must be denied. When granting or denying an application for a special land use, the Planning Commission shall base its decision on findings as to each of the review standards or criteria and the Planning Commission shall incorporate these findings into its decision as the reasoning in support of its decision. If during the

hearing it appears that the proposed special land use does not meet the review criteria or standards and any other requirements of this Ordinance, the applicant may request, before the decision denying the application is made, that he/she be given an opportunity to amend the application and site plan to bring the proposed special land use into compliance with the standards and other requirements of this Ordinance.

E. Record of Special Land Use

1. Record of Approval and Conditions: The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.
2. Conditions Imposed: The conditions imposed with respect to the approval of a special land use or activity shall be recorded in the record of the approval action by the Wayne Township Planning Commission and shall remain unchanged except upon the mutual consent of the Wayne Township Planning Commission and the landowner. The Wayne Township Clerk shall maintain a record of conditions and those which are changed by mutual agreement.

Section 1303. EFFECT OF APPROVAL (amended December 20, 2006)

- A. Approval and issuance of a special land use permit signifies prior approval of the application and site plan therefore including any modifications and any conditions imposed where necessary to comply with this Ordinance. The approved site plan and any statement of conditions and modifications shall become a part of the special land use permit and shall be enforceable as such. Once a special land use permit is issued, all site plan development and the use of land on property affected shall be consistent with the permit.
- B. Issuance of a special land use permit shall entitle the applicant to apply for a building permit and to commence construction of the improvements contemplated by the permit. Approval of a special land use permit shall be valid regardless of change in ownership, as long as the terms and conditions of the special land use permit are met by subsequent owners. A special land use permit shall expire after one (1) year if the development or use approved thereunder has not been commenced. Renewal of the permit may be requested in the same manner as the original permit. The use for which a special land use permit has been granted shall be deemed a conforming or permitted use in the district in which such use is located. Failure of the owner or user of the special land use to be in compliance with the use requirements of this Ordinance and all other requirements or conditions of the special land use permit shall constitute a violation of this Ordinance and shall subject said person to penalties and remedies provided in Article XXV hereof, and continuance of the violation is

hereby declared to be a nuisance per se and the special land use permit shall become null and void.

Section 1304. GENERAL STANDARDS

The special land use shall not be approved and the special land use permit shall not be issued unless the Planning Commission makes a finding of compliance with each and every one of the following standards:

- A. The proposed land use is one listed as a special land use for that district in which said land use is proposed to be located.
- B. All special requirements for the proposed special land use, if any, and all standards of the district, if any, in which the special land use is to be located must be fulfilled or met.
- C. The special land use must be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- D. The special land use shall not inappropriately change the essential character of the surrounding area.
- E. The special land use shall not interfere with the general enjoyment of adjacent property.
- F. The special land use shall represent an improvement in or to the use or character of the property under consideration and the surrounding area in general, while also being in keeping with the natural environment of the site.
- G. The special land use shall not be hazardous to adjacent property, nor shall it involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the production of traffic, noise, smoke, odor, fumes or glare.
- H. The special land use shall be adequately served by essential public facilities and services, or, in the alternative, it must be demonstrated that the person responsible for the proposed special land use will be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.
- I. The special land use shall not place demands on public services and facilities in excess of available capacity.

- J. The special land use shall be consistent with the intent and purpose of this ordinance and with the objectives of the then current basic plan for the land use and development of land in Wayne Township.
- K. The proposed special land use shall be in compliance with all other Township, county, state, and federal ordinances, laws, rules, and regulations.
- L. Will be designed to insure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by it; will to the extent possible protect the natural environment and conserve natural resources and energy; will be compatible with adjacent uses of land, and will use the land to the extent possible in a socially and economically desirable manner.
- M. The Planning Commission may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.
- N. Whether a public hearing is held or not, a request for approval of a special land use or activity shall be approved if the request is in compliance with the standards stated within this Ordinance, the conditions imposed under this Zoning Ordinance, other applicable ordinances, and state and federal statutes.
- O. The Township Zoning Board of Appeals shall have no authority to hear appeals from Township Board or Planning Commission action on a special land use.

Section 1305. ADULT FOSTER CARE HOMES

Adult foster care group homes and nursing homes for over six (6) residents.

