

**VIENNA TOWNSHIP  
ZONING ORDINANCE  
ORDINANCE NO. 2001-01**

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## **PREAMBLE**

An Ordinance to provide for the establishment of Zoning Districts in the unincorporated Village of Vienna and Vienna Township, Montmorency County, Michigan; to encourage and regulate the use of land and proper location of buildings and structures for residence, trade, industry, or other purposes following the recommendations of the *Vienna Township Master Plan* adopted July 27, 1999; to regulate dimensions of yards, and other spaces; to provide for the administration, enforcement, penalties for violation, and amendment of this Ordinance.

## **ARTICLE I SHORT TITLE**

### **Section 1.1 Short Title**

This Ordinance shall be known and cited as the Vienna Township Zoning Ordinance.  
PPP2036-01 R 1-1

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## **ARTICLE II: PURPOSE, LIMITATIONS, AUTHORITY AND VALIDITY**

### **Section 2.1 Purpose**

The fundamental purpose of this Ordinance is to promote the health, safety, comfort, peace, morals, convenience and general welfare of the inhabitants of this Township. The provisions of this Ordinance are intended:

- A. To promote the orderly development of the Township.
- B. To encourage the use of lands and resources of the Township in accordance with their character and adaptability.
- C. To provide economic progress and protect and enhance property values.
- D. To reduce hazards of life and property, promote safety in traffic and provide fire protection.
- E. To provide minimum health and safety standards, under which certain buildings and structures may be erected, altered and used.
- F. To facilitate the development of adequate and economic systems of fire protection, sewage disposal, safe water supplies, education, transportation and other public requirements.
- G. To conserve the use of public funds for public improvements and services to conform with the most advantageous use of the lands, properties and resources of the Township.

### **Section 2.2 Limitations of Ordinance**

- A. Existing Uses of Land, Buildings and Structures: At the discretion of the property owner, the lawful use of any dwelling, building or structure, and of any land or premises as existing and lawful on the date of adoption of this Ordinance may be continued even though such use may not be in conformity with the provision of this Ordinance.
- B. Exemptions of Customary Farm Buildings and Structures: The provisions of this Ordinance shall not apply to the erection, repair, or use of customary accessory farm buildings or structures, such as barns, sheds, pens, fences and the like; provided that no buildings or structures other than open fences through which there shall be clear vision from adjacent roadways, shall not be erected, moved or maintained less than (50) fifty feet from any abutting highway right-of-way line, and shall adhere to the required yard setbacks for the district where located.

### **Section 2.3 Authority**

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the State of Michigan, Township Zoning Act, Act 184 of the Public Acts of 1943, as amended.

### **Section 2.4 Validity**

This Ordinance and its various parts, sections, subsections, sentences, phrases and clauses are declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid by court decree, it is provided that the remainder of this Ordinance shall not be affected. The Township Board declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that anyone or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

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### **ARTICLE III DEFINITIONS**

#### **Section 3.1 Interpretation of Wording**

In order to clarify the intent of the provisions of this Ordinance, the following rules shall apply, except when clearly indicated otherwise.

A. The particular shall control the general.

B. The word "shall" is always mandatory and never discretionary. The word "may" is permissive.

C. Words used in the present tense shall include the future; words in the singular number shall also denote the plural; and the plural shall also denote the singular.

D. A "building" or "structure" includes any part thereof.

E. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

F. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions, or events, the terms "and", "or", "either ... or", such conjunction shall be interpreted as follows:

1. "And" means that all the connected items, conditions, provisions, or events apply in combination.

2. "Or" or "either . . . or" means that the connected items, conditions, provisions, or events may apply singly or in any combination.

G. "Township" shall refer specifically to Vienna Township.

H. "Township Board" shall refer to the Vienna Township Board of Trustees.

I. Terms not defined shall be assumed to have the meaning customarily assigned them.

#### **Section 3.2 Definitions**

For the purpose of this Ordinance, the following terms are defined:

**Accessory Building or Structure:** A supplemental building or structure on the same lot as the main building occupied by or devoted exclusively to an accessory use, but not for dwelling, lodging, or sleeping purposes. Where an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building for the purpose of measuring yard setbacks.

**Accessory Use:** A subordinate use incidental and customary in connection with the principal building or use which is located on the same lot with such principal building or use.

**Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at anyone time and where the images so displayed are distinguished or characterized by depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

**Adult Bookstore or Adult Video Store:** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

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A. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or

B. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises thirty-five percent (35%) or more of sales volume or occupies thirty-five percent (35%) or more of the floor area or visible inventory within the establishment.

**Adult Cabaret:** A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

- A. Persons who appear in a state of nudity;
- B. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
- C. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

**Adult Foster Care Congregate Facility:** A state licensed facility with approved capacity to receive more than twenty (20) adults to be provided with twenty four (24) hour care. This definition is described under the Adult Foster Care Licensing Act, Public Act 218 of 1979, as amended.

**Adult Foster Care Home, Family:** A private residence with approved capacity to receive six (6) or fewer adults to be provided with twenty four (24) hour care for five (5) or more days and for two (2) or more consecutive weeks. A member of the household or an occupant of the residence shall hold the family adult foster care home license. This definition is described under the Adult Foster Care Licensing Act, Public Act 218 of 1979, as amended.

**Adult Foster Care Home, Group:** A state licensed facility with approved capacity to receive more than six (6) but not more than twenty (20) adults to be provided with twenty four (24) hour care. This definition is described under the Adult Foster Care Licensing Act, Public Act 218 of 1979, as amended.

**Adult Motel:** A hotel, motel or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
- B. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

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**Adult Motion Picture Theater:** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

**Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

**Agriculture:** The use of land or tilling of the soil, raising of trees or field crops or animal husbandry, as a source of significant income.

**Alterations:** Any change, addition or modification in construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed" .

**Alternative Tower Structure:** Man-made trees, clock towers, bell steeples, light poles and other similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Animal Feeding Operations:** A lot or building or combination of contiguous lots and buildings where agricultural animals have been, are, or will be stabled or confined and fed or maintained for a total of forty five (45) days or more in any twelve (12) month period, where manure may accumulate, and where the concentration of animals is such that vegetative cover or postharvest residues cannot be maintained within the enclosure during the normal growing season.

**Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless

telecommunications signals or other communication signals.

**Automobile Repair:** Any major activity involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision device, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

**Automobile Sales Area:** Any space used for display, sale or rental of motor vehicles, in new or used and operable condition.

**Automobile Wash Establishment:** A building, or portions thereof, the primary purpose of which is that of washing motor vehicles.

**Average:** For the purpose of this Ordinance, the term, "average" shall mean the arithmetic mean.

**Basement:** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

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**Bed and Breakfast Facility:** Any family occupied dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation and where breakfast is the only meal served. For the purpose of this Ordinance, the term bed and breakfast facility also includes tourist home.

**Boarding, Lodging or Rooming House:** A building other than a hotel where for compensation and by prearrangement for definite periods, lodging, meals, or both are provided for three or more non-family persons, but not exceeding twenty (20) persons.

**Building:** Any structure having a roof supported by columns or walls for the shelter or enclosure of persons, animals, or property of any kind.

**Building Height:** The vertical distance measured from the established grade to the highest point of the roof surface, excluding belfries, chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, flagpoles, monuments, ornamental towers, spires, smoke stacks, stage towers, scenic lofts, tank and water towers or similar architectural features. When the terrain is sloping, the ground level is measured at the average wall line.

**Building Width:** The width of a lot left for building after side dimensions are subtracted.

**Campground:** Any parcel or tract of land, under the control of any person where sites are offered for the use of the public or members of an organization, either free of charge or for a fee for the establishment of temporary living quarters for five (5) or more recreational units.

Campgrounds shall be licensed by the State of Michigan.

**Church:** See definition for Place of Worship.

**Clinic:** A building or group of buildings where human patients are admitted for examination and treatment by more than one professional, such as a physician, dentist, or the like, except that human patients are not lodged overnight.

**Club:** Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational or recreational purposes, but not primarily for profit or rendering a service customarily carried on as a business.

**Co-location:** The use of a wireless telecommunication tower by more than one wireless telecommunication provider.

**Day Care Center:** A facility other than a private residence, which receives preschool or school age children for care. A day-care center is further defined and regulated by the State of Michigan under Public Act 116 of 1973, as amended, being Section 722.112 of the Michigan Compiled Laws.

**Day Care Home, Family:** A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. A family day care home must be licensed or registered under Act No. 116 of the Public Acts of 1973, as amended.

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**Day Care Home, Group:** A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. A group day care home must be licensed under Act No. 116 of the Public Acts of 1973, as amended.

**Deck:** An uncovered outdoor platform constructed on or above the ground surface, either attached to or detached from the principal building, used as a residential accessory structure for domestic or recreational purposes.

**Dock:** A structure exclusively used for boarding and mooring of watercraft.

**Dwelling:** Any building, or portion thereof, which is designed or used exclusively for residential purposes, whether constructed on site or manufactured off site and complies with the following standards:

A. It complies with the minimum square footage requirements of this Ordinance for the zoning district in which it is located.

B. The dwelling has District Health Department No. Four approval for on site septic and water systems.

C. The dwelling contains a storage area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure, which storage shall be equal to ten percent (10%) of the square footage of the dwelling or one hundred (100) square feet, whichever is less.

D. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with a roof overhang of not less than six (6") inches on all sides, has not less than two (2) exterior doors with the second one (1) being in either the rear or side of the dwelling; and contains steps connected to the exterior door areas or to porches connected to the door areas where a difference in elevation requires the same.

E. The dwelling 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.

F. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards Act" as promulgated by the U. S. Department of Housing and Urban Development, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

G. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance pertaining to mobile home parks.

H. All construction required may be commenced only after a building permit has been obtained from the Montmorency County Building Inspector.

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 designed home.

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**Dwelling, Manufactured Home:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and

B. The structure is designed to be transported to the site in nearly complete form, where it is placed on a foundation and connected to utilities; and

C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

**Dwelling, Mobile Home:** A factory-built, single-family structure that is transportable in one



section, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, which does not have wheels or axles permanently attached to its body or frame, and which is constructed according to the National Mobile Home Construction and Safety Standards Act of 1974, as amended.

**Dwelling, Multiple-Family:** A dwelling or group of dwellings on one (1) lot and in one (1) structure, containing separate living units for three (3) or more families or households.

**Dwelling, Single-Family:** A building or portion thereof, designed for permanent residential occupancy by one (1) family or household.

**Dwelling, Two-Family:** A building or portion thereof, designed for permanent residential occupancy by two (2) families or households.

**Erected:** Includes built, constructed, reconstructed, extension, enlargement, moved upon or any physical operation on the premises intended or required for a building structure.

Excavation, fill, drainage and general property improvements shall not be considered an erection.

**Escort:** A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Escort Agency:** A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal department or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment. Transmission and communication towers, alternative tower structures, and wireless communication antennas are not included within this definition.

**Extractive Industry:** A business enterprise involving the removal of resources such as sand, stone, gravel, or soil by physical effort.

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**Farm:** Structures, facilities and lands of twenty (20) acres or more for carrying on of any agricultural activity on the raising of livestock or small animals as a source of income. Farms include the general as well as (furs, dairy, horses, fruits, vegetables, etc.)

**Garage, Commercial:** A building or part thereof, other than a private garage designed or used for equipping, servicing, repairing, hiring, storing or parking motor vehicles. The term repairing does not include dismantling or storage of wrecked or junked vehicles.

**Garage, Private:** A building used primarily for the storage of non-commercial vehicles for the use of the occupants of a lot on which such building is located.

**Gas and Oil Processing Facilities:** Any facility and/or structure used for, or in connection with, the production, processing or transmitting of natural gas, oil, or allied products or substances, and the injection of same into the ground for storage or disposal, not under the exclusive jurisdiction or control of the Supervisor of Wells, Department of Environmental Quality or Public Service Commission; not including industrial facilities such as cracking plants, large oil storage facilities and heavy industrial operations and facilities.

**Gasoline Service Station:** A place primarily operated and designed for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories.

**Grade:** The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

**Ground Floor Area:** For the purpose of computing the minimum allowable floor area in a

residential dwelling unit, the square footage of floor space measure to the outside of the foundation walls, but not including enclosed and unenclosed porches, decks, breezeways, garages, attics, basements or cellar areas.

**Hazardous Substances:** Any Substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental to the environment or to the health of any person handling or otherwise coming into contact with such material or Substance.

**Health Department:** District Health Department No. Four.

**Hearing:** An advertised open public meeting at which comments and ideas are solicited from the public.

**Home Occupation:** An occupation or profession customarily carried on by occupant of a dwelling unit as a secondary use which is clearly of service to the use of the building for dwelling purposes, and in no way operates in conflict with the character and uses of adjacent premises in terms of noise, traffic, displays, signs, mechanical devices, parking and related features.

**Hospital:** An institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, clinics and staff offices.

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**Hotel:** A building or part of a building with a common entrance or entrances in which dwelling units are used primarily for transient occupancy. A hotel may contain a restaurant, cocktail lounge, and/or conference facilities.

**Household or Family:** An individual or two or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage, living as a single housekeeping unit in a dwelling.

**Housekeeping Cabin or Cabins:** A parcel of land on which one or more buildings are maintained, offered, or used for dwelling or sleeping quarters for transients or tourists for a fee.

**Junkyard:** The use of premises or building for storage or abandonment, keeping, collecting, building of old and dilapidated automobiles, trucks, tractors and other such vehicles and parts thereof, scrap building materials, scrap contractor's equipment, tanks, cases, barrels, boxes, piping, bottles, drums, glass, rags, machinery, old pipe, paper and any other kind of scrap waste material. Junkyards shall be licensed by the State of Michigan.

**Kennel, Commercial:** An establishment licensed to operate a facility housing dogs, cats or similar household pets and where grooming, breeding, boarding, training or selling of animals is conducted as a business.

**Kennel, Private:** Any building or land used for the care of dogs, cats or similar household pets belonging to the owner of the principal use and kept for purposes of show, hunting or as pets.

**Loading Space:** An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

**Lot or Premises:** The parcel of land occupied or to be occupied by a use or building and its accessory buildings together with such open spaces, minimum area, and width required by this Ordinance for the District in which is located, but not necessarily located in a subdivision. The lot area shall not include any area within any abutting right-of-way or traffic lanes.

**Lot of Record:** A lot on record in the office of the Montmorency County Register of Deeds, or which is part of a subdivision on record.

**Lot Coverage:** The part or percent of the lot occupied by buildings or structures including accessory buildings or structures.

**Lot Depth:** The horizontal distance between front and rear lot lines, measured along the median between side lot lines.

**Lot Lines:** The property lines bounding the lot.

**Lot Line, Front:** The line separating the lot from the road right-of-way. (*See Article VI for requirements on corner lots, double frontage lots and water frontage lots.*)

**Lot Line, Rear:** The lot line being opposite the front lot line. In the case of a lot irregularly

shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

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**Lot Line, Side:** Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street right-of-way is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot Width:** The horizontal distance between the side lot lines, measured at the two (2) points where the building setback line intersects the side lot lines.

**Master Plan:** The statement of policy by the Township relative to the agreed-upon desirable physical pattern of future community development. It consists of a series of maps, charts, and written material representing in summary form the community's conception of how it should grow in order to bring about the very best community living conditions.

**Mobile Home:** See definition for Dwelling, Mobile Home.

**Mobile Home Park:** A parcel of land which has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use, and is licensed by the State of Michigan.

**Motel:** A series of attached, semi-detached or detached rental units providing overnight lodging for transients, open to the traveling public for compensation.

**Motor Vehicle:** Any vehicle powered by gasoline, diesel or electric engines and which are or are intended to be operable as self-propelled units. Motor vehicles shall include boxes, trailers, tandems, double bottom rigs, snowmobiles, ATV's, motorcycles, farm tractors, self-propelled farm machinery and farm equipment which is not self-propelled that requires attachment to an operable vehicle for propulsion. Inoperable vehicles are motor vehicles, which by reason of dismantling, disrepair, damage or other cause, are incapable of being propelled under their own power or are unsafe for operation or being towed on the streets and highways of the State of Michigan, because of inability to comply with the State Motor Vehicle Code.

**Municipal Civil Infraction Citation:** A written complaint or notice prepared by an authorized Township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

**Nonconforming Building:** A building or a portion thereof, existing at the effective date of this Ordinance, or amendments thereto, and that does not conform to the provisions of this Ordinance relative to height, bulk, area or yards for the district in which it is located.

**Nonconforming Use:** A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto that does not conform to the use regulations of the Zoning District in which it is located.

**Nude Model Studio:** Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

**Nudity or a State of Nudity:** Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a

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female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- A. A woman's breastfeeding a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
- B. Material as defined in section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
- C. Sexually explicit visual material as defined in section 3 of Act No. 33 of Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

**Nursery, Plant:** A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of

fruits or vegetables.

**Occupied:** Includes the meaning of intent, design or arranged for occupancy.

**Off Street Parking Lot:** A facility providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted access and egress to at least two (2) vehicles.

**Open Air Business:** Includes uses operated for profit, substantially in the open air, including:

A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair or rental services.

B. Outdoor display and sale of garages, motor homes, mobile homes, snowmobiles, farm implements, swimming pools and similar activities.

C. Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

D. Tennis courts, archery ranges, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses.

**Open Space:** Land upon which no structures, parking, right-of-ways, easements, sewage disposal systems (including backup areas for sewage disposal) or other improvements have or will be made that commit land for future use other than outdoor recreational use. Land proposed for outdoor recreational usage that will result in the development of impervious surfaces shall not be included as open space.

**Ordinary High Water Mark** - Is defined as in the Michigan Inland Lakes and Steam Act to mean the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the soil and the vegetation. On an inland lake which has had a level established by law, it means the high established level. On a river or stream, the ordinary high water mark shall be the ten-year flood limit line.

**Owner:** Any person, or persons, natural or corporate, owning a legal equitable title to land.

**Parcel:** A separate area of land, including a lot, having specific boundaries and capable of being conveyed and recorded.

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**Park:** Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, which are open to the general public recreational purposes.

**Parking Space:** An area of definite length and width exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

**Patio:** An uncovered area, usually paved, concrete or bricks adjoining a dwelling unit, used for outdoor activity.

**Permit, Building:** Written authority issued by the Montmorency County Building Inspector allowing for the construction, moving or alteration of a structure under a state-approved building code.

**Permit, Zoning:** Written authority issued by the Zoning Administrator on behalf of the Township permitting the construction, moving, exterior alteration or use of a building or land in conformity with the provisions of this Ordinance.

**Person Aggrieved:** Any person, firm, partnership, corporation, or association with an interest in real property which will suffer "special damages" as a result of the decision in question.

Special damages shall be defined as a particular injury to a land owner's beneficial use or enjoyment of his own land, which injury is not shared in common with other members of the general public.

**Place of Worship:** A building where people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

**Planned Unit Development (PUD):** Land under unified control which allows a development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development.

**Plat:** Map or chart of a subdivision of land.

**Porch, Enclosed:** A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

**Porch, Unenclosed:** A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or integral roof with principal building or structure to which it is attached.

**Professional Office:** The office of a professional person such as a doctor, dentist, engineer, architect, attorney, insurance or real estate agent and the like.

**Principal Use:** The main use to which the premises are devoted and the principal purpose for which the premises exist.

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**Public Utility:** Any person, firm, corporation, municipal department board, or commission fully authorized to furnish and furnishing, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, water services, or sewage disposal.

**Recreation Area:** A parcel which may include water bodies or incidental buildings, used for active or passive recreation, including but not limited to, parks, playgrounds, golf courses, hunting preserves, nature trails, bridle paths, beaches, campsites, ski and snowmobile trails, canoe routes and similar unenclosed activity areas.

**Recreational Vehicle:** A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, fifth wheel trailers, travel trailers, and tent trailers; PROVIDED, however, that any such vehicle or unit which is forty (40) feet or more in overall length shall be considered a mobile home and shall be subject to all regulations of this Ordinance applicable to a mobile home.

**Residential:** Pertaining to areas where people live and reside on a regular basis.

**Resort:** A recreational lodge, camp or facility operated for gain, and which provides overnight lodging and one or more of the following: golf, skiing, dude ranching, recreational farming, snowmobiling, pack trains, bike trails, boating, swimming, hunting and fishing and related or similar uses normally associated with recreational resorts.

**Retail Business or Retail Stores:** Any building or structure in which goods, wares, or merchandise are sold to the ultimate consumer for direct consumption and not for resale.

**Road Right-of-Way:** A street, alley or thoroughfare or easement permanently established for passage of persons or vehicles, which, if used to establish a lot front, provides adequate permanent access.

**Roadside Stand:** An accessory and temporary farm structure operated for the purpose of selling local agricultural products, part of which are raised or produced on the same farm premises.

**School:** A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, and high schools. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

**Seasonal Use:** Any use or activity that can not be conducted or should not be conducted each month of the year.

**Service Business:** A business oriented to the personal service needs of persons on a daily basis and includes barber, hairdresser, dry cleaner or similar uses.

**Setback:** The distance required to obtain the minimum distance between the front, side or rear lot lines and the building line or parking lot. Setbacks from a public street or private road shall be measured from the right-of-way line or easement. Setbacks shall remain as open space unless otherwise provided for in this Ordinance.

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**Sexual Encounter Center:** A business or commercial enterprise that, as one of its principal

business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

**Sexually Oriented Business:** A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

**Sign:** An identification, description, illumination or device affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, person, activity, institution or business.

**Sign, Animated:** Any sign having a conspicuous and intermittent variation in the illumination of the physical position of any part of the sign.

**Sign, Freestanding or Ground:** A sign supported by permanent uprights or braces in the ground.

**Sign, Identification:** An on premise sign whose copy is limited to the name and address of a building, institution, person, and/or the activity or occupation being identified.

**Sign, Off Premise:** Any sign relating to subject matter not conducted on the premises on which the sign is located; may also be referred to as a billboard.

**Sign, On Premise:** An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

**Sign, Overhanging:** A sign that extends beyond any structure wall and is affixed to the structure so that the sign surface is perpendicular to the wall surface.

**Sign, Portable:** A sign designed to be transported, including but not limited to signs:

- A. With wheels removed
- B. With chassis or support constructed without wheels
- C. Designed to be transported by trailer or wheels
- D. Converted A- or T-frame signs
- E. Attached temporarily to the ground, a structure or another sign
- F. Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the business for which the vehicle is being used in normal day-to-day operations of that business.

**Sign Surface:** That portion of a sign excluding its base, foundation and erection supports on which information pertaining to a product, use, occupancy function, service or activity is displayed.

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**Sign, Wall:** Any sign attached parallel to or painted on the exterior surface of a building or structure wall in such a manner that the sign does not extend beyond the surface of the wall to which it is attached.

**Sign, Window:** Any sign, picture, symbol, or combination thereof, designed to communicate information about any activity, business, commodity, event, sale, or service that is placed on a window pane or glass so that it is visible from the out-of-doors.

**Site Plan:** The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this Ordinance, to determine if the proposed development meets the requirements of this Ordinance as well as other local ordinances, state and federal requirements.

**Special Approval:** Approval by the Township Planning Commission of a use of land in a district that is not antagonistic to other permitted land uses in the district when such use is specified in this Ordinance for that district upon such approval.

**Specified Anatomical Areas:** Are defined as:

- A. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

**Specified Sexual Activities:** Includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic regions, buttocks or female

breast;

B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

C. Masturbation, actual or simulated; or

D. Excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above.

**Stable, Commercial Riding:** A stable used to house horses for hire, and located not less than one hundred fifty (150) feet from any adjoining property.

**State Licensed Residential Facility:** A structure constructed for residential purposes that is licensed by the state pursuant to Act No. 287 of the Public Acts of 1972, as amended, being Section 33.681 to 331.694 of the Michigan Compiled Laws or Act No. 116 of the Public Acts of 1973, as amended, being Sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services for persons under 24 hour supervision or care for persons in need of that supervision or care.

**Storage:** A building used for other than human or animal occupancy.

**Story:** That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

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A. A "mezzanine" floor shall be deemed a full story only when it covers more than fifty (50%) percent of the area of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the next above it is twenty-four (24) feet or more.

B. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if the vertical distance from the grade to the ceiling is greater than the average grade to the floor, or if it is used for business purposes.

**Stream:** A small, usually regular, natural flow of water.

**Street, Highway or Road:** A thoroughfare, which affords the principal means of access to abutted property.

**Structure:** Any construction or building, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

**Telecommunication Towers and Facilities:** All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**Travel Trailer and/or Camper:** See definition for Recreational Vehicle.

**Variance:** A modification of literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of the provision would cause undue hardship owing to circumstances unique to the individual property in which the variance is sought.

**Yard:** A space open to the sky between a building and the lot lines of the parcel of land on which located, unoccupied or unobstructed by an encroachment or structure except as otherwise provided by this Ordinance.

**Yard, Front:** A yard across the full width of the lot extending from the front line of the principal building to the front lot line, or highway right-of-way line as the case may be. *(See Article VI for requirements on corner lots, double frontage lots and water frontage lots.)*

**Yard, Rear:** A yard extending across the full width of the lot from the rear line of the principal building to the rear lot line.

**Yard Side:** A yard extending between the side lot line and the nearest side line of the building.

**Zoning Board of Appeals:** As used in this Ordinance, this term means the Vienna Township

Zoning Board of Appeals.

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## ARTICLE IV ZONING DISTRICTS AND MAPS

### Section 4.1 Classification of Zoning Districts

For the purpose set forth in the Preamble, the Unincorporated Village of Vienna and Vienna Township of Montmorency County shall be divided into the following Zoning Districts:

1. Agriculture
2. Recreational/Residential
3. Single-family Residential District
4. Mixed Residential District
5. Mobile Home Park District,
6. Commercial District,
8. Industrial District,
9. Extractive District,

### Section 4.2 Zoning Map

A

Rec-1

R-2

R-3

MH

C

I

E

Section 5.1

Section 5.2

Section 5.3

Section 5.4

Section 5.5

Section 5.6

Section 5.7

Section 5.8

The areas assigned to each Zoning District and the boundaries shown upon the map entitled "Zoning District Map of Vienna Township, Montmorency County, Michigan" are established, and the map and all proper notations and other information shown on the map are made part of this Ordinance.

### Section 4.3 Boundaries of Districts

Unless otherwise specified, the boundary lines of Zoning Districts shall be interpreted as following along section lines or customary subdivisions or sections, or the center lines of highways, streets, or waterways; or the shoreline of water bodies; or the boundary lines of recorded plats for subdivisions, or property lines of legal record at the office of the Montmorency County Register of Deeds on the date of enactment of this Ordinance.

### Section 4.4 Determinations by Township Zoning Board of Appeals

All questions concerning the exact location of any Zoning Districts not clearly described shall be determined by the Township Zoning Board of Appeals consistent with the purpose of this Ordinance upon written application through the office of the Township Zoning Administrator, or upon its own action.

### Section 4.5 Zoning of Vacated Areas

Whenever any street, alley, highway or public right-of-way within the Township is vacated by official government action and when the right-of-way lands attach to and become part of the land adjoining the right-of-way, the vacated property shall automatically acquire and be subject to the provisions of the Zoning District of the abutting property. In the case of a vacated right-of-way which also serves as a district boundary, the center line of the vacated right-of-way shall remain the boundary line, and the lands on either side of the center line shall become attached to their respective adjoining properties.

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## **ARTICLE V DISTRICT REGULATIONS**

In addition to zoning regulations, all zoning districts within the Township shall be governed by the Township Ordinances.

### **Section 5.1 Agriculture District, A**

The following provisions shall apply to all uses in this District.

#### **Section 5.1.1 Intent**

The predominant land uses in this District are agricultural and rural in character, embodying agricultural lands and adjoining with bodies of water, forestlands, and open country. It is the intent of this District to conserve and promote the general continuance of these uses. However, the provisions of this District also recognize the gradual extension of residential and other property uses into the District and the importance of adopting good standards to guide such developments in the interest of overall good land and resource use. Since certain uses are generally accepted as compatible with agricultural and rural residential developments, if properly integrated, the inclusion of such uses is provided by special approval.

#### **Section 5.1.2 Permitted Uses**

Except as provided by Section 2.2, the use of all lands, premises and resources and the erection and use of all buildings and structures shall be limited to the following.

##### **A. Principal Permitted Uses (Not Subject to Special Approval)**

1. Single-family dwellings.
2. Crop and livestock farms (except for commercial animal feeding operations), including roadside stands, tree farms and other specialty crops.
3. Processing of products on the farm premises, provided the facilities for customer entry, exit, and parking are provided.
4. Churches or places of worship, and related religious buildings and facilities, but not including tents or other temporary structures. (Section 7.16)
5. Forest preserves.
6. Golf courses. (Section 7.16)
7. Hunting and fishing cabins.
8. Publicly owned buildings and community facilities.
9. Publicly owned and operated parks, playgrounds, and golf courses with customary service buildings and structures.
10. Sawmills.
11. Wildlife preserves.
12. Adult foster care home, family.
13. Day care home, family.

##### **B. Principal Uses Subject to Special Approval (Section 7.14)**

1. Airports. (Section 7.16)
2. Animal sales yards. (Section 7.16)
3. Commercial animal feeding operations, conducted under the Michigan Department of Agriculture's Generally Accepted Agricultural and Management Practices.

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4. Telecommunication towers, alternative tower structures and antennas. (Section 7.16)
5. Cemeteries, including columbaria, mausoleums, and crematories when located on not less than five (5) acres.
6. Circus and carnival lots not less than three hundred (300) feet from any dwelling, for a period not to exceed two (2) weeks of operation.
7. Commercial riding stables and academies, when located on not less than twenty (20) acres, and not less than three hundred (300) feet from any dwelling. (Section 7.16)
8. Guest ranches, hunting and fishing resorts, resort hotels, including accessory facilities such as stables, corrals, swimming pools, food services, and incidental retail sales and services, when located on not less than twenty (20) acres.
9. Hospitals, clinics, convalescent homes, adult foster care congregate facilities, day care centers (but not including penal or correctional institutions).
10. Pony riding, commercial, without stables, when located not less than three hundred

(300) feet from any existing dwelling.

11. Radio-TV stations.
12. Snowmobile trails.
13. Rifle ranges.
14. Summer camps when located on not less than twenty (20) acres.
15. Real estate sales offices in connection with a specific development for a period not more than that specified at the time special approval is granted.
16. Adult foster care homes, group.
17. Day care homes, group.
18. Gas and oil processing facilities. (Section 7.16)
19. Home occupations. (Section 7.16)
20. Bed and breakfast facilities. (Section 7.16)
21. Commercial kennels. (Section 7.16)

### **Section 5.1.3 Accessory Uses, Buildings and Structures**

Accessory use buildings and structures customarily incidental to the principal permitted use or special approval use are permitted.

### **Section 5.2 Recreational/Residential District, Rec-1**

The following provisions shall apply to all uses in this District.

#### **Section 5.2.1 Intent**

In keeping with the special character of portions of Vienna Township, most notably the lakes, this District is developed to permit the diversification of uses generally compatible with recreational development and yet limiting the use applicable to this District when such uses would constitute a detriment to the natural environment.

#### **Section 5.2.2 Permitted Uses**

Except as provided by Section 2.2, the uses of all lands, premises and resources and the erection and use of all buildings or structures shall be limited to the following.

#### **A. Principal Permitted Uses (Not Subject to Special Approval)**

1. Single-family dwellings.  
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2. Cottages, vacation homes, and seasonal dwellings.
3. Crop and livestock farms (except for commercial animal feeding operations), including roadside stands, tree farms and other specialty crops.
4. Hunting preserves.
5. Wildlife preserves.
6. Summer camps on not less than twenty (20) acres.
7. Golf courses. (Section 7.16)
8. Guest ranches, or resorts including accessory facilities on not less than twenty (20) acres.
9. Adult foster care home, family.
10. Day care home, family.