- A. The proposed facility shall be in compliance with all State of Michigan standards governing the licensing of such uses.
- B. The proposed facility shall be generally compatible with the character of both the adjacent properties and the neighborhood.
- C. The density of the people occupying the proposed facility shall be compatible with neighborhood densities.
- D. Sufficient off-street parking shall be provided for staff people and visitors to the proposed facility.
- E. Sufficient screening, fencing and landscaping shall be provided so as to prevent any adverse effect upon adjacent properties.

Section 1306. GRAVEL PITS AND MINERAL EXTRACTION (See Section 1306.1 in conjunction with this section.)

- A. The application for a special land use permit for such land uses shall also contain the following:
 - 1. Name of owner of lands from which removal is to be made;
 - 2. Proposed method of removal and equipment intended to be used in the removal;
 - 3. Proposed method of restoration of area after removal of resources is completed.
- B. A map of the parcel involved showing all buildings, streets, drainage facilities and natural features within three hundred (300) feet thereof shall accompany the application.
- C. A topographic contour plan of the proposed restoration elevations shall also be presented with the application where quantities of earth are to be removed from the parcel.
- D. Certification by the County Road Commission, County Drain Commissioner, and the Cass County Soil Conservation Service that the proposed land use will not severely threaten the public safety or property rights of others and that sedimentation control standards of the Soil Conservation Service will be met.
- E. The change in the natural contour of the land during mining operations and at the cessation of same shall be maintained as safe for any person having reason to be within the area of mining activity and all trespassers.
- F. No business or industrial structures or buildings of a permanent nature shall be erected without prior approval.
- G. No equipment parking or truck storage shall be located within two hundred (200) feet of any adjacent residence or within fifty (50) feet of any adjoining property.
- H. A well maintained wire or painted wooden fence shall be erected on any side adjoining a residential property.
- I. No part of the removal process shall take place closer than two hundred (200) feet to the nearest adjacent residence or closer than fifty (50) feet to any street line or property line.

- J. The proposed restoration elevations shall be compatible with surrounding areas and adequate safeguards shall be made to insure proper drainage.
- K. The property shall be restored by the replacement of topsoil and such soil shall be stabilized by appropriate plantings.
- L. All truck traffic shall be directed away from residential streets.

Section 1306.1 COMMERCIAL EXCAVATION AND RELATED ACTIVITIES

Gravel and sand processing and excavation shall have the prior approval of the Planning Commission for a Special Land Use Permit for earth removal and sale of sand, gravel, or stone from said operations.

Definition: Operations shall include mining (including open pit mining, strip mining and sluice mining), stockpiling, berm building, interior road construction, and trucking.

An application must be filed with the Planning Commission detailing the following:

- 1. Full name of applicant, business affiliation, address, and telephone number;
- 2. The proposed site must be a minimum of eighty (80) acres and must be zoned Prime Agriculture (A-1), General Agriculture (A-2) or Light Industrial (I-1);
 - a. Ingress and egress routes to the proposed site with an evaluation by the Cass County Road Commission as to the capability of the said routes to maintain the proposed use;
 - b. All neighbors within five hundred (500) feet of the site shall be contacted and their approval be so noted;
 - c. Core-soil sample reports are to include potential depth of excavation and estimated potential cubic yardage of material to be mined and sold;
 - d. Application shall include statements from the Department of Natural Resources and the U.S. Corps of Engineers as to the feasibility of the proposed excavation and the impact upon the environment.
 - e. Detailed information as to the method of operation, type of machinery and equipment to be used.
- 3. Site Development:
 - a. The applicant shall submit a plan for noise control and safety of neighbors inclusive of an earthen berm and/or a chain link six (6) foot fence.