#### **B. Principal Uses Subject to Special Approval (Section 7.14)**

1. Service uses.
  - a. Grocery stores with not more than four thousand (4,000) square feet of floor area.
  - b. Self-service laundry.
  - c. Bait and tackle shops with not more than one thousand (1,000) square feet of floor space.
2. Snowmobile trails.
3. Recreational vehicle courts, campgrounds. (Section 7.12)
4. Adult foster care homes, group.
5. Day care homes, group.
6. Gas and oil processing facilities. (Section 7.16)
7. Home occupations. (Section 7.16)
8. Bed and breakfast facilities. (Section 7.16)
9. Telecommunication towers, alternative tower structures and antennas. (Section 7.16)
10. Hospitals, clinics, convalescent homes, adult foster care congregate facilities, day care

centers (but not including penal or correctional institutions).

**Section 5.2.3 Accessory Uses, Buildings and Structures**

Accessory uses, buildings and structures customarily incidental to the principal permitted use or special approval use are permitted.

**Section 5.3 Single-family Residential District, R-2**

The following provisions shall apply to all uses in this District.

**Section 5.3.1 Intent**

The purpose of the provisions of this District is to reserve areas principally for single-family residential use, and maintain safe and desirable conditions for year round family living, and primarily to promote the proper use, enjoyment, and conservation of the water, land, topographic and vegetation resources of the area of the Township deemed particularly adapted to such uses.

**Section 5.3.2 Permitted Uses**

Except as provided by Section 2.2, the use of all lands, premises and resources and the erection and use of all buildings and structures shall be limited to the following uses.

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**A. Principal Permitted Uses (Not Subject to Special Approval)**

1. Single-family dwellings.
2. Churches or places of worship and related religious buildings and facilities, but not including tents or other temporary structures.
3. Publicly owned and operated recreation areas, parks, playgrounds, with customary service buildings and structures.
4. Cottages, vacation homes, seasonal dwellings.
5. Adult foster care home, family.
6. Day care home, family.

**B. Principal Uses Subject to Special Approval (Section 7.14)**

1. Home occupations. (Section 7.16)
2. Bed and breakfast facilities. (Section 7.16)
3. Adult foster care home, group.
4. Day care home, group.

**Section 5.3.3 Accessory Uses, Buildings and Structures**

Accessory uses, buildings and structures customarily incidental to the principal permitted use or special approval use are permitted.

**Section 5.4 Mixed Residential District, R-3**

The following provisions shall apply to all uses in this District.

**Section 5.4.1 Intent**

The intent of the R-3 District is to provide for the widest variety of housing types in a single district, to provide for lodging and rooming houses under specific capacities and to serve the need of the Township for garden apartments, townhouses, and group housing similar in character and density.

**Section 5.4.2 Permitted Uses**

Except as provided by Section 2.2, the use of all lands, premises and resources, and the erection and use of all buildings and structures shall be limited to the following.

**A. Principal Permitted Uses (Not Subject to Special Approval)**

1. Single-family dwellings, vacation homes and seasonal dwellings.
2. Two-family dwellings.
3. Multiple-family dwellings. (Section 7.16)
4. Churches or places of worship and related religious buildings and facilities, but not including tents or other temporary structures. (Section 7.16)
5. Lodging, boarding and tourist homes, bed and breakfast facilities. (Section 7.16)
6. Schools.
7. Adult foster care home, family or group.
8. Day care home, family or group.

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**B. Principal Uses Subject to Special Approval (Section 7.14)**

1. Hospitals, clinics, convalescent homes, adult foster care congregate facilities, day care centers (but not including penal or correctional institutions).
2. Home occupations. (Section 7.16)

**Section 5.4.3 Accessory Uses, Buildings and Structures**

Accessory uses, buildings and structures customarily incidental to the principal permitted use or special approval use are permitted.

**Section 5.5 Mobile Home Park District, MH**

The following provisions shall apply to all uses in this District.

**Section 5.5.1 Intent**

The intention of these regulations is to provide for a stable and sound environment for mobile home residential development at a high density. There is no intention to promote, by these regulations, a residential area of lower quality and desirability than the other residential areas, although a higher density is permitted.

**Section 5.5.2 Permitted Uses**

Land and/or buildings in the MH Zoning District may be used for mobile home parks for the location of three (3) or more mobile homes and shall be developed pursuant to the requirements of The Mobile Home Commission Act, Public Act 96 of the State of Michigan, 1987, as amended, and shall be licensed by the State of Michigan according to the Act; provided the following conditions are satisfied.

A. Internal Roads: Internal roads in mobile home parks shall have access to a public thoroughfare or be connected to such road by a permanent easement, shall be paved, and shall follow additional requirements of Manufactured Housing Commission Rules. Each home site shall be provided with two (2) parking spaces. A minimum of one (1) additional parking space for every three (3) home sites for visitor parking shall be provided within five hundred (500) feet of the home sites. Additional parking requirements per Manufactured Housing Commission Rules shall be followed.

B. Layout: The layout of the mobile home park and included facilities shall be in accordance with acceptable planning and engineering practices and shall provide for the convenience, health, safety and welfare of the residents, as required by the Manufactured Housing Commission Rules.

C. Buffering and Screening: An obscuring wall, fence or landscape screen not less than four (4) nor more than six (6) feet in height may be required by the Planning Commission, during site plan review, on all sides of the mobile home park, with the exception of that portion providing ingress and egress to the development.

D. Setup: Units shall be attached to a Michigan Manufactured Housing Commission approved foundation or basement and anchoring system, and shall be installed according to manufacturer's setup instructions.

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E. Spacing: Mobile homes shall be placed in such a manner as to provide minimum safe distance on all sides from neighboring units and other structures, according to the Manufactured Housing Commission Rules.

F. Recreation and/or open space: A mobile home park that contains fifty (50) or more home sites shall have not less than two percent (2%) of the development's gross acreage designated as open space, but not less than twenty-five thousand (25,000) square feet. Such area (including accompanying equipment) shall be developed and maintained by the management to provide safe and healthful recreation for residents of the development. Any yard areas and open spaces shall be maintained in a clean, presentable condition at all times.

G. Height Regulations: No building shall exceed twenty-five (25) feet or two (2) stories in height, whichever is less.

H. Area Regulations: Each mobile home park shall be in single ownership and shall contain a minimum land area of ten (10) acres. The minimum mobile home site area shall be five thousand (5,000) square feet with a minimum width of fifty (50') feet.

I. Floor Area Regulations: Each dwelling unit in a mobile home park shall have a minimum of

seven hundred twenty (720) square feet of usable ground floor area exclusive of porches, decks, patios, garages, attics and basements.

**Section 5.6 Commercial District, C**

The following provisions shall apply to all uses in this District.

**Section 5.6.1 Intent**

The intent of establishing this Commercial District is to cater to the needs of the motoring public and the needs of an extended consumer population, in addition to the Township residents. This District typically accommodates those retail and business activities which are highway oriented or create extensive pedestrian-vehicle conflict (gas station drives across pedestrian sidewalks), or are accompanied by cyclical high use periods with the primary means of transportation being vehicular, as opposed to pedestrian, to on-site parking facilities. It is also the purpose of the District to permit a wide variety of business types.

**Section 5.6.2 Permitted Uses**

Except as provided by Section 2.2, the use of all lands, premises, and resources and the erection and use of all buildings and structures shall be limited to the following.

**A. Principal Permitted Uses (Not Subject to Special Approval)**

1. Residential uses (single-family, two-family, multiple-family dwellings).
2. Art galleries, antique shops.
3. Bakeries, not providing wholesale distribution.
4. Banks and financial institutions.
5. Business and professional offices.
6. Curio making.
7. Florist shops.
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8. Jewelry stores.
9. Libraries, museums.
10. Parks (public).
11. Personal service shops (beauty, dressmaking, tailoring, barber, shoe repair and the like).
12. Photography studios.
13. Grocery stores.
14. Carpentry, plumbing, electrical sales, service and contracting offices.
15. Upholstering, interior decorating.
16. Civic, social and fraternal buildings.
17. Nurseries, garden supply, greenhouse, fruit and vegetable stands.
18. Lodging, boarding, tourist homes.
19. Motels, hotels.
20. Printing, publishing, blueprint, photocopy shops.
21. Radio-TV, electronics and computer sales and service.
22. Real estate offices.
23. Restaurants.
24. Bowling alleys.
25. Golf driving ranges and miniature golf.
26. Parking lots.
27. Public buildings.
28. Swimming pools- public and private.
29. Pet sales and veterinary clinics not including outside kennels.
30. Appliances.
31. Furniture.
32. Hardware, sporting goods sales, excluding firearms sales.
33. Taverns, night clubs.
34. Second-hand stores not including outside sales and displays.
35. Uses similar to the above.

**B. Principal Uses Subject to Special Approval (Section 7.14)**

1. Propane gas sales and service.
2. Fuel and oil storage, sales and service.

3. Gas and oil processing facilities. (Section 7.16)
4. Sexually oriented businesses. (Section 7.16)
5. Automotive sales and service, including body shops.
6. Boat sales and service.
7. Building materials sales.
8. Snowmobile sales and service.
9. Sign painting.
10. Laundromats, laundries and dry cleaning.
11. Farm machinery sales and service.
12. Mobile home sales and service.
13. Firearms sales.
14. Businesses requiring outside storage and display.
15. Gasoline service stations. (Section 7.16)
16. Businesses with drive-thru facilities.
17. Rental storage facilities, both indoor and outdoor.
18. Uses similar to the above.

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### **Section 5.6.3 Accessory Uses, Buildings and Structures**

Accessory uses, buildings and structures customarily incidental to the principal permitted use or special approval use are permitted.

### **Section 5.7 Industrial District, I**

The following provisions shall apply to all uses in this District.

#### **Section 5.7.1 Intent**

The primary intent of this District is to provide areas within the Township for the encouragement, promotion and conduct of industries, for processing raw materials and finished products, for storage of raw materials and industrial products, and for wholesale commercial establishments, including office facilities and employee facilities customarily associated with any permitted use, PROVIDED, that no use shall be permitted which constitutes a nuisance to any prior existing use of any adjacent premises.

#### **Section 5.7.2 Permitted Uses**

Except as otherwise provided in this Ordinance, the use of all lands, premises and resources and the erection and use of all buildings and structures shall be limited to the following.

#### **A. Principal Uses Subject to Special Approval (Section 7.14)**

1. The production, processing, assembly, manufacturing or packaging of any goods, or material including testing, repair, storage, distribution and sale of such products.
2. Airports. (Section 7.16)
3. Machine shops.
4. Redi-mix concrete, asphalt plants.
5. Reduction, conversion and disposal of waste material, but not as a dump.
6. Sales and service of farm machinery, fertilizers, feeds and other farm supplies.
7. Storage and warehousing, but not including commercial explosives or commercial bulk storage of flammable liquid or gases.
8. Truck terminal, maintenance and repair.
9. Any industrial use which meets the intent and standards of the district.
10. Junkyards, salvage yards. (Section 7.13)
11. Sanitary landfills. (Section 7.13)
12. Chemical plants.
13. Race tracks.
14. Gas and oil processing facilities. (Section 7.16)

#### **Section 5.7.3 Performance Standards**

All property uses shall be subject to the following applicable conditions.

A. Use of Buildings and Structures - In general, all operations shall be conducted within enclosed buildings, and exterior yard storage shall not be exposed to public view. No front yard shall be used for parking, storage, loading activities, or accessory structures except landscaping.

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B. Offensive and Hazardous Emissions - No use shall discharge any product dust, smoke or odorous matter or noxious or toxic fumes or physical vibrations, or heat or glare beyond the boundaries of the premises.

C. Operating Conditions - Application for a building permit shall be accompanied by a written statement of the property owner on the effects of the operations on traffic, on water and air pollution, on noise and glare conditions, on fire and safety hazards, on emission of dangerous or obnoxious matter, and on the proposed treatment of any such conditions to maintain the same within the limitations of this Ordinance. It shall show the plans for the disposal of sewage and all industrial wastes. It shall specify the fuels to be used, including smoke standards established by the State.

D. Determination by Township Planning Commission - Following the receipt of application, the Township Zoning Administrator shall file his recommendation with the Township Planning Commission, which shall then make determination. The Commission shall hold a public hearing before authorizing issuance of a zoning permit.

Section 5.7.4 Accessory Uses, Buildings and Structures

Accessory uses, buildings and structures customarily incidental to the special approval use, are permitted.

### **Section 5.8 Extractive District, E**

The following provisions shall apply to all uses in this District.

#### **Section 5.8.1 Intent**

This District is designed for those uses which from time to time must make use of the land to provide such materials as sand, gravel, etc., which can only be secured by use of natural properties in the area.

#### **Section 5.8.2 Permitted Uses**

A. Principal Permitted Uses (Not Subject to Special Approval)

1. Sand and gravel operations.
2. Sod farming.
3. Borrow pits.

B. Principal Uses Subject to Special Approval (Section 7.14)

1. Redimix concrete plants.
2. Asphalt plants.
3. Rock and concrete crushing operations.

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### **Section 5.8.3 Dimension Requirements**

All uses permitted in this District shall conform to the dimension requirements as outlined in Section 6.1.1. These requirements are as follows.

1. Minimum lot size 40 acres
2. Minimum front yard 100 feet
3. Minimum side yard 100 feet
4. Minimum rear yard 100 feet

### **Section 5.8.4 Accessory Buildings**

Any building, which is deemed an accessory to and part of any use permitted in this district, shall be permitted, so long as the restrictions placed on principal buildings and structures in this district are followed.

### **Section 5.8.5 Extractive Industries Requirements**

A. Height Requirements: Buildings and appurtenances, such as mechanical equipment, stacks and towers, are subject to such height requirements as stipulated by the Planning Commission.

B. Performance Standards: In addition to complying with the Performance Standards contained in Section 6.7.3 of this Ordinance, the operator shall provide the following:

1. Construct a berm of topsoil to adequately protect the site from view of neighboring property owners or adjacent roadway traffic. The berm shall be not less than (6) feet in height and include gates at all access points, which shall be kept locked when

operations are not in progress.

2. Where an extractive site is less than three hundred (300) feet from an occupied structure, the Planning Commission may (in addition to the berm) require the erection of a fence, no less than four (4) feet in height, complete with gates which shall remain locked when operations are not in progress.

3. Any roads used for the purpose of ingress and egress to the extractive site that abuts a paved road and which is located within three hundred (300) feet of occupied structures, shall be kept free of dust by hard topping with cement, bituminous substance, or chemical treatment.

4. The slopes of the banks of the extractive site shall, in no event, exceed one (1) foot horizontal to one (1) foot vertical, and where ponding water results from operation, the slopes of the banks shall not exceed three (3) foot horizontal to one (1) foot vertical. This slope must be maintained and extended into the water to a depth of not less than five (6) feet.

6. Where extractive operations result in a body of water, the operator shall place appropriate "KEEP OUT DANGER" signs around said premises not more than two hundred (200) feet apart.

6. No cut or extraction shall be made closer than one hundred (100) feet from any property line or road right-of-way line, except during the reclamation process, provided, however, that the Planning Commission may prescribe stricter requirements in order to give sublateral support to surrounding property where soil or geographic conditions warrant.

7. The Planning Commission may require such other performance standards where, because of peculiar conditions, they deem it necessary for the protection of health, safety, and well being of the inhabitants of the Township.

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C. Site Rehabilitation Requirements: Within one (1) year following termination of extractive operations within any area of the site, all excavated overburden, berms or other materials extending above the natural surfaces (the surface of the ground existing prior to commencement of the operation) shall be leveled or removed, and the surface of the entire parcel restored to a usable condition for development or agriculture. The excavated area shall be graded so that no gradients in disturbed earth, shall be steeper than one (1) foot of rise in three (3) feet of horizontal distance. The area so graded shall be seeded with an appropriate grass type to minimize soil erosion.