- b. The development plan shall contain a minimum of fifty (50) feet clearance from property boundaries; the clearance shall increase by two (2) feet for each one (1) foot of excavation. This shall maintain a slope for the excavation of approximately thirty (30) degrees.
 - c. The plan shall discuss the provision for the accumulation of ground water.
 - d. A contour map of the site in relationship to neighboring areas and site.
 - e. The plan shall outline provision(s) for safety and security of the site for non-approved use.
4. Operations:
- a. The development plan shall list all onsite equipment and their use.
 - b. The applicant shall provide an estimate of the type of sand and/or gravel mined and removed daily.
 - c. The hours of operation shall be 7:00 A.M. through 6:00 P.M., Monday through Friday, 7:00 A.M. through 1:00 P.M. Saturdays. No operation shall be permitted on Sunday or on legal holidays.
 - d. Trucks shall only use routes that have had prior approval of the Cass County Road Commission. All trucks shall have nonspill boxes and be covered when loaded.
5. Reclamation:
- The applicant shall provide a detailed plan with a supporting map for the reclamation and rehabilitation of the site when mining is no longer economically feasible. Said plan shall provide for partial rehabilitation as parts of the operation are no longer viable. Top soil removed for the mining operations shall remain on site to be utilized in the reclamation process.
6. Records:
- The owner/operator shall maintain accurate records of materials mined and shipped from the site. The owner/operator shall submit a copy of the shipping records for each month to the township clerk no later than five working days after the end of the month. The owner/operator shall forward a fee of five cents (\$.05) per cubic yard with the shipping records. Said fee shall be held in escrow in order to insure the reclamation process and/or road repair if necessary.
7. Performance Bond or Cash Deposit:
- A performance bond or a cash deposit shall be furnished to the township clerk to ensure full compliance with the provision of this ordinance. The bond or cash deposit shall be three thousand dollars (\$3,000.00) per acre of proposed area to be mined and shall be deposited prior to consideration of the application by the Planning Commission.

8. Insurance:
The applicant, if approved, shall provide proof of personal injury and property damage insurance in the amount of one million dollars (\$1,000,000) to the township clerk.

The Planning Commission shall receive and review the application and, if complete, shall schedule a public hearing with full notification of all interested citizens to receive public input concerning the application. The Commission, after full consideration, shall:

1. Deny the application specifying why the application was denied. The Commission may permit the applicant to resubmit the application with certain amendments for consideration;
2. Find that the application is complete and acceptable and recommend to the Township Board that a Special Land Use Permit for mining and excavating be granted.

(Note: See Article XIII, Section 1306 of the Township Zoning Ordinance.)

Section 1307. SALVAGE YARDS

- A. All applicable requirements of the I-1 Light Industrial and I-2 Manufacturing districts must be met.
- B. The proposed buildings and structures shall be so situated as to minimize adverse effects therefrom upon owners and occupants of adjacent properties.
- C. Any adverse effects of the salvage yard shall be minimized by screening, fencing, landscaping, setbacks, building location, structures, and entryways.
- D. There must be a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to insure the safety and convenience of pedestrian and vehicular traffic.
- E. The site shall be at least five hundred (500) feet from any dwelling unit, church, school, public building, public or semipublic place, including parks and recreation areas.
- F. The area shall be completely enclosed by a solid fence of at least six (6) feet, not to exceed eight (8) feet, in height and no material storage within the fenced area shall be visible above said fence. Design and construction of said fence shall be approved as part of the required site plan.
- G. No dumping or burning of garbage or trash shall be permitted.

- H. The site shall not create a nuisance adversely affecting adjoining properties.
- I. The operator of a salvage yard shall be subject to periodic inspection and review by the zoning officer for the Planning Commission and shall provide proof of a \$2,000,000.00 Performance Bond per acre.

Section 1308. AGRICULTURAL LABOR CAMPS

- A. Dwelling units in agricultural labor camps provided for migratory employees engaged in agricultural activities on a farm shall be exempt from the minimum lot size and width requirements contained in the agricultural districts in which they are located.
- B. All structures in agricultural labor camps shall comply with the setback requirements established in the zoning district in which it is located and the provisions of Part 124 of Public Act 368 of 1978, as amended, and the administrative rules promulgated thereunder.
- C. The provisions of the zoning district in which the proposed use is to be located shall apply to dwelling units for seasonal employees which do not meet the definitions of an agricultural labor camp.

Section 1309. OTHER SPECIAL USES IN THE GENERAL AGRICULTURAL DISTRICT

- A. Employees must reside in the residence on the property where the use is located.
- B. The use is fully contained in a structure which meets all applicable building, health and other codes or regulations.
- C. Is clearly secondary in nature to the permitted principal use; and does not in any case exceed 800 sq. ft. in area.