D. Mining Operations Plan Map: All activities undertaken must comply with a general Mining Operations Plan, which must be submitted at the time of site plan review application. This plan must include the proposals and timetables for reclamation of the mining area.

E. In addition to the above requirements, the Planning Commission shall consider the following:

1. The size of the property from which topsoil, sand, gravel, or similar materials are to be removed.

2. The amount of topsoil, sand, gravel, or similar materials to be removed.

3. The purpose of such removal.

4. The effect of such removal in causing a safety hazard, creating erosion problems, or altering the groundwater table.

5. The potential for such removal to create sand blows, stagnant water pools or swampy areas.

6. The effect of such removal on the environment and the natural topography and the potential destruction of any natural resource.

7. Potential traffic congestion and problems because of trucks or other vehicles utilized to haul and transport the materials removed.

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## **ARTICLE VI BUILDING REGULATIONS**

The following provisions shall apply to all buildings hereafter erected.

### **Section 6.1 Principal and Accessory Building Requirements**



Lot area, lot width, setbacks for front, side and rear yards and height limitations for buildings erected, altered, removed, enlarged after the effective date of this Ordinance must conform to the standards shown in **Section 6.1.1.**

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**Section 6.1.1 Zoning District Requirements for Principal and Accessory Buildings on Lots  
Minimum Average Minimum Yard in Feet Maximum Minimum Floor**

**District Lot or Minimum Lot**

**Parcel Area Width in Feet Front Side Rear**

Agriculture A 2A 200 40 20 20

Recreational/Residential

2A 150 40 20 20

Rec-1

Single-family Residential

1 A 150 40 # 15

R-2

Mixed-family-Residential

R-3 1 A 150 30 # 10

10 A tract NA 40 20 20 Mobile Home Park MH

5,000 sf lot 40 10 202 202

Commercial C 20,000 sf 100 25 10 10

Industrial I 40 A1 NA 40 25 25

Extractive E 40A NA 100 100 100

Abbreviations:

A acres

sf square feet

DU dwelling unit

NA not applicable

1for a single industry or for a lot within an industrial park the minimum parcel size is three (3) acres

2minimum separation between mobile home units

**Height in Feet**

50

35

35

35

25

25

35

40

NA

# Lots to 80 feet in width require side yards equal to 10% of the lot width, but not less than 6 feet

Lots over 80 feet in width, but less than 125 feet in width require minimum side yards equal to 12.5% of lot width

Lots over 125 feet in width require minimum side yards of 15 feet

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**Space**

720 sf

720 sf

720 sf

600 sf

720 sf

NA

NA

NA

Section 6.2 Supplementary Lot Provisions

#### Section 6.2.1 Lots of Record

Every building erected or altered shall be located on a lot the description of the boundaries of which are on public record, or in the case of land contract, on file with the Montmorency County Register of Deeds and adequate for identifying the lot and its boundaries. The burden of proof of the exact location of any lot lines on the premises shall rest with the owner.

#### Section 6.2.2 Dwelling Lots

Not more than one (1) dwelling, except in the case of two-family or multiple-family units, and except by special approval permit from the Planning Commission, shall be erected on any residential lots. In the case where the Planning Commission approves a second dwelling on the same parcel, adequate space shall be provided to accommodate a future lot split.

#### Section 6.2.3 Corner Lots

Corner lots shall have open yards on both streets. In corner lots under separate ownership on the effective date of this Ordinance, the buildable width shall not be reduced to less than thirtyfive (35) feet, except that there shall be a yard along the side street not less than twenty (20) feet in width and the interior side yard shall be not less than the minimum required for the zoning district where situated.

#### Section 6.2.4 Double Frontage Lots

Where lots have double frontage as distinguished from corner lots, the required setback shall be provided on both streets.

#### Section 6.2.5 Water Frontage Lots

On all lots abutting lakes or streams, no building or structure except boathouses, landing ramps and docks shall be erected less than twenty-five (25) feet from the edge of the legally established ordinary high water mark, (or if not established, then the highest known water level), PROVIDED, that no boathouse, landing ramp or dock shall be erected less than ten (10) feet from any side lines, and no boathouse shall exceed twelve (12) feet in height above said water level. Such lots shall be considered to be double frontage lots.

#### Section 6.2.6 Substandard Lots

Any lot of record which has less area and/or width and which was held under separate ownership on the effective date of this Ordinance, may be occupied by any permitted use specified by the zoning district, PROVIDED, the Township Planning Commission shall, on written application through the office of the Township Zoning Administrator, prescribe the yard and setback requirements, and PROVIDED that permit for construction of a well and septic system is granted by the Health Department.

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### **Section 6.3 Supplementary Yard Provisions**

#### **Section 6.3.1 Attached Accessory Buildings and Structures**

All attached buildings and structures, including garages, enclosed porches, breezeways and carports shall be considered a part of the main building in determining yard requirements, PROVIDED, that projecting eaves, chimneys, bay windows, balconies and like structures may project not more than four (4) feet beyond the line of the foundation into a required yard, PROVIDED, further, that unenclosed porches, patios, decks, platforms and paved terraces not covered by a roof or canopy may project not closer than five (5) feet to the lot line.

#### **Section 6.3.2 Commercial Buildings**

For commercial buildings located on corner lots, there shall be an open side yard not less than fifteen (15) feet in width measured from the street side lot line, PROVIDED, further, that where any adjacent lot is occupied or zoned R-1, R-2, or R-3, an open side yard not less than fifteen (15) feet in width measured from the street side lot line, PROVIDED, further, that where any adjacent lot is occupied or zoned for dwelling, an open side yard not less than fifteen (15) feet in width shall be maintained, and the property use screened by compact well-maintained evergreens, or a neatly finished wooden fence or masonry wall not less than six (6) feet in height.

#### **Section 6.3.3 Official Setback Lines**

Where an official line has been established for the future widening or opening of a street upon which a lot abuts, then the setback or side yard shall be measured from such official line to the nearest line of the building.

### **Section 6.3.4 Street, Avenue, Road or Highway Intersection**

To maintain traffic visibility, no building, structure, trees, bushes or other obstructions exceeding three (3) feet in height, except open fences through which there is clear vision, shall be erected, planted, or maintained less than twelve (12) feet from the intersection of the right-of-way boundary lines of any public roads or highways.

### **Section 6.4 Supplementary Height Provisions**

#### **Section 6.4.1 Columnar and Like Structures**

Height limitations shall not apply to belfries, chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, flagpoles, monuments, ornamental towers, spires, smoke stacks, stage towers, scenic lofts, tank and water towers, telecommunication towers, and similar structures.

#### **Section 6.4.2 Airport Neighborhood**

No building or structure within five hundred (500) feet of an airport shall exceed thirty-five (35) feet in height, nor be built in authorized flight paths of descent or ascent.

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## **ARTICLE VII GENERAL PROVISIONS**

### **Section 7.1 Unlisted Property Uses**

The Township Planning Commission shall have power on written request of a property owner in any zoning district to classify a use not listed with a comparable permitted use in the district and grant a permit for such use, giving due consideration to the provisions of Section 2.1 of this Ordinance. Petition for such classification and permit shall be made through the office of the Township Zoning Administrator. In granting of permit for any such classified use, the Planning Commission may attach such conditions and safeguards as may be deemed necessary for the protection of the public welfare, and for the proper use of development of the general neighborhood, and adjacent properties. If deemed incompatible, then such use may only be provided by due amendment to the Ordinance.

### **Section 7.2 Nonconformities**

#### **Section 7.2.1 Nonconforming Lots of Record**

In any district, principal structures and customary accessory buildings may be erected on any nonconforming lot which was a lot of record at the time of adoption of this Ordinance, provided permit for construction of a well and septic system is granted by the Health Department.

#### **Section 7.2.2 Nonconforming Uses**

Any nonconforming use of land, buildings or structures that is discontinued through vacancy, lack of operations or otherwise for a period of twelve (12) consecutive months or more, or for eighteen (18) non-consecutive months during any three (3) year period, shall be construed as abandoned, following which any use or resumption of use thereof shall conform to this Ordinance.

A nonconforming use shall not be changed to other than a conforming use, nor shall any nonconforming use be reverted to a former nonconforming use after use has been changed to a conforming use.

A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land, building or structure than was occupied at the effective date of this Ordinance.

In the event that an existing building or structure devoted to a nonconforming use is destroyed by any means; the building shall not be reconstructed to exceed the floor area prior to destruction of the building.

#### **Section 7.2.3 Nonconforming Buildings**

A nonconforming building may be enlarged, altered, or rebuilt in a way that does not increase its nonconformity.

A nonconforming building damaged or destroyed exceeding one-half (1/2) of its prior usable floor space shall not be restored except in conformity with the provisions of this Ordinance and issuance of a zoning permit.

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Nothing in this Ordinance shall prevent reasonably necessary repairs to a non-conforming building.

### **Section 7.3 Subdivision of Land**

All land hereafter divided into two (2) or more lots, for purpose of sale or lease for residential, commercial, industrial or other use shall be in conformity with the provisions of Section 6.1.1. Such lots shall be subject to all provisions of the zoning district in which the tract is located; governing area, width, frontage and other requirements concerning applicable land uses. No survey stakes or monuments shall be set with intent of permanent location until the proposed plan has been submitted to the Planning Commission for approval. Submission for such approval shall be made through the office of the Township Zoning Administrator. The width of any lot, parcel, or land division created after the effective date of this Ordinance shall not be less than twenty-five percent (25%) of the lot or parcel depth.

### **Section 7.4 Required Area or Space**

No lot, lots in common ownership, yard, court, parking space or any other place shall be divided, altered, or reduced as to be less than the minimum allowable dimensions as defined in this Ordinance. If such areas are already less than the minimum allowable dimensions, they shall not be divided, altered or reduced further.

### **Section 7.5 Principal Uses**

No lot may contain more than one (1) principal structure or use, except that upon determination by the Planning Commission, groups of apartment buildings, offices, retail business buildings, agricultural structures, or other similar groups of buildings may be considered principal structures or uses; and except by special approval permit by the Planning Commission. In the case where the Planning Commission approves a second dwelling on the same parcel, adequate space shall be provided to accommodate a future lot split.

### **Section 7.6 Water Supply and Sewage Disposal Facilities**

All water supply and sanitary sewage disposal systems either public or private, for any building hereafter erected, altered or moved upon any premises shall be subject to compliance with Health Department sanitary code requirements. Plans must be submitted to and approved by the responsible agencies. The written approval of such facilities by Health Department shall be filed with application for a Zoning Permit.

### **Section 7.7 Stormwater Retention**

Stormwater drainage in excess of natural conditions shall be retained on site. This provision may require stormwater retention ponds where appropriate. Where a retention pond is provided, the pond shall be surrounded by a fence not less than four (4) feet in height. An exception may be made for water leaving the site via an adequately sized existing stormwater ditch, stormwater pipe or through other stormwater facilities that will be developed at the same time as the proposed new use. Written approval from the County Road Commission and the County Drain Commissioner shall be required for any additional site run-off directed into a county road ditch and/or a county drain, or from the Michigan Department of Transportation if run-off is directed into a state road ditch.

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### **Section 7.8 Essential Services**

The erection, alteration or maintenance of essential services by public utility or municipal departments or commissions of overhead or underground gas, electrical, steam or water distribution systems, collection, communications, supply or disposal systems, including mains, drains, sewers, pipes, conduct wires, fire alarm boxes, cables, police call boxes, hydrants, towers, poles, traffic signals, electrical substations, gas regulator stations, and other similar equipment and accessories in connection with and reasonably necessary for furnishing of adequate service by such public utility or municipal department or commission, or for the public health or safety, or general welfare, shall be permitted as authorized or regulated by law and other ordinances of Vienna Township in every zoning district.

### **Section 7.9 Mobile Homes on Individual Parcels (Subject to County and State Codes)**

Mobile homes sited on individual parcels and not in a mobile home park shall meet the standards for minimum lot size, yard set-backs, minimum floor area and minimum dwelling unit width for the district in which they are located and shall meet the following additional standards:  
A. Mobile homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Mobile Home Commission

requirements.

B. Mobile homes shall be installed according to manufacturer's set up requirements, and the construction of the unit shall comply with the National Mobile Home Construction and Safety Standards Act of 1974 (HUD Code).

C. The wheels, axles and towing assembly shall be removed from a mobile home before the unit is attached to the foundation.

D. No mobile home shall have any exposed undercarriage or chassis, and skirting shall be manufactured of fire resistant material and certified as such by the manufacturer. Skirting shall be vented with louvered or similar vents at a minimum of six hundred (600) square inches per one thousand (1,000) square feet of living space. A minimum of one (1) vent shall be placed at the front and rear of the mobile home and two (2) on each exposed side. An access panel of sufficient size to allow full access to utility hookups located beneath the mobile home shall be installed.

E. If the mobile home is more than ten (10) years old at the time of placement, the owner shall provide evidence of building, plumbing and electrical inspection from any certified building inspector.

F. Any structural addition to a mobile home shall be constructed to comply with state building codes for single family dwellings if it is site built, or if it is a pre-manufactured expando, add-a-room, or tag-a-long addition it shall comply with the HUD Code. The addition shall not cover any exterior bathroom or bedroom window of the mobile home and shall not extend parallel along any or all of the mobile home for a distance greater than one-half (1/2) the length of the unit.

G. A mobile home shall not be used as an accessory building.

#### **Section 7.10 Substandard Dwelling Occupancy during Construction of a Dwelling**

For the express purpose of promoting the health, safety and general welfare of the inhabitants of the Township, and of reducing hazards to health, life and property, no basement-dwelling, cellar-dwelling, garage-house, tent, camper, travel trailer, recreational vehicle, mobile home not installed according to the requirements of this Ordinance, or other substandard structure shall PPP2036-01 R VII-3

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be erected or moved upon any premises and used for dwelling purposes except under the following applicable conditions:

A. The location of the substandard dwelling on the premises shall be in conformity with the setback requirements of the zoning district where located.

B. The water and sewage disposal facilities shall be approved by the Health Department, installation and approval of which shall precede occupancy of the substandard dwelling.

C. The use shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period in which a dwelling conforming to the provisions of this Ordinance is in process of erection and completion, but not to exceed six (6) months. One (1) additional six (6) month extension may be obtained from the Zoning Administrator beginning with the date of issuance of the zoning permit. The substandard dwelling shall be removed upon completion of construction of a dwelling complying with the requirements of this Ordinance.

D. Application for the erection and use of a substandard dwelling shall be made at the time of zoning permit application for the permanent dwelling. On approval and delivery of the permit, the owner shall certify in a space allocated for that purpose on the copy retained for filing with the Zoning Administrator, that he has full knowledge of the limitations of the permit, and the penalty that may be imposed for violation. No permit shall be transferable to any other person.

E. No annexes shall be added to a temporary substandard dwelling.

#### **Section 7.11 Recreational Vehicles**

Unless otherwise regulated in recreational vehicle courts or campgrounds in this Ordinance, recreational vehicles may be stored and/or occupied as temporary recreation housing in all districts, provided:

A. The unit is maintained in safe and ready running condition for travel, and can be towed from the premises by ordinary domestic vehicle at any time.

B. No recreational vehicle permitted under this section shall be set up as a permanent residence.

C. The unit shall not be enlarged with any structural annex or addition.

D. Recreational vehicles may be used as temporary dwellings in any district until the owner or occupant completes the construction or erection of a conventional housing unit for which building permit has been issued. Sanitary facilities are subject to the Health Department approval. (Refer to Section 7.6.)

E. Recreational vehicles shall not be stored on vacant lots in the R-2, R-3 or MH Zoning Districts. Recreational vehicles may be stored on lots with dwellings.