Section 1310. OPEN SPACE DEVELOPMENTS

- A. Definition and Purpose
 - 1. The purpose of the Open Space Development is to promote the continuation of a rural land use character, protection of environmental resources, and preservation of active agricultural lands. The objective is to provide a sense of rural character for the residents of the individual developments affected by these regulations as well as the township as a whole. These regulations are also intended to foster the preservation of significant natural features, large open spaces, or active agricultural land

that would otherwise be altered from their natural or undeveloped condition.

2. These OSD provisions are not intended as a device for ignoring the requirements of this Ordinance and are not intended simply as a means to increase density. These provisions are intended to result in land development substantially consistent with the underlying zoning, but provide a degree of flexibility in design to allow for customization of design to meet the unique natural conditions of a particular site and innovation in design to create a higher quality development than could otherwise be possible with the underlying zoning.

B. Permitted Uses

The following uses may be permitted, either singly or in combination, in accordance with the applicable OSD requirements:

1. Single-family detached dwellings.
2. Accessory buildings and uses customarily associated with single-family detached dwellings.
3. Agriculture.
4. Private open space and recreational facilities for use by the residents of the OSD and/or the general public.

C. Definitions

1. Active Agricultural Land: Any land or property placed under active cultivation within the two (2) previous growing seasons prior to application for the Open Space Development.
2. Base Density: The density permitted within an Open Space Development as determined through submission of a "parallel plan" drawn in conformance with the existing zoning of the property which is subject to the Open Space Development.
3. Community Sanitary Sewer System: All aspects of a complete system required to properly collect, treat, and dispose of wastewater from all of the individual dwelling units or other buildings within the Open Space Development, including all pumps, pipes, laterals, controls, valves, treatment units, and other equipment necessary to collect, treat, and dispose of wastewater at a central location.

4. Community Water Service System: All aspects of a complete system required to draw water from a groundwater source, including all pumps, pipes, laterals, controls, valves, and other equipment necessary to provide potable domestic water to all of the individual dwelling units or other buildings within the Open Space Development from a central location or water source.
5. Development Area: That portion of the Open Space Development utilized for main buildings, accessory buildings, utility lines, driveways, sidewalks, roadways, utility easements, and other necessary structures or facilities.
6. Significant Natural Features: Any natural area as designated by the Planning Commission, Township Board, or the Michigan Department of Environmental Quality which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, flood plain, water features, or other unique natural features.

D. Qualifying Conditions

1. Prior to applying for a Special Use request, the land that is the subject of the application shall encompass a total area of twenty (20) acres or greater, unless the Planning Commission permits a lesser area, upon finding that the project will otherwise substantially meet the Purposes outlined in this section.
2. The tract of land for which an OSD application is received must be either in one (1) ownership or the subject of an application filed jointly by the owners of all affected properties.
3. The applicant must demonstrate that the property proposed for the OSD contains unique site conditions, significant natural features, large open spaces, or active agricultural land, which would be otherwise be developed but will be preserved as a result of the OSD.

E. Site Development Requirements

1. General Requirements
 - a. Minimum floor area and height regulations for dwelling units within the Open Space Development shall conform to the requirements of the Zoning District in which it is located.
 - b. Main and accessory buildings shall be setback at least thirty (30) feet from the side and rear of Open Space Development site lot lines.

- c. Minimum lot area, lot width, and yard setbacks shall be not less than those required in Section 504 (OSR District).

2. Development Setback

- a. Any building area within the Open Space Development shall be located at least two hundred (200) feet from any public street right-of-way not constructed as part of the Open Space Development.
- b. No native or natural vegetation shall be removed from the two hundred (200) foot setback, nor any grading or changes in topography occur, except that necessary for entrance roads. The Planning Commission may modify this requirement provided the applicant demonstrates that the clearing of existing vegetation would contribute significantly to the purpose and objectives of the Open Space Development.
- c. The Planning Commission may reduce this setback to not less than one hundred (100) feet if existing landscaping or topography provides a natural screen that substantially blocks the view to the proposed development. In this case the Commission may also require additional landscaping if necessary to further screen the development area. Landscaping may consist of either existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof.
- d. Open Space Development sites abutting more than one (1) public street shall be permitted to reduce the setback on the shortest side of the abutting streets to one hundred (100) feet without a natural screen. No native or natural vegetation shall be removed from the one hundred (100) foot setback, nor any grading or changes in topography occur, except that as may be necessary for entrance roads.