#### **Section 7.12 Recreational Vehicle Courts and Campgrounds**

Private recreational vehicle courts, tenting areas, and general camping grounds are permitted in Rec-1 Districts by special approval when the site plan has been reviewed and approved by the Planning Commission, provided that:

A. The minimum County and/or State of Michigan health requirements governing recreational vehicle courts and camping areas for public use are complied with and that the facility is licensed by the State.

B. The use is developed on a site of at least twenty (20) acres and is at least six hundred (600) feet in width.

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C. No person shall occupy any recreational vehicle or tent for more than six (6) months in any one calendar year.

D. The use is effectively screened from public streets and roads and adjacent R-2, R-3 and MH Districts.

E. Minimum size shall be one thousand two hundred (1,200) square feet for each site in a recreational vehicle court or campground.

#### **Section 7.13 Junkyards, Salvage Yards, Sanitary Landfills**

A. Location shall be not less than one hundred twenty-five (125) feet from any public highway and the use completely screened from sight by natural terrain, or by neatly finished and maintained wooden or masonry fence, or by well maintained evergreens.

B. Glare from any process such as arc welding, which emits harmful ultra-violet rays shall be screened so as to not constitute a hazard or nuisance to adjacent properties.

C. Application for Special Approval of the operation of a junkyard shall be accompanied by a written statement bearing the signature and address of the property owners of property located within one thousand (1,000) feet of the perimeter of the premises showing the approval, or disapproval, as the case may be, of each such property owner.

#### **Section 7.14 Uses Subject to Special Approval**

##### **Section 7.14.1 General Requirements**

Uses requiring special approval shall be subject to the general provisions of the zoning district wherein located, in addition to applicable provisions of this section to prevent conflict with or impairment of the principal permitted uses of the district. Each such use shall be considered an individual case.

##### **Section 7.14.2 Special Approval Procedures**

A. Application shall be submitted in triplicate through the office of the Zoning Administrator, to the Planning Commission, on a special form provided for that purpose, and shall include the following and shall be accompanied by the fee prescribed in the Schedule of Fees adopted by the Vienna Township Board, as provided.

1. Name of applicant and owner of the premises.

2. Legally recorded description of the premises.

3. Description of proposed use, including parking facilities, if required, and any exceptional traffic situations the use may occasion.

4. Site plan prepared according to **Section 7.15**.

5. Sewage and waste disposal facilities and water supply, existing or proposed for installation.

6. Use of premises on all adjacent properties.

7. A statement by applicant appraising the effects of the proposed use on the general

development of the neighborhood.

B. The Zoning Administrator shall file his recommendation of the proposed development with the Planning Commission, which shall consider the special approval request at a public hearing after notice has been given as follows. The notice shall be given neither less than five (5) nor more than fifteen (15) days before the date the application will be considered. Notice shall be published in a newspaper with general circulation in the Township and sent by mail or personal delivery to the property owners for which approval is being considered, PPP2036-01 R VII-5

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to all persons to whom real property is assessed within a minimum of three-hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within a minimum of three-hundred (300) feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The Planning Commission shall have the discretion of notifying property owners beyond the three-hundred (300) feet depending on the type of development. An affidavit of mailing or delivery of notice shall be maintained by the Zoning Administrator.

The notice shall describe the nature of the special approval request; indicate the property which is subject of the special approval request; state when and where written comments will be received concerning the request; state the time, date and place of the public hearing where the special approval will be considered.

C. After the hearing and review, the Planning Commission shall:

1. Approve the special approval application and required site plan. The Zoning Administrator shall then be directed to issue the special approval, or;
2. Approve the special approval application and required site plan subject to conditions, which are imposed in order to insure the special approval complies with standards stated in this Ordinance. The Zoning Administrator shall then be directed to issue the special approval, or;
3. Disapprove the special approval application and required site plan.
4. Provide a finding of fact on all decisions.
5. Notify the applicant within ten (10) working days of the Planning Commission's decision.
6. Incorporate the decision on a special approval use in a statement containing the conclusions relative to the special approval use under consideration which specifies the basis for the decision, and any conditions imposed.

D. If the Zoning Administrator finds that the conditions and stipulations of a special approval are not being adhered to, the Planning Commission shall give notice to the applicant of its intent to revoke the prior approval. Intent to revoke shall be made known to the applicant by registered letter sent to the applicant and signed by the Planning Commission Chair. The letter shall be received by the applicant thirty (30) days prior to the stated date of revocation and shall contain the reasons for revoking the special approval.

If the applicant notifies the Planning Commission within fifteen (15) days of the receipt of the above letter of his/her intent to rectify the violation, the Planning Commission may defer the revocation.

E. A disapproval of the special approval application and accompanying site plan by the Planning Commission may be appealed by the property owner or deSignated agent to the Zoning Board of Appeals.

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### **Section 7.14.3 Special Approval Standards for Review**

Applications for special approval shall be referred to the Planning Commission for review and

approval, disapproval, or approval with modifications or conditions. The special approval request and the required site plan shall be subject to the following special requirements, in addition to the requirements and standards of the zoning district where located, in order to prevent conflict with or impairment of the principal permitted uses of the zoning district.

A. The proposed development shall meet all design standards of this Ordinance and other applicable local or state codes, regulations, ordinances and administrative rules.

B. The density or use characteristics of the proposed development shall not be detrimental to adjacent properties and land uses.

C. The proposed development shall not place an extreme burden on or lead to the need for additional Township services and facilities.

D. The traffic characteristics of the proposed development shall not place an extreme or undue burden on the adjacent publicly available vehicular and/or pedestrian circulation facilities.

E. The character of the proposed development shall be in keeping with the existing or planned uses of the area.

F. The land use or activity is consistent with the public health, safety and welfare of the Township.

#### **Section 7.14.4 Effect of Special Approval Issuance**

The issuance of a special approval is deemed effective for only the lot or portion of the lot for which it was granted. If the use or construction has not commenced within twelve (12) months, the permit is void.

#### **Section 7.15 Site Plan Review**

##### **Section 7.15.1 Circumstances Requiring a Site Plan**

Site plans give the Planning Commission an opportunity to review development proposals in a concise, consistent manner. The use of a site plan insures that physical changes in the property meet with local approval and that building actually occurs as it was promised by the developer.

Site plans are required for the following reasons:

A. All new uses except single-family and two-family residential units, both permitted uses and special permit uses. See **Section 9.3** for single-family and two-family residential units.

B. Expansion or renovation of an existing use, other than a single-family and two-family residential use, which increases the existing floor space more than twenty-five percent (25%).

C. Changes of use for an existing structure, except for single-family and two-family residential uses.

D. Special approval uses.

E. Planned Unit Development.

F. Site Condominium Projects.

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##### **Section 7.15.2 Site Plan Data Required**

Each site plan submitted shall contain the following information, unless specifically waived in whole or in part by the Planning Commission.

A. The date, north arrow, scale and name of individual or firm responsible for preparing said plan. The scale must be at least one (1) inch = twenty (20) feet for parcels under three (3) acres and not less than one (1) inch = one hundred (100) feet for parcels three (3) acres or more.

B. The boundary line of the property, to include all dimensions and legal description.

C. The location of all structures on the site, including proposed drives, walkways, signs, exterior lighting, parking (showing the dimensions of a typical parking area), loading and unloading areas, common use areas and recreational areas and facilities.

D. The location and widths of all abutting rights-of-way.

E. The location of unusual environmental features, such as streams, wetlands, shorelines, etc.

F. The location and identification of all existing structures within a two hundred (200) foot radius of the subject property boundaries.

G. The name and address of the property owner.

H. The existing zoning district in which the site is located.



\. The location of all existing and proposed landscaping as well as all existing and proposed fences or walls and berming.

J. A location sketch of the proposed use or structure.

K. The type, location and size of all utilities existing and proposed for the site.

L. The location, size and slope of all subsurface drainage facilities.

M. A summary schedule and views should be affixed to site plans for proposed structures in applicable residential and commercial districts, giving the following information:

1. The number of dwelling units proposed, by type, including a typical floor plan for each type of unit.

2. The residential area of the proposed units in square feet, as well as area dimensions of driveways and staging areas.

3. Typical elevation drawings of the front and rear of each building.

N. For multiple family and mobile home park developments, the contour intervals of the topography of the existing and finished site.

#### **Section 7.15.3 Site Plan Submittal and Approval Procedures**

The site plan and all related information pertinent to the special permit approval (if applicable) shall be presented to the Zoning Administrator in three (3) copies by the property petitioner or applicant. The Zoning Administrator shall place the submittal on the agenda of the next regular Planning Commission meeting.

The Planning Commission shall have the responsibility and authorization to approve, disapprove or approve with modifications, the site plan in accordance with the zoning district in which the proposed use is located.

When approved, at least two (2) copies of the final approved site plan shall be signed and dated by the Chair of the Planning Commission. One (1) copy shall be kept on file by the Township Clerk, and the other approved copy shall be returned to the applicant or designated representative.

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#### **Section 7.15.4 Standards for Site Plan Review**

The site plan shall be reviewed in order to determine:

A. That the proposed use conforms to the uses permitted either by right or by special approval uses in the respective zoning district.

B. That the dimensional arrangement of buildings and structures conforms to the required yards, setbacks and height restrictions of the Ordinance, unless waived by variance granted by the Zoning Board of Appeals.

C. That the proposed site plan conforms to all use and design provisions and requirements (if any) as specified in this Ordinance.

D. That there is a proper relationship between the existing and proposed streets and highways within the vicinity in order to assure the safety and convenience of pedestrian and vehicular traffic.

E. That the proposed buildings, structures and entryways are designed to minimize adverse effects by providing for adequate access/egress, interior/exterior circulation, stormwater drainage, erosion, grading, signage, lighting and parking, as specified in this Ordinance or any County or State law.

F. That as many natural features of the landscape are retained as possible where they can furnish a barrier or buffer between the project and adjoining properties, or where they can assist in preserving the general safety, health and appearance of the neighborhood (i.e. controlling erosion or the discharge of stormwater, etc.)

G. That any adverse effects of the proposed project and activities emanating from it shall be minimized by appropriate screening, fencing, buffering or landscaping, as required by this Ordinance.

H. That a statement from the Health Department is submitted certifying that the on-site septic disposal system is adequate to meet the needs of the development.

I. That all buildings and structures are accessible to emergency vehicles.

J. That the site plan as approved is consistent with the intent and purpose of this Ordinance and to facilitate the Vienna Township Master Plan.

#### **Section 7.15.5 Modification of Site Plan**

Any conditions or modifications desired by the Planning Commission prior to approval shall be recorded in the minutes of the appropriate Planning Commission meeting. Any modification of the site plan required by the Planning Commission shall be so stated in writing to the applicant. The Planning Commission may, as it deems necessary to promote the intent of this Ordinance, require landscaping, walls, fences, drives and other improvements.

#### **Section 7.15.6 Performance Guarantee**

To insure compliance with the provisions of this Section and any conditions imposed thereunder, a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of improvements associated with a project for which site plan approval is sought, shall be deposited with the Township Clerk to insure faithful completion of the improvements. The performance guarantee shall be deposited when the Township issues the permit authorizing the activity or project. Deposit of the performance guarantee is not required prior to site plan approval. The Township shall return any unused portion of the deposit to the applicant in reasonable proportions to the ratio of work completed on the required improvements as work progresses.

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#### **Section 7.15.7 Revocation of Site Plan**

If the Zoning Administrator finds that the conditions and stipulations of an approved site plan are not being adhered to, the Planning Commission shall give notice to the applicant of its intent to revoke the prior approval of the site plan. Intent to revoke shall be made known to the applicant ten (10) days prior to the stated date of revocation and shall contain the reasons for revoking the approved site plan. The applicant may remedy the violation during this ten (10) day period, at which time he shall notify the Planning Commission which may then by official action, defer revocation.

#### **Section 7.15.8 Site Plan Revocation Appeal**

The decision of the Planning Commission to revoke a site plan may be appealed by the aggrieved party, the property owner, or his or her designated agent to the Vienna Township Zoning Board of Appeals. Such requests must be made within Sixty (60) days of the notice to the owner of such revocation action by the Planning Commission. Appeals to site plan revocation shall be heard according to the provisions of **Article X**.

#### **Section 7.15.9 Site Plan Expiration**

Site plan approval shall expire if the authorized work is not commenced within twelve (12) months after approval, or if work is suspended or abandoned for a period of twelve (12) months.

#### **Section 7.16 Site Development Standards**

Those permitted uses and special approval uses enumerated in any zoning district, and if included below, shall be subject to the requirements of this Section, in addition to those of the zoning district in which the use is located.

##### **A. Airports, Aircraft Landing Fields**

1. Privately owned and maintained noncommercial aircraft landing strips, more or less parallel to a public road, shall be set back from such road for a minimum distance of seventy-five (75) feet. Where a privately owned landing strip is situated more or less perpendicular to a public road, such landing strip shall be separated from said road by a distance of at least one hundred (100) feet;
2. All privately owned and maintained aircraft landing strips shall be at least four hundred (400) feet from the nearest residential dwelling unit and at least four hundred (400) feet from all other buildings not designed as accessory structures for said aircraft landing field; and
3. All other aircraft landing fields or airports must conform to applicable federal and state regulations and be approved by appropriate federal and state agencies prior to submittal of a site plan to the Planning Commission.

##### **B. Churches and Places of Worship**

1. Minimum lot area shall be two (2) acres;
2. Minimum lot width shall be one hundred fifty (150) feet;
3. For everyone (1) foot of height (excluding spire) above the maximum building height

allowable for the district in which the church is located, an additional one (1) foot setback on all sides of the main structure shall be required; and

4. Proper vehicular ingress, egress and off-street parking requirements shall be maintained according to **Section 7.19.**

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#### C. Commercial and Industrial Uses

Outside storage of trash and/or garbage shall be located in the rear or side yards, screened from view, and vehicular access to such storage shall be maintained.

#### D. Commercial Kennels and Animal Hospitals

1. All kennels and animal hospitals shall be operated in conformity with all pertinent county and state regulations;

2. Buildings where animals are kept, animal runs and/or exercise areas shall not be located nearer than two hundred fifty (250) feet of any occupied neighbor's dwelling or any adjacent building used by the public, and shall not be located in any required setback areas; and

3. The Planning Commission upon review of the special approval request may require planted noise barriers.

#### E. Commercial Riding Stables

1. For breeding, rearing and/or housing of horses, the minimum lot size, including a residential dwelling, shall be twenty (20) acres;

2. Structures used as stables shall not be located closer than sixty (60) feet from any property line or less than three hundred (300) feet from any neighboring residential dwelling;

3. Animals shall be paddocked in a suitably fenced area surrounding or adjacent to said stable to preclude their approaching nearer than sixty (60) feet of any neighboring residential dwelling; and

4. Stable and corral facilities shall be constructed in such a way that dust, noise, odor and drainage problems will be minimized so as not to constitute a nuisance or hazard to premises on the same lot or adjoining properties.

#### F. Drive-in Theaters

1. Minimum lot size shall be five (5) acres;

2. The lot on which a drive-in theater is located shall be at least one thousand (1,000) feet from a residentially zoned district;

3. The lot on which the facility is located shall be adjacent to a major road or thoroughfare and shall have separate ingress and egress abutting such road and thoroughfare.

Ingress and egress shall be located at least one hundred fifty (150) feet from the nearest intersection as measured from the right-of-way line of the intersecting road or thoroughfare;

4. Minimum front yard setback for all structures shall be fifty (50) feet;

5. The facility shall be completely surrounded by a fence at least six (6) feet in height;

6. The lot on which the facility is located shall be paved with appropriate material, except for building sites and landscaped areas;

7. Adequate drainage and lighting shall be provided. All utilities on the site shall be placed underground;

8. The theater screen shall be situated so as not to face directly, or obliquely by less than seventy-five (75) degrees, any major thoroughfare;

9. Space shall be provided on the site to allow for a reasonable number of waiting vehicles standing at the entrance to the theater; and

10. Acceleration and deceleration lanes shall be provided at points of egress and ingress to the site.

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#### G. Funeral Homes

1. Minimum lot area shall be two (2) acres;

2. A well-designed and landscaped off-street vehicle assembly area for funeral processions

shall be maintained in addition to required off-street parking and related vehicle maneuvering space; and

3. A caretaker's residence may be located inside the main facility.

#### H. Golf Courses

1. Any main and accessory buildings shall be set back a minimum of one hundred (100) feet from all street rights-of-way; and

2. Areas for vehicular parking shall be maintained on course property. Adequate parking space shall be provided for all anticipated rates of course usage or capacity.

#### I. Livestock Auction Yards and Animal Slaughter Houses

1. All structures and open areas used for operations shall be located no closer than five hundred (500) feet from the nearest residence; and

2. The Planning Commission upon review of the special permit request may require fencing of a type and height to be determined by the Planning Commission.

#### J. Multiple-Family Dwelling Units

1. Ingress, egress and off-street parking facilities shall conform to the standards set forth in **Section 7.19**;

2. The lot or parcel on which a multiple-family structure is situated shall abut, at least on one (1) side, a public road;

3. When a multiple-family structure is located adjacent to a commercial, industrial or single family residential lot, a buffer or protective screening shall be provided;

4. Vehicular access to the rear of the site for the provision of services shall be provided; and

5. Trash and garbage collection facilities shall be screened and be located to the rear of the site.

#### K. Plant or Landscape Nurseries

1. Storage or display area shall meet all applicable yard setbacks and parking requirements stated in this Ordinance;

2. Organic plant food, soil or fertilizer shall be sufficiently packed or stored so as not to create adverse health effects or odors for neighboring property owners;

3. An office and/or storage building may be constructed or placed on the premises. Such building shall conform to all applicable yard setback and floor area requirements;

4. Minimum lot size shall be two (2) acres;

5. The premises may be surrounded by fencing or screening; and

6. Off-street loading and parking facilities shall be provided.

#### L. Scrap Tire Storage

1. Any person accumulating or storing scrap tires in the Township shall apply for license issued by the Michigan Department of Environmental Quality following the requirements of the Scrap Tire Regulatory Act, as amended, in addition to conditions as may be required under the Township's special approval process.

2. The operation shall have a front yard setback of one hundred twenty-five (125) feet.

3. The operation shall be enclosed by an obscuring fence or wall, earthen berm or evergreen hedge not less than eight (8) feet in height or not less than the stored tires, whichever is greater.

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#### M. Sexually Oriented Business

1. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.

2. No sexually oriented business shall be established on a parcel that is within two hundred (200) feet of any residential district.

3. No sexually oriented business shall be established on a parcel within two hundred (200) feet of any residence, park, school, childcare organization, or place of worship. The distance shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, school, childcare organization, or place of worship.

4. The proposed use shall conform to all specific density and setback regulations, etc. of the zoning district in which it is located.

5. The proposed use must meet all applicable written and duly adopted standards of Vienna Township and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.

6. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not be visible from neighboring properties or adjacent roadways.

7. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.

8. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business. Lettering no less than two (2) inches in height shall state: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

9. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.

10. Hours of operation shall be limited to 12:00 noon to 12:00 midnight.

11. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.

12. Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:

- a. Is handicap accessible to the extent required by the Americans with Disabilities Act;
- b. Is unobstructed by any door, lock or other entrance and exit control device;
- c. Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
- d. Is illuminated by a light bulb of wattage of no less than twenty-five (25) watts;
- e. Has no holes or openings in any side or rear walls.

N. Telecommunication Towers, Alternative Tower Structures and Antennas

1. Application Requirements: The following information shall be provided in support of an application to construct a wireless telecommunication tower:

a. Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunication tower is designed to collapse.

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b. A map depicting the existing and known proposed location of wireless telecommunication facilities, including wireless telecommunication antenna attached to alternative tower structures, within two and one-half (2 1/2) miles surrounding the Township as well as within the proposed service area radius.

c. The name, address and telephone number of the person to contact regarding site maintenance or other notification purposes. This information shall be periodically updated by the tower owner.

d. A statement, which indicates the applicant's intent to allow the co-location of other antenna, provided that the cost of modifying the existing tower is borne by the collocating entity and reasonable compensation is paid by the co-locating entity.

2. Evidentiary Requirements: The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures 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, other alternative towers or alternative technology.

Evidence submitted to demonstrate that no existing tower, alternate tower structure or

alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or alternative tower structures are located within the geographic area which meet applicant's engineering requirements.
- b. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or alternative tower 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 alternative tower structures, or the antenna on the existing towers or alternative tower structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable
- g. The applicant demonstrates that an alternative technology that does not require the use of towers or alternative tower structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

3. Setbacks: The following setback requirements shall apply to all towers for which a special use permit is required:

- a. Towers must be set back a distance equal to at least one hundred percent (100%) of the height of the tower from any adjoining lot line.
- b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

4. Security fencing: Towers and attendant accessory structures shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device.

5. State or Federal Requirements: The applicant must demonstrate that any proposed tower meets or exceeds current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and  
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antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

6. Aesthetics: Towers and antennas shall meet the following requirements:

- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- d. Where a feasible alternative exists, towers, alternative tower structures and

supporting structures shall not utilize a power source which generates noise able to be heard by a person with normal hearing ability at adjoining property lines or public property; however, this subsection shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.

7. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

8. Compliance with Codes: Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.

9. Interference with Residential Reception: Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.

10. Signs: No signs other than signs required pursuant to federal, state, or local law or ordinance shall be allowed on an antenna or tower.

11. Spacing - Towers: Towers shall be located no closer than one (1) mile from an existing telecommunication tower or alternative tower structure, as measured in a straight line between the base of the existing tower and the proposed base of the proposed tower.

12. Spacing - Residences: A tower shall not be located within two hundred feet (200') or three hundred percent (300%) of the height of the tower, whichever is greater, of a single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this subsection shall be measured from the base of the tower structure to the lot line of the single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons.

13. Removal of Abandoned Antennas and Towers: Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with removal, the owner shall restore the site of the antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear.

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Failure to remove an abandoned antenna or tower within ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this subsection.

O. Home Occupations

While Vienna Township recognizes that many residents feel the necessity to work at home, the Township also recognized the rights of all residents to be free from actual or potential nuisance which may be caused by non-residential activities conducted in a residential zone. The intent of this section is to ensure that any home occupation is compatible with other permitted uses in the district where located and to maintain and preserve the residential character of the neighborhood.

1. The home occupation shall be clearly incidental and subordinate to the principal use of the premises for residential purposes. The exterior appearance of the structure shall not be altered and the occupation within the residence shall not be conducted in a manner which would substantially alter the premises' residential character.

2. The home occupation is conducted primarily by the person or persons occupying the premises as their principal residence. Not more than one (1) non-resident persons shall be employed to assist with the business. Such use shall not occupy more than thirty

percent (30%) of the usable floor area of the dwelling unit. In addition to the dwelling unit, a single accessory structure not to exceed eight hundred (800) square feet may be used for said business.

3. The dwelling has no exterior evidence, other than one (1) non-illuminated sign not exceeding four (4) square feet to indicate that the dwelling is being utilized for a nonresidential purpose, and such sign is in conformance with the requirements of this Ordinance.

4. No occupation shall be conducted upon or from the premises, which would constitute a nuisance or annoyance to adjoining residents by reason of noise, dust, glare, heat, smoke, fumes, odor, vibrations or electrical disturbance. There shall be no discharge of polluting materials, fluids or gases into the ground or surface water, soil or atmosphere.

5. Vehicular and pedestrian traffic generated by the home occupation shall not exceed that which would normally be expected in a residential neighborhood, and the need for parking shall be met off street. Off-street parking shall not be permitted within the setback area.

6. Hours of operation may be determined by Planning Commission.

#### P. Gas and Oil Processing Facilities

1. The facility shall comply with all federal, state and local building, environmental and health codes and regulations.

2. The applicant shall provide copies of the application for permit to drill, permit to drill, survey record of well location, and plat, as provided to the Supervisor of Wells, Department of Environmental Quality, as part of the permit process for the location and erection of oil and gas processing facilities.

3. The Planning Commission may impose reasonable conditions in order to comply with the Zoning Ordinance standards.

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4. The facility may incorporate surface land owned or leased by the oil and/or gas company. If leased, the lease documents shall be submitted to the Planning Commission, and the Township Board shall be informed of the length of the lease.

5. Because the subject facilities are industrial in nature, the required site plan shall also show adequate visual and sound privacy from adjacent property and public roads. Forested greenbelt, berms, attractive fence screen, landscaping, mufflers, insulation, or other contrivances may be used to insure compliance with visual and sound privacy of the adjacent properties.

6. In the event the facility is no longer required or is not used for two (2) years, the existing facility shall be removed and the area restored to its original state. Further, the area shall be checked by an agency concerned with environmental protection to insure it is clear of pollutants.

7. The sound level of the facility shall not exceed sixty (60) decibels as measured four hundred and fifty (450) feet in any direction from the facility.

8. The facility shall be built no closer than four hundred and fifty (450) feet from an existing dwelling.

9. The facility shall be built no closer than one hundred (100) feet from any public road.

#### Q. Gasoline Service Station or Automobile Repair Shop

1. Minimum lot size shall be twenty thousand (20,000) square feet.

2. Minimum lot width shall be one hundred twenty (120) feet.

3. A gasoline service station building, repair shop or main building shall be located not less than forty (40) feet from the street right-of-way or less than twenty-five (25) feet from the side or rear lot line of any adjoining residential property or less than ten (10) feet from the side or rear lot line of adjoining commercial or industrial property. On a corner lot both street frontage sides shall be located not less than forty (40) feet from the street right-of-way.

4. No ingress or egress to a gasoline service station shall be closer than twenty-five (25) feet from any intersection or residential property line abutting the property on which such facility is located.



5. For a gasoline service station, the entire lot, excluding those areas occupied by a building or landscaped areas, shall be hard-surfaced with concrete or a plant mixed bituminous material.
6. All lubrication equipment, hydraulic hoists and pits shall be completely enclosed within a building. All gasoline pumps and canopy overhang shall be located not less than twentyfive (25) feet from any lot line and shall be arranged so that motor vehicles may be provided easy egress and ingress to and from the adjoining street, and so that no portion of the vehicle while it is stopped for service, shall overhang onto a sidewalk, curb, street or public right-of-way.
7. When adjoining residential property, a six (6) foot masonry wall, obscuring fence or landscape screen shall be constructed parallel to the property line of such residential property. A fixed curb or other barrier to prevent vehicular contact shall protect all masonry walls.
8. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed with a (6) foot masonry wall. Outside storage or parking of disabled, wrecked or partially dismantled vehicles shall be allowed for a period not to exceed fifteen (15) days.
9. The sale or rental of used or new vehicles, including trailers or recreational vehicles on the premises, is permitted subject to special approval.

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10. The property on which the gasoline service station or automobile repair shop is located shall be no closer than five hundred (500) feet from a vehicular entrance or exit to a hospital, library, museum, public or private school, playground, church or park.
11. All exterior lighting, including signs, shall be hooded or shielded so that glare shall be directed away from the view of adjacent properties.

#### R. Bed and Breakfast Facilities

While this Ordinance is established to enable single family dwelling units to be used as bed and breakfast operations, it is the intent of the Township to preserve the character of the residential district in which the operation is located. A bed and breakfast operation is a subordinate use to a single family dwelling unit subject to the following conditions:

1. A bed and breakfast operation shall be confined to the single-family dwelling unit, and the operator shall live on the premises when the operation is active.
  2. The number of rooms available for guests shall be limited to four (4). Each guestroom shall be equipped with a separate functioning smoke detector alarm, and a fire extinguisher in proper working order shall be installed and maintained on every floor. Guests shall have access to lavatory and bathing facilities.
  3. Two (2) off-street paved or graded parking spaces shall be provided for the operator of the bed and breakfast, plus one (1) parking space for each available guestroom and one (1) for any non-resident employee.
  4. The dwelling unit has no exterior evidence, other than one (1) non-illuminated permanently installed sign not exceeding twelve (12) square feet in area, to indicate that the same is being utilized for any purpose other than as a residence, and that the sign be in conformance with the requirements of this Ordinance.
  5. Breakfast may be served only to overnight guests, and in accordance with state and county public health regulations regarding bed and breakfast facilities.
  6. Any number of dwelling residents may assist with the bed and breakfast operation, but not more than two (2) non-resident employee may be hired.
  7. The bed and breakfast operation shall produce no excessive noise, traffic, glare or other nuisance that would be detrimental to the character of the neighborhood.
- S. Persons operating a bed and breakfast facility shall apply for and receive a permit from the Zoning Administrator prior to commencing operations. The permit shall be renewed and updated at three-year intervals thereafter. Bed and breakfast facilities are subject to inspection by the Zoning Administrator.

#### **Section 7.17 Planned Unit Developments**

- A. Purpose: The purpose of a Planned Unit Development (PUD) is to permit and encourage

design flexibility and mixed uses on the same parcel within the existing Residential Districts, using the special approval procedure. It has the potential of eliminating the current single family, large scale residential design and substituting in its place a diversity of types and location of dwelling units, allowing more efficient use of land for circulation, open space and utilities. It is also intended to minimize adverse environmental impacts by harmonious utilization of the existing physical identity of the area. The PUD approach provides for recreational facilities within the development, enhances the ability of designers to coordinate architectural design and building placement and upgrade the overall quality of new residential construction.

B. Procedures for Application and Approval: The procedure of application and approval of a PUD permit shall include one or more informal conferences between the applicant and the Zoning Administrator, who may request representatives from appropriate agencies (township officials, fire department, County Health Department, County Sheriff, County Road PPP2036-01 R VII-iS

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Commission and other such agencies) to attend such informal conferences. After such informal conferences, the applicant shall then file a preliminary development plan with the Zoning Administrator for the purpose of obtaining special approval, during which time the application shall be scheduled within forty-five (45) days of the receipt of the preliminary plan by the Zoning Administrator, according to the requirements of **Section 7.14**.

C. Concept Plan Requirement: During the pre-application conference, the applicant shall submit a concept plan including types and placement of residential structures; utilities and public facilities such as schools, fire departments, recreational facilities, minimum lot sizes, densities, environmental treatment, pedestrian and auto circulation, commercial and industrial areas, if applicable, conformity of the proposed development with surrounding areas, type of homeowner organizations, if any, and all other information local administrative agencies and legislative bodies may require to gain a satisfactory understanding of the proposed development.

D. Preliminary Plan Requirements: Following the presentation of any deliberation pertinent to the concept plan, the applicant shall submit a preliminary plan. The preliminary plan is specifically intended to include enough detail for administrative and legislative analysis for approval or denial of a special use permit. The preliminary plan must be more detailed than the concept plan and contain the following:

1. A written document giving the legal description of the property as indicated in the deed of ownership; a statement of the objectives of the planned development, including phasing of residential, public and commercial areas and future selling and/or leasing intentions and accompanying management techniques;
2. Graphic presentation, including a base map with topographic identification [preferably using five (5) feet contour levels] and important environmental features including water bodies, vegetation (type), location and floor area to be dedicated for public use, existing and proposed pedestrian and vehicular circulation, off-street parking, layout of proposed and existing utility systems, general landscape plans, information pertinent to the identification of areas of adjacent to the proposed development and a general description of the Planned Unit Development.
3. Additional written information shall be contained in the preliminary plan, including tabulation of land area ratios, a comprehensive market analysis, environmental impact statements and any contracts and deeds of indenture between the developer and homebuyer.

E. Final Plan Requirements: Following the approval of the preliminary plan, the applicant shall submit a final plan. The final plan is to encompass all elements of the preliminary plan, plus all changes and/or conditions stipulated by the Planning Commission at the public hearing for the preliminary plan. The final plan shall include enough detail in written and graphic presentation to assure the Planning Commission that the proposed Planned Unit Development will conform to all state and local requirements and, as closely as possible, reflect the finished PUD.