3. Open Space Requirements

- a. Each Open Space Development shall provide a minimum of fifty percent (50%) of the total site as dedicated open space meeting the requirements of subsections b-d below.
- b. To the extent possible, dedicated open space areas shall be continuous and contiguous throughout the Open Space Development. Open space areas shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the Open Space Development.

Any area used in the calculation of required open space shall have a minimum dimension of fifty (50) feet.

- c. Open space shall be deed restricted, placed in a conservation easement, or otherwise held as open space in perpetuity. Suitable recorded instruments shall be submitted to the Township for review prior to final approval of the Open Space Development.
 - d. Open Space Maintenance
 - (1) All dedicated open spaces shall be in joint ownership of the property owners within the Open Space Development. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space; or;
 - (2) Evidence shall be given that satisfactory arrangements will be made for the maintenance of the designated land to relieve the Township of the future maintenance thereof.
 - (3) The applicant(s) for the proposed development shall provide the Township with a recordable maintenance or restrictive covenant agreement between the owner(s) of the open space, or other documentation satisfactory to the Township which shall provide for and assure that the open space shall be preserved in perpetuity and maintained as needed.
 - (4) The maintenance requirements of dedicated open space are not necessarily intended to include regular clearing and mowing or other active maintenance. For the purposes of this subsection, maintenance is intended to include such items as removal of any accumulation of trash or waste material within the dedicated open space area, clean up of storm or other Act of God damage, or removal of diseased plant materials.
4. Design Principles: The overall intent of the Open Space Development regulations is to foster more creative development design, using open space to the advantage of the development, maintaining the rural character of the township, ensuring access to open spaces, preserving natural features, and other design objectives intended to foster an improved living environment. To this end the following general guidelines will be considered by the Planning Commission in evaluating proposed Open Space Developments.

- a. Open space should be provided where significant natural features may be preserved, active agricultural land maintained, or be used for passive or active recreation.
 - b. Open space should generally be used to group areas of residential neighborhoods as clusters of housing units, as shown in the accompanying illustration. This is intended to avoid the suburban development type normally found in urbanized areas. Generally, neighborhood clusters should have not more than 8-10 units per cluster.
 - c. The Open Space Development should be designed with due regard for views from adjacent roadways as well as adjacent properties. Where possible, substantial setbacks from adjacent development should be provided, except where internal roadways are designed to connect to adjacent properties for the purposes of providing a network of internal connections between properties.
 - d. Open space within the development should generally be accessible from as many places within the development as possible, rather than limited to individual easements between development lots. To this end, providing open space segments along the internal roadways will be considered a high priority by the Township. These areas should be large enough to appear as open space, rather than a vacant lot for future development, and kept in their natural state. These areas may, however, incorporate trails or other internal pedestrian circulation paths.
 - e. The overall design of the Open Space Development should emphasize the rural character of the Township, provide views to open spaces from as many areas of the development as possible, and avoid long, straight street segments and rows of homes.
5. Base Density for Residential Uses - Parallel Plan
- a. The maximum base density for residential uses shall be determined through the completion and submission of a parallel plan.
 - b. The parallel plan shall meet the following minimum requirements:
 - (1) The parallel plan shall contain enough detail to permit the Township to evaluate the feasibility of development for each indicated lot and/or dwelling unit.

- (2) The parallel plan shall be drawn to comply with the requirements of Article XIV Site Plan Review, Section 1404, B, of this ordinance with respect to access, lot area, lot width, lot coverage, setbacks, dwelling unit sizes, and other provisions of the zoning district that may be applicable to the type of dwelling units to be proposed.
 - (a) All lots or buildings shown on the parallel plans shall be located on buildable lots, which, for the purposes of this subsection shall mean lots or building areas that have an area of sufficient size and shape to accommodate the proposed main building septic and well systems (where no public sanitary sewer or water system is available) and required driveways, streets, or other means of permitted access.
 - b) Areas of wetlands, water bodies, and other clearly unbuildable areas shall not be used as buildable areas, but may be included in the lot area calculations.