F. Approval of Final Plan: Upon submission of the preliminary plan to the Planning

Commission and approval of a special use permit by the Planning Commission, with or without recommended modifications and stipulations, the applicant must, within a period of three (3) months to one (1) year from the date of approval of the special use permit, present to the Zoning Administrator the final development plan. The Zoning Administrator shall submit the final, detailed plan to the Planning Commission, which shall review it within thirty (30) days of such submission. The final plan should not deviate substantially from the approved preliminary plan if the following conditions have been met:

1. The final plan does not violate the content of this Ordinance;
2. The lot area requirement has not been changed by more than ten percent (10%);

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3. Land reserved for open space (common and usable) has not been reduced by more than ten percent (10%); and

4. The total building coverage has not increases by more than five percent (5%).

The final plan should include site plans applicable to legal recording criteria and engineering drawings. Drawings and plans presented in a general fashion in the preliminary stage shall be presented in detailed character in the final plan. Any modification not included in the preliminary plans must be reviewed by the Planning Commission and legal documents such as easements, agreements, the final draft of Articles of Incorporation and any indentures as well as dedications shall be submitted by the applicant.

The Planning Commission and members of other appropriate agencies shall review the final development plan. The Planning Commission shall then approve the final plan, disapprove it or approve it with modifications. If the Planning Commission gives approval, the Register of Deeds shall accept and record the site maps and plans, dedicated streets, properties and open spaces, rights-of-way and additional dedications within the development.

If the plan is disapproved by the Planning Commission, reasons for the denial shall become part of the public record and presented to the developer in written form.

G. Design Requirements: Since the PUD concept is to allow more flexibility in design while retaining control through review procedures, the design standards incorporated into a PUD ordinance should be less structured than found in a standard residential zone or subdivision regulations, yet formal enough to insure desired performances. These design requirements also offer incentives to developers to invest in PUDs.

H. Density: Density increases can be allowed for Planned Unit Development over and above those allowed in the original Residential Districts. Since successful PUD design can occur in almost any sized area, the planned development shall not be allowed on any site of less than (2) acres. It should be controlled by one (1) owner or group of owners and be planned and developed as a single unit.

I. Lot Size Variations: Lot sizes shall be computed using gross acreage computations. Land utilized for public utilities such as easements and flood plain areas shall not be included in determining computations for gross development areas. A fixed percentage of streets within the proposed development shall be subtracted from the computed gross area figure, and the results shall be divided by the minimum lot requirements (after density bonuses have been arrived at by the methods described below) of the zoning district within which PUD is located. The result will define the maximum number of residential units allowed. Density increases are to be permitted for the following amenities:

1. "Improved and unimproved common open space": The first acre of common open space per twenty (20) acres of gross, if improved, permits a maximum increase of eight percent (8%); if first acre of common open space is unimproved, six percent (6%) is allowed; the second acre of common open space per twenty (20) acres of gross, if improved, permits a maximum increase of four percent (4%); if unimproved, three percent (3%) is allowed; and each additional acre of common open space per twenty (20) acres of gross, if improved, permits a maximum increase of three percent (3%); if unimproved, two percent (2%) is allowed.

2. Character, identity, architectural and siting variation incorporated in a development shall be considered cause for density increases not to exceed fifteen percent (15%), provided these factors make a substantial contribution to the objectives of the Planned Unit

Development. The degree of distinctiveness and the desirable variation achieved shall govern the amount of density increase, which the Planning Commission shall approve. Such variations may include, but are not limited to, the following: Landscaping--a maximum increase of five percent (5%); visual focal points; use of existing physical features, such as topography, view, sun and wind orientation, circulation pattern, physical environment, variation in building setbacks and building groups (such as PPP2036-01 R VII-20

\\indianrvr\projects\DATA\PLANNINGWIENNA\3ARTICLE VII GENERAL PROVISIONS.doc clustering), a maximum increase of five percent (6%); and design features (maximum increase of five percent (6%), street sections, architectural styles, harmonious use of materials, parking areas broken by landscape features and varied use of house types.

J. Open Space: Open spaces are an important facet of the community's environment and character. The PUD approach is an efficient "tool" in preserving and enhancing open spaces, particularly recreational areas within residential developments. Open space shall be distinguished as private (for personal or family use), common (for use by all homeowners in the PUD), and public (open to all members of the general public).

The following open space requirements shall be adhered to in all PUDs to provide for the integration of efficient and extensive areas into the existing open space system of the community. These areas should be easily accessible to all residents of the PUD. Required open space shall comprise at least forty percent (40%) of the total gross area. Not less than fifty percent (60%) of the net area of the property shall be open space devoted to planting, patios, walkways and recreational uses, but excluding areas covered by dwelling units, garages, carports, parking areas or driveways. Net area is defined as the site area less all land covered by buildings, streets, parking lots or stalls, driveways and all other paved vehicular ways and facilities. At least twenty percent (20%) of the total area shall be devoted to such properly planned permanent useable open space. Common open space shall comprise at least twenty-five percents (26%) of the gross area of the PUD and be used for recreational, park or environmental amenity for collective enjoyment by occupants of the development, but shall not include public or private streets, driveways or utility easements; provided, however, that up to fifty percent (60%) of the required open space may be composed of open space on privately owned properties dedicated by easement to assure that the open space will be permanent.

Active open spaces for recreational purposes should not be less that six thousand (6,000) square feet in area.

Any portion of the PUD site, if deemed environmentally significant, may upon review of the Planning Commission, be preserved in their natural state.

K. Homeowners Association: Homeowners associations have the advantage of enabling the residents of a PUD to control, through ownership and maintenance, common space areas and private streets, thereby eliminating or substantially decreasing maintenance costs to the local government.

If the developer chooses to institute a homeowners association, the following minimum criteria must be met:

1. The homeowners' association must be set up before the homes are sold;
2. Membership must be mandatory for each home buyer and any successive buyer;
3. The open space restrictions must be permanent, not just for a period of years;
4. Homeowners must pay their pro rata share of the cost; the assessment levied by the association can become a lien on the property; and
6. The association must be able to adjust the assessment to meet changed needs.

The above stipulations have the advantage of insuring the economic viability of the homeowners' association and preserving open space areas within the community.

The developer must file a restrictive covenant with the County Register of Deeds at the time the final plan is approved, guaranteeing those open spaces included in the final plan will remain open for their designated purposes or for other open spaces uses desired by the homeowners' association.

L. Environmental Design Requirements: The Planning Commission shall require the following in accordance with applicable provisions of this Ordinance: the preservation of existing

trees, predominant shrubbery, waterways, scenic viewing areas, historic points, flood plain preservations and the planting of vegetation or placement of protective cover on slopes of PPP2036-01 R VII-21

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twenty percent (20%) or greater to minimize hillside erosion resulting from residential development and consequent streets and walkways.

M. Traffic Circulation: Internal circulation systems and points of ingress and egress with external traffic flow must be coordinated within the PUD and in relation to the community as a whole. These systems should promote safety, convenience, easy access, separation of vehicles from pedestrians and enhance the overall physical design of the PUD. Vehicular circulation systems in PUDs should not be connected with external streets to encourage through traffic. Emergency access and safety standards should be adhered to. These standards apply to the location of residences relative to the community and the overall design of the PUD.

N. Streets: Streets, particularly in PUDs must be designed to accommodate anticipated traffic loads including volume, vehicular weight and size, speed, emergency vehicles and turning radius. Those developments with homeowners associations may maintain streets within the development through agreements of indenture.

Streets may be dedicated to the public street system if the owners of these streets fully agree to accept all expenses for any required upgrading to public street standards and agree to dedicate these streets without compensation by the local government. The following residential street standards should be adhered to, unless the Planning Commission permits modification.

**Type of Street Uses Served  
Require Right- Width of  
of-Way (Feet)\* Pavement\***

Residential dead end or

1-6 dwellings 40 24  
local street

7 -20 dwellings 40 24

21-50 dwellings 50 30

Residential collector 51-200 dwellings 66 36

Neighborhood collector

Over 200 dwellings or

66 any commercial use 36

\*Or as required by the Montmorency County Road Commission, whichever is more restrictive.

These standards are commensurate with traffic flow and safety standards for various densities.

O. Parking Standards: Parking standards are an important element of a PUD design process and should adhere to high design and safety standards. The following minimum requirements shall be adhered to:

1. For each dwelling unit, there shall be off-street parking spaces consisting of not less than one hundred eighty (180) square feet each;
  2. Parking areas shall be arranged so as to prevent through traffic to other parking areas;
  3. Parking areas shall be screened so as to prevent through traffic to other parking areas;
  4. No more than fifteen (15) parking spaces shall be permitted in a continuous row without being interrupted by landscaping;
  5. No more than sixty (60) parking spaces shall be accommodated in any single parking area;
  6. All streets and any off-street loading area shall be paved and the design approved by the Planning Commission; all areas shall be marked so as to provide for orderly and safe loading, parking and storage; and
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7. All parking areas shall adequately be graded and drained to dispose of all surface water

without erosion, flooding or other inconveniences.

P. Perimeter Treatment: To provide adequate separation between the PUD and the surrounding community, a minimum thirty (30) foot buffer zone shall be established on the perimeter of the development, in which no structures are to be located, and adequate screening and landscaping or protection by natural features will be established. In those cases where, because of natural topography, this screening and landscaping requirement cannot be met, and adequate privacy and separation is not possible, the Planning Commission may require structures on the perimeter to be set back in accordance with the requirements established for the zoning district in which the PUD is located. Those structures within this category should be adequately screened or landscaped.

Q. General Standards: The principle advantage of a Planned Unit Development, flexibility in design, should be followed in determining general building and site standards. These should conform to minimum performance criteria rather than to specified building code dimensions and requirements found in established residential zones. The following guidelines shall be established in the determination of structural siting on lots; reduction of spacing is based upon standards within the existing zones.

R. Building Spacing: When the building is designed to provide adequate privacy to its residents, including adequate window space, there may be a reduction in the spacing of buildings. Those residences having no windows or windows at higher levels and have adequate light and ventilation from other areas of the dwelling may decrease building spacing. Residences incorporating effective utility spaces in side yards should be eligible for reduced separation between houses. Where building configurations incorporate the above criteria and have unusual shapes, the spacing of structures may be reduced.

S. Front Yard Requirements: In those areas where street design reduces traffic flow, adequate screening or landscaping is provided, the residence is facing onto a common open space, or through interior room design minimizing use of the front yard, front yard requirements may be reduced.

T. Lot Width Requirements: Those lots which have an awkward configuration yet allow adequate light and ventilation between structures, may reduce their lot width requirements while maintaining adequate light, ventilation and access.

U. Building Heights: To insure adequate light, ventilation and open space amenities in the PUD while allowing a variety of building types and densities, building heights should be a part of the review process. However, to protect the character of the area, a maximum building height of thirty (30) feet should be instituted.

### **Section 7.18 Site Condominiums**

Pursuant to authority conferred by the Condominium Act (P.A. 59 of 1978) as amended, all condominium subdivision plans shall be reviewed and approved by the Planning Commission. In determining whether to approve a condominium subdivision plan, the Planning Commission may consult with the Township Attorney, Township Engineer or Township Planner regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirements of the Condominium Act.

A. General Requirements:

1. Condominium Lots: For the purpose of this section, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district where located. In the case of a site condominium containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a PPP2036-01 R VII-23

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condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use.

2. Revision of Condominium Subdivision Plan: If the condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued.

3. Amendment of Master Deed or Bylaws: Any amendment to the master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a

preliminary or final site plan shall be reviewed and approved by the Planning Commission before any building permit may be issued. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the approved site plan.

4. Development Agreement: The Planning Commission may require, as a condition of approval, that the applicant enter into a development agreement with the Township, incorporating therein the terms and conditions of final site plan approval, and record the same with the County Register of Deeds.

5. Relocation of Boundaries: Relocation of boundaries between adjoining condominium lots, if permitted in the condominium documents, as provided in the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed

6. Subdivision of Lots: Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.

7. Private Streets: All site condominium subdivisions in which private streets are proposed shall be developed to County Road Commission requirements. Site condominium subdivisions and condominium lots may abut public or private streets.

8. Road Rights-of-Way: Road rights-of-way shall be parcels separate from individual condominium lots, and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The right-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing public utilities.

9. Monuments: Monuments shall be set at all boundary corners and deflection points and at all roads right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines.

10. As-Built Drawings: A dimensionally stable copy of the as-built drawings shall be submitted to the Township Clerk and a second dimensionally stable copy shall be recorded with the County Register of Deeds.

#### B. Site Condominium Plan Requirements:

1. The name, address and telephone number of: all persons, firms or corporation with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest; all engineers, attorneys, planners, architects or registered land surveyors associated with the project; and the developer or proprietor of the condominium project.

2. The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.

3. The acreage content of the land on which the condominium project will be developed.

4. The purpose of the project (for example, residential, commercial, etc.)

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5. Number of site condominium units to be developed.

6. A survey plan of the site condominium project.

7. The site condominium subdivision plan shall show the size, location, area, vertical boundaries and volume of each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The site condominium subdivision plan shall include the nature, location and approximate size of common elements.

8. A utility plan showing all electricity, natural gas, sanitary sewage disposal and water systems, lines and facilities.

9. A street construction, paving and maintenance plan for all private streets within the proposed site condominium subdivision.

10. A storm drainage and stormwater management plan, including all lines, drains, basins

and other facilities.

11. A detailed site grading plan showing grade changes at two (2) foot intervals of all site condominium subdivision units, common areas, road rights-of-way and all other land areas within the proposed development shall be provided.

C. Site Condominium Plan Review:

1. Preliminary Site Plan: A preliminary site plan shall be filed for approval at the time notice of action is filed with the Township. Preliminary site plans shall be reviewed and approved or denied by the Planning Commission. The preliminary site plan shall include all land that the developer intends to include in the site condominium project. The preliminary site plan shall include all information required herein, except in the case of single-family detached dwelling units. Dwelling units and required yards, shall be shown on the preliminary site plan. In those instances where dwelling unit plans are not known, the plan may show the building envelope provided such building envelope meets all side, front and rear setback requirements of the zoning district.

2. Final Site Plan: A final site plan shall be filed for each phase of development shown on the approved preliminary site plan. Final site plans shall be reviewed and approved or denied by the Planning Commission. A final site plan for any phase of development shall not be filed for review by the Planning Commission unless a preliminary site plan has been approved by the Planning Commission. A final site plan shall include all information required by the Condominium Act and the master deed and bylaws. The final site plan shall also include all information required herein, except in the case of single-family detached dwelling units. Location and dimensions of condominium units rather than individual buildings and required yards, shall be shown on the final site plan. The applicant shall provide proof of approvals by all County and State agencies required to review the condominium subdivision plan, including but not limited to the County Road Commission, District Health Department, County Drain Commissioner and the Michigan Department of Environmental Quality. The Planning Commission shall not approve a final site plan until all County and State agencies required to review the condominium subdivision plan have approved the condominium subdivision plan.

D. Condominium Subdivision Design and Approval

1. No permits for erosion control, building construction, grading or installation of water or sanitary sewage disposal systems shall be issued for property in a site condominium development until a final site plan has been approved by the Planning Commission and is in effect. This requirement shall include contractible, conversion, and expandable site condominiums as defined in the Condominium Act (P.A. 59 of 1978) as amended.

2. The approval of any site condominium plan shall expire one (1) year after the date of such approval, unless actual construction and development have been commenced in accordance with the final site plan. If construction is commenced within the one (1) year period, then approval shall continue for a period of five (5) years from the date of approval, provided, however, that a lapse of more than one (1) year in continuous

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construction occurs, the approval shall expire. Prior to any expiration date, the developer shall be notified in writing not less than thirty (30) days in advance of the expiration date. The County Building Inspector shall not issue a building permit for any type of construction on the basis of an approved site condominium plan after approval has expired. Fees for review of expired site plan may be waived if those instances where no substantial change in conditions of the site condominium plan nor of abutting uses has taken place. In those instances where conditions have changed, the fee for review of expired site condominium plan for new site condominium plans shall be the same as for the initial submittal.

**Section 7.19 Off-Street Parking, Loading and Unloading Requirements**

A. Parking Requirements

1. Off-street parking space shall be provided and maintained in all zoning districts.

2. Space shall be provided on the premises in addition to that required for parking for the loading, unloading and standing of vehicles to avoid undue interference with public use



of the highway.

3. Parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

4. Residential off-street parking space shall consist of a parking strip, driveway, garage or any combination, located on the premises they are intended to serve.

5. Adequate space shall be included in all commercial parking areas to facilitate turning around of vehicles so that the entry on the highway may be in a forward manner and not by backing.

6. A minimum of one hundred and eighty (180) square feet shall comprise one vehicular parking space or ten (10) by eighteen (18) feet.

7. Computation of floor area of buildings shall be exclusive of basements, cellars, or attics.

8. The Township Planning Commission shall determine the required parking space not specified in this section on written application.

9. Adequate area must be provided for snow piling. Handicap parking must be provided as required by State and Federal regulations. Designation of parking area must be clearly identifiable for use by the public.

B. Off-Street Loading and Unloading Requirements; On the same premises with every use involving the receipt or distribution of materials or merchandise, adequate space for standing, loading and unloading shall be provided and maintained in order to avoid undue interference with public use of streets and roadways. Off-street loading and unloading spaces shall be a minimum of ten by fifty (10x50) feet with a clearance height of a minimum of fourteen (14) feet. The number of spaces shall be provided in the following ratio of spaces to gross floor area.

**Gross Floor Area (in square feet) Number of Loading and Unloading Spaces**

**Required**

0-1,400 None

1,401 - 20,000 One (1) space

20,001 - 100,000 One (1) space, plus one (1) space for each

20,000 square feet in excess of 20,000 square feet

More than 100,000 Five (5) spaces

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**Section 7.19.1 Recommended Parking Spaces Per Unit**

One (1) for each four hundred (400) square feet

Animal hospital, commercial kennel of usable floor area, and one (1) for each employee

Two (2) for each service stall, plus one (1) for

Auto repair garage, bump shop, service garage each eight hundred (800) square feet of usable floor area, and one (1) for each employee

Auto salesroom, wholesale store, machinery One (1) for each one thousand (1000) square sales, showroom of a plumber, electrical, or feet of usable floor area, and one (1) for each other similar trade employee

Banks, business offices, studios and Three (3) plus one (1) additional space for professional offices of architects, lawyers and each three hundred (300) square feet of floor similar professions area over one thousand (1,000) square feet

Barber shops and beauty parlors Two (2) for each operator chair

Bowling alleys Five (5) for each bowling lane

Churches, theaters and auditoriums, except

One (1) for each four (4) seats

schools

Community center, library, museum or art

Ten (10) plus one (1) for each two hundred (200) square feet of floor area in excess of two

center

thousand (2,000) square feet

Dwellings Two (2) for each dwelling unit  
Hospitals, clinics and similar establishments  
One (1) for each four (4) beds and one (1) for  
each two (2) employees or staff members  
Laundromats One (1) for each two (2) washing machines  
Motels, tourist homes, lodging houses One (1) for each sleeping room  
Two (2) for every three (3) employees on  
Manufacturing or industrial establishments, maximum working shift, plus space to  
warehouses or similar establishments accommodate all vehicles used in connection  
with the operation of the establishment  
Plumbing, printing and similar service shops  
One (1) for each two (2) persons employed  
and businesses  
Private clubs, night clubs, dance halls and One (1) for each one hundred (100) square  
similar recreational establishments feet of usable floor area  
Professional offices of doctors, dentists and  
One (1) for each one hundred (100) square  
feet of usable floor area, or a minimum of four  
similar professions  
(4) spaces, whichever is greater  
Restaurants and similar establishments for  
One (1) for each one hundred (100) square  
sale and service of food and drink, except  
liquor and drive-ins  
feet of usable floor area  
Retail stores  
One (1) for each one hundred fifty (150)  
square feet of usable floor area  
One (1) for each six (6) seats in main  
Schools, high auditorium or three (3) for each classroom,  
whichever is greater  
One (1) for each ten (10) seats in main  
Schools (except high schools)  
assembly room or four (4) spaces plus one (1)  
additional space for each classroom,  
whichever is greater  
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**Section 7.20 Outdoor Advertising Signs and Media**

The purpose and intent of this Section is to preserve the desirable character of Vienna Township, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services offered by the local business community. At the same time, the Township recognizes the right of residents to be free of advertising that could affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs shall be subject to all federal, state and local statutes and regulations and the requirements of this Ordinance. As a result, these regulations permit signs and other displays that are needed for the purposes of identification or advertising, subject to the following objectives:

- A. By reason of their size, location, spacing, construction or manner of display, signs shall not endanger life or limb, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety.
- B. Signs should enhance the aesthetic appeal of the Township. Thus, these regulations are intended to regulate oversized signs that are out-of-scale with the surrounding buildings and structures and to prevent an excessive accumulation of signs, which cause visual clutter and distraction.

The use and erection of all outdoor advertising signs and media shall be subject to the following

provisions:

**Section 7.20.1 General Provisions**

- A. Flashing, rotating, animated, intermittent, glaring and oscillating signs; the location of any sign hazardous to traffic; and the cluttering of signs within one hundred and fifty (150) feet of each other, are prohibited.
- B. Signs which are in need of repair, not securely affixed to a substantial structure, or affixed to trees, rocks or other natural features, resembles official traffic signs or obstruct official signs, are prohibited.
- C. No existing sign or advertising media, which does not conform to the provisions of this section, shall be altered, repaired or replaced except on approval of the Township Planning Commission as in conformance with the provisions of this section.
- D. No sign other than a traffic or regulatory sign shall be erected in a street or road right-of-way.
- E. Sign illumination shall not cause a reflection or glare on any portion of a public highway, in the path of oncoming vehicles or on adjacent premises or residences.
- F. Temporary political signs not exceeding sixteen (16) square feet may be located in any zoning district and shall be removed within fourteen (14) days following the election date.
- G. Off-premise signs and billboards regulated by the Michigan Department of Transportation under the Highway Advertising Act, P.A. 106 of 1972, as amended, shall be subject to the size limitations of **Section 7.20.2.**

**Section 7.20.2 Limitations by Districts**

The use of outdoor advertising signs and media shall be limited to the following:

A. Agricultural and Recreational/Residential

1. Traffic and regulatory signs

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- 2. One (1) sign located on-premise relating to the sale or lease thereof, or activities conducted on the premises not exceeding thirty-two (32) square feet.
- 3. Off-premise directional signs not exceeding thirty-two (32) square feet in area which supply information about public places operated by federal, state or local government, including natural phenomena, historic sites, area of natural scenic beauty or naturally suited for outdoor recreation and places for camping.

B. Residential Districts

1. Traffic and regulatory signs

- 2. Real estate signs pertaining to the sale or lease of a premises of not more than four (4) square feet.
- 3. Signs in the R-3 District advertising on-premise lodging of not more than twelve (12) square feet.
- 4. Signs in the R-2 and R-3 Districts advertising on premises services of not more than four (4) square feet.

C. Commercial and Industrial Districts

- 1. No outdoor advertising structure shall be erected where the position, size, movement, shape, or color may interfere with the view of, or be confused with any authorized traffic sign or device.
- 2. All illumination shall be concentrated upon the surface of the sign, and the sign so located as to avoid reflection or glare onto any portion of any adjacent highway in the path of oncoming vehicles, or adjacent premises.
- 3. The subject matter shall be limited to services and goods produced or offered.
- 4. Signs attached to a building shall project not more than four and one-half (4 1/2) feet above or from the wall of the building.
- 5. On-premise advertising signs related to the business or service conducted on the property where the sign is located shall not exceed forty eight (48) square feet and shall be setback from the front lot line by ten (10) or more feet.
- 6. Off-premise signs relating to businesses or services conducted at another location shall not exceed forty eight (48) square feet, shall be setback from the front lot line by ten (10) or more feet, and shall require a permit from Michigan Department of Transportation if located on property adjacent to M-32.

7. Traffic and regulatory signs.

**Section 7.21 Fences**

**Section 7.21.1 Fences (General)**

Fences designed to enclose property in any district shall be subject to the following conditions:

A. Fences in any plotted subdivision or lot of record shall not contain barbed wire or be electrified.

B. No fence shall obscure the vision of drivers of vehicles at any driveway entrance or exit, street intersection or other pedestrian or vehicle property access point.

C. Fences higher than six (6) feet above the average grade at the property line and within the required setback shall require the written approval of the adjoining property owner.

**Section 7.21.2 Walls and Fences (Protective and Screening)**

For non-residential uses except farms, which are adjacent to a residence or which are adjacent to a residential district boundary, unless noted otherwise, there shall be provided and maintained, fences or walls as required below.

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**Specific Non- Minimum Fence or Primary Function(s)**

**residential Uses Wall Height at the**

**Protective Screening or**

**Requiring Fences Property Line Obscuring**

Drive-in restaurants,  
gasoline stations and 6'0" X X  
vehicle repair

Institutional or school

6'0" X

playgrounds

Parking lots

accessory to principal 6'0" X  
uses

Hospital and funeral

home service 6'0" X

entrances

Utility buildings and

6'0" X substations

Swimming pools for

6'0" X use by the public

Open storage areas

6'0" X of any use

Note: These uses are required to be fenced or screened in all cases regardless of the use orientation to residential zoning districts or residential uses.

**Section 7.21.3 Approval**

All plans for fences or walls must be approved by the Zoning Administrator for construction specifications designed to fulfill the primary function or protection and/or screening. All fences shall be maintained in a pleasing appearance. The Planning Commission shall be empowered to modify fence and wall requirements as deemed necessary by conditions affecting a particular development, or to waive requirements where no good purpose would be served by compliance with these standards.

**Section 7.22 Pets and Other Animals**

The keeping of farm animals (horses, mules, cows, goats, chickens, rabbits, etc.) for domestic purposes on residential lots, shall be subject to Planning Commission review, who shall consider the character of the surrounding area, the lot size, and the design and placement of the animal housing structures on the premises. These review requirements shall not apply to an active farm on any property encompassing twenty (20) acres or more. Domestic household pets, including dogs, cats, birds and fish but not including poisonous or dangerous reptiles, or wild or dangerous animals, may be kept and housed as an accessory residential use on any premise without a permit. Subject to a hearing, the Planning Commission may limit, restrict, and

if deemed necessary, order a reduction in the number of pets or other animals kept and housed on any premises where it is determined that a nuisance exists, the residential environment is impaired, health hazards are involved, or the animals are housed in an improper or unsanitary manner.

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#### **ARTICLE VIII GREENBELT DISTRICTS**

**Intent** - For the purpose of preventing and controlling water pollution, preserving shoreline vegetative cover, preserving natural beauty, controlling erosion, and to further the maintenance of safe and healthy conditions on shorelands of stream, rivers, lakes and flowages of water that appear on the U.S. Geological Survey Quadrangle maps of Montmorency County.

##### **Section 8.1 Shoreland Defined**

Shoreland shall be considered in this Ordinance as the land paralleling the shoreline, fifty (50) feet wide, measured from the ordinary high water mark, landward, at right angles or radial to the shoreline.

##### **Section 8.2 Shoreline Building Setbacks**

Buildings and structures except boathouses, landing ramps and docks shall be set back twentyfive (25) feet from the ordinary high water mark (as measured on a horizontal plane at right angles from the shoreline).

##### **Section 8.3 Maintenance of Shoreline**

At the discretion of the landowner, dead, diseased or dying trees within the shoreline area may be removed and/or the trimming and pruning of the trees and shrubs to improve the view and aesthetics. Such trimming or pruning may not remove so much of the tree or shrub that the life of the plant is endangered. Provided, further that if a tree must be removed because it is dead or diseased, the stump may be cut flush with the ground, but the roots shall not be removed. Natural shrubbery shall be preserved as far as practicable, and where removed, it shall be replaced with other vegetation that is equally effective in retarding run off, preventing erosion and preserving natural beauty.

##### **Section 8.4 Construction Within the Shorelands by Permit**

Retaining walls, terraces, steps, slabs, walkways and water pump enclosures may be permitted.

##### **Section 8.5 Tree Cutting Within the Shorelands by Permit**

In order to protect the natural character, environment, and ecology of the waters of Vienna Township, the shorelands shall be maintained in a natural condition. Vegetation shall be retained and tree cutting shall be limited. Clear cutting of trees may be allowed from the high water line, landward, provided said cutting does not create a clear cut swath wider than thirty (30) percent of the lot width, but not to exceed a total width of thirty (30) feet for each one hundred (100) feet of shoreline, provided further, that the stumps may be cut flush with the ground, but the roots shall not be removed.

##### **Section 8.6 Beach Improvements**

It is permitted to improve and/or maintain existing beaches of sand.

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#### **ARTICLE IX ADMINISTRATION**

##### **Section 9.1 Zoning Administrator**

The provisions of this Ordinance shall be administered by a Zoning Administrator, who shall be appointed by the Vienna Township Board for such term and subject to such conditions as said Board deems desirable to carry out the provisions of this Ordinance. He shall hold office at the pleasure of the Township Board, and receive such compensation as shall be determined by the Township Board. The Board may also appoint a Deputy Administrator under such conditions, and for such term, and for such compensation as the Board may deem desirable, to work under and assist the Zoning Administrator in the discharge of the duties of his office.

##### **Section 9.2 Duties and Responsibilities of the Zoning Administrator**

The Zoning Administrator shall enforce this Ordinance, and shall:

- A. Approve zoning permits.
- B. Maintain permanent and correct records of this Ordinance including, but not limited to zoning permits issued, and all maps, amendments, special use permits, site plans,

variances and appeals.

C. Provide and maintain a public information office relative to all matters arising out of the administration of the Ordinance.

D. Investigate all applications for variances addressed to the Township Zoning Board of Appeals, and report his findings to said Board.

E. Initiate appropriate action for proceedings to prevent, restrain, correct or abate any illegal act in violation of this Ordinance.

### **Section 9.3 Zoning Permits**

#### **Section 9.3.1 Application for Permit**

Before proceeding with the erection, enlargement, conversion of any building or structure subject to the provisions of this Ordinance, the owner of the premises or his agent shall first apply for a zoning permit from the Zoning Administrator. This requirement shall not apply if no change is made in existing foundations. Application shall be made in triplicate upon forms provided by this office, and shall be accompanied by the tax description of the premises, by evidence of ownership of all property to be covered by the zoning permit, and by a blueprint, or neat pen and ink drawn in triplicate to approximate scale showing the following, or a site plan prepared according to **Section 7.15**, if required.

A. The shape, area, and dimensions of the premises.

B. The kind, dimensions, height and location of all buildings and structures to be erected or moved on to the premises, including all yard dimensions and accessory buildings, if any.

C. The location and type of sewage disposal and water facilities.

D. Storage buildings of one hundred and fifty (150) square feet or less are exempt from permit fees, but must meet all other provisions of this Ordinance.

E. No farm accessory buildings are regulated by this section of this Ordinance.

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Nothing in this section shall be construed as to prohibit a property owner or his agent from preparing his own plans and specifications provided the same are clear and legible. On examination of any site, the Zoning Administrator may require a current boundary survey and staking of the premises by a competent surveyor if the same may not be clearly in evidence.

#### **Section 9.3.2 Issuance and Limitation of Permit**

A. If the Zoning Administrator finds the application conforms to the requirements of the Ordinance, the copies submitted shall be signed and dated by the Zoning Administrator.

One copy shall be filed with the Montmorency County Building Inspector, by the applicant, for a building permit, one copy with the Township Planning Commission and one returned to the applicant. No permit shall be valid until the required fee for issuance has been paid. No permit shall be transferable.

B. Time limits on the building permit shall also apply to the zoning