6. Density Bonus

- a. In order to preserve the maximum amount of open space, an Open Space Development may permit an increase in the number of dwelling units above the base density established in the parallel plan, provided that in no case shall the density bonus exceed forty percent (40%) of the base density.
- b. The Open Space Development may qualify for density bonuses in accordance with the following:

Facility/Open Space Provided	Density Bonus
Open Space: 55% open space	8%
Open Space: 60% open space	10%
Open Space: 65% open space	12%
Community or Public Sanitary Sewer Service	30%
Community or Public Water Service	10%
Community or Public Sanitary Sewer and Water Service	40%

F. Review Procedures

- 1. Sketch Plan Approval

- a. To be considered as an OSD the applicant shall be required to first receive approval of a sketch plan in accordance with the requirements of this Article.
- b. Applications for sketch plan approval for OSDs shall be submitted to the Zoning Administrator at least thirty (30) days prior to the date of first consideration by the Planning Commission.
- c. The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
 - (1) Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire the land, such as an option or purchase agreement, or a signed agreement from the property owner indicating permission to file the application.
 - (2) Parallel Plan used to determine base density that meets the standards of Section 1310.E.5.
 - (3) Written documentation that the proposal meets the standards of the use as described in this Section.
 - (4) If a phased development is proposed, identification of the areas included in each phase. The density, lot area and setbacks of proposed housing units within each phase and for the total OSD.
 - (5) Arrangement and area calculations for open space, including upland and wetland open space areas.
 - (6) A completed application form, supplied by the Zoning Administrator, and an application fee.
 - (7) Ten (10) copies of a sketch plan meeting the requirements of (preliminary site plans).
- d. The Planning Commission shall review the sketch plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, the sketch plan.

2. Final Site Plan Approval

- a. After receiving approval of a sketch plan from the Planning Commission, the applicant shall within one (1) year submit a final site plan to the Planning Commission.
- b. The final site plan may be for either the entire project or for one (1) or more phases.
- c. Applications for final site plan approval for OSDs shall be submitted to the Zoning Administrator at least thirty (30) days prior to the date of first consideration by the Planning Commission.
- d. The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary.
 - (1) Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire the land, such as an option or purchase agreement, or a signed agreement from the property owner indicating permission to file the application.
 - (2) Written documentation that the proposal meets the standards of Section 1305.
 - (3) If a phased development is proposed, identification of the areas included in each phase. The density, lot area and setbacks of proposed housing units within each phase and for the total OSD.
 - (4) Arrangement and area calculations for open space, including upland and wetland open space areas.
 - (5) A completed application form, supplied by the Zoning Administrator, and an application fee.
 - (6) Ten (10) copies of a final site plan for the phase for which approval is requested, meeting the requirements of Section 1405. A.
- e. Failure to submit a final site plan for approval within the one (1) year period shall void the previous sketch plan approval and a new application shall be required to be submitted and approved in accordance with these provisions.
- f. The Planning Commission shall conduct a public hearing prior to considering the proposed final site plan. Notices of the public

hearing will be provided in accordance with the requirements of the Zoning Act for special land uses.

- g. The Planning Commission shall recommend to the Township Board either to deny, approve, or approve with conditions, the final site plan for the OSD. The Township Board shall review the final plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, approval of the OSD.
- h. Major changes in the final site plan shall be submitted to the Township pursuant to the above procedures applicable to the original application.

G. Review Standards

The following review standards will be used by the Planning Commission in addition to those of Section 1304 in their consideration of an Open Space Development. Before any development may be approved the Planning Commission shall find:

1. That the Open Space Development does not substantially alter the character of the general neighborhood in which the development is proposed;
2. That the location of the buildings of the Open Space Development does not unduly impact other single family uses in the vicinity of the proposed development;
3. That the Open Space Development preserves, in perpetuity, unique site conditions, such as significant natural features, large open space areas, or active agricultural land.
4. That the Open Space Development can accommodate adequate and safe disposal of sanitary sewer and can provide an adequate, assured source of water for domestic use.
 - a. To evaluate this review standard, the Planning Commission and/or Township Board may specify what additional evidence it deems to be acceptable to ensure the review standards are met, including additional soil borings, soil reports, hydrological tests, and other evidence which will be submitted by the applicant and reviewed by the Township prior to approval of the Open Space Development.

- b. Additional studies may be required by the Planning Commission and/or Township Board where one (1) or more of the following conditions are present:
- (1) Existing studies or reports showing evidence of groundwater contamination problems either on the lot or parcel on which the OSD is to be placed, or on lots or parcels within a one (1) mile radius of the OSD site;
 - (2) Existing sites identified by Part 17 of Act 451 of the Michigan Public Acts of 1994, as amended and Michigan Department of Environmental Quality identified leaking underground storage tank sites within a one mile radius of the OSD site in accordance with Part 211 of Act 451 of 1994;
 - (3) Existing licensed landfills (active or inactive) within a three (3) mile radius of the OSD site.
 - (4) Industrially used or zoned sites within a one (1) mile radius of the OSD site.
 - (5) Existing residential development within a one (1) mile radius of the OSD site that equals or exceeds a gross density (total acres divided by number of dwelling units) of one unit for every one and one half (1.5) acres.
 - (6) Existing agricultural development totaling more than five hundred (500) acres within a one (1) mile radius of the OSD site.
 - (7) Any other condition which in the view of the Planning Commission and/or Township Board may require additional information regarding protection of groundwater.

1310.1 Industrial Solar Energy Facilities. Industrial Solar Energy Facilities as defined herein shall be ground-mounted arrays of panels; shall be subject to the requirements of this Ordinance, and shall be authorized as a special land use in the A-1 and A-2 District Zoning Classifications only.

- A. Permitted Zoning Districts. The Planning Commission shall have the power to grant a Special Use to allow an Industrial Solar Energy Facility in Prime Agricultural A-1 and General Agricultural District A-2, subject to the restrictions contained in this ordinance. Applications shall comply with the provisions of Article XIII Subsection 1302 of this Ordinance.

- B. **Conflicting Regulations.** Whenever any provisions of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern.
- C. **Definitions.** The definitions related to “solar” and industrial solar energy facilities contained therein are incorporated by reference in this section.
- D. **Industrial Solar Energy Facility Standards.** The following standards will be used when preparing, submitting and reviewing a Special Use Permit application for an Industrial Solar Energy Facility.
 - 1. **Impact Study.** The applicant shall have a qualified third-party professional conduct an analysis 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, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis.
 - 2. **Setbacks, Separation and Security.** The following setbacks and separation requirements shall apply to all Industrial Solar Energy Facilities.
 - a. Industrial Solar Facilities shall be enclosed by an eight (8) foot tall chain link fence. Said fence shall be placed no closer than the setback line for the facility. The fence shall be designed to restrict unauthorized access. The gates shall be the same height and constructed of the same materials as the fence.
 - b. Warning signs shall be placed at all entrances and every 100 feet around the perimeter. Signs shall also list the name and emergency contact number of the operator of the facility.
 - c. Any structure shall be no closer than 10 feet to the fence.
 - d. An industrial Solar facility shall be located at least 125 feet from any residential dwelling, churches, schools, family or group child day care home, or bed and breakfast establishment.
 - e. All access roads and storage areas shall be established on a 30-foot minimum easement to a public right of way which shall be paved or graveled in a manner sufficient to provide a solid base at all times of the year.
 - f. All Industrial Solar Energy Facilities shall have a minimum landscape buffer of evergreen trees or bushes planted no more than 8 feet apart and be at least 4 feet tall at the time of planting.

The buffer strip shall be 16 feet wide with two rows of trees staggered to visually hide the facility. Trees may be trimmed but not below 10 feet in height. Dead or diseased trees and bushes shall be replaced. Plants and grasses outside of the buffer area shall be maintained and not exceed 12 inches in height.

- g. Panel installations shall not exceed 15 feet in height.
- h. All storm water shall be stored on site.
- i. The owner shall maintain all access roads. All roads shall be capable of handling Fire Department trucks and shall have adequate width.
- j. The owner shall provide a bond in the amount of one million dollars per acre to provide for the removal.
- k. The owner shall provide a bond in the amount of one million per acre to provide for the removal of the facility if its abandoned. This bond to be enforceable as long as the facility if it is abandoned. This bond is to be enforceable as long as the facility is in existence.

3. Restoration.

The applicant shall be responsible for making repairs to any public roads, drains and infrastructure damaged by construction of the Industrial solar Facility.

4. Codes.

- All facilities shall comply with current building and codes at the time of installation. It shall also comply with all local, state and Federal laws and regulations.
- All new or maintenance work shall have the appropriate permits issued by the Township.
- All access doors to Industrial Solar Facilities and electrical equipment shall be lockable and kept secured at all time when service personnel are not present.

5. Complaint resolution.

The Industrial Solar Energy Facility applicant shall submit a detailed written complaint resolution process developed by the Industrial Solar Energy Facility applicant to resolve complaints from the Township Board,

property owners, or residents concerns the construction and operation of the ISEF. The complain resolution process must be approved the by the Planning Commission as part of the approval of the special land use permit application. The Township Board shall be kept apprised of all complaints and shall receive a report outlining the issues, the progress, and the resolution of each complaint from the ISEF operator.

6. Application fee. An applicant for an ISEF shall remit a special use permit application fee per acre, and required escrow fee to the Township in the amount specified in the fee schedule.
7. Escrow. An escrow account shall be set up when the applicant applies for an ISEF. The monetary amount filed shall be in accordance with the fee schedule set by the Township Board. These fees are used to cover the costs and expenses associated with the special use permit and site plan review and approval process, which costs can include, but are not limited to, Township attorney fees, Township Planning Consultant, Township Consulting Engineer, as well as any reports or studied which the Township deems necessary for the zoning review and process of the application for the ISEF. At any point during the zoning review process the Township may require the applicant to place additional funds in the escrow account. If the escrow account needs replenishing and the applicant refuses to do so within 14 days after receiving notice the zoning review process and approval process shall cease until and unless the applicant makes the required escrow fee deposit. Any escrow amount which are in excess of actual costs shall be returned to the applicant.
8. Abandonment and Decommissioning.
 - a. Abandonment: An Industrial Solar Energy Facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned. It is the responsibility of the owner or their agent to remove all equipment and facilities and completely restore the parcel to its original condition prior to the abandonment of the solar facility.
 - 1) Upon determination of abandonment, the Zoning Administrator shall notify the party or parties responsible that they must remove the Industrial Solar Energy Facility and restore the site within 6 months.
 - 2) If the property is leased and the facility owner fails to comply, the land owner is then responsible for the removal of the facility.
 - 3) If the facility is not removed and the land restored to its prior condition within 6 months the Township may remove the solar facility, sell and removed materials, and initiate judicial

- proceedings or take other legal steps to recover all costs incurred in the removal of the facility.
- 4) Upon request the ISEF operator shall provide documentation showing that the facility is operations and selling its power.
 - 5) The Township and any of its employees or agents shall have the right to inspect the facilities.

Section 1311. CONDITIONS OF APPROVAL

When granting approval of a special land use permit, the Planning Commission may impose reasonable conditions, which are necessary to insure compliance with the standards, for approval stated in subsection E hereof and any other applicable Township ordinances and regulations. Such conditions shall be considered an integral part of the special land use permit and they shall be enforceable by the Zoning Administrator.

Section 1312. APPEALS, REHEARING AND REAPPLICATIONS

- A. **Appeals:** Any person aggrieved by the decision of the Wayne Township Planning Commission regarding a Special Land Use may appeal said decision to the Cass County Circuit Court in accordance with the provisions of the Zoning Enabling Act.

Appeals must be filed within twenty-one (21) days of the denial of the application. The date of the decision shall be the date on which the decision of the Planning Commission was reduced to writing and forwarded to the applicant in interest.

- B. **Rehearing:** The decisions of the Planning Commission with reference to a special land use shall be final, and no rehearing of the Planning Commission's decision shall be allowed except the Township reserves the right, upon its own finding or upon petition and showing of a compelling reason (e.g., a denial of procedural or substantive of due process of law or an abuse of discretion on the part of the Planning Commission, etc.), to order or grant a rehearing of the Planning Commission's decision.
- C. **Reapplication:** In the event the special land use permit is denied, a new application, (reapplication) may not be made for the same or substantially similar special land use within one (1) year of the denial of the special land use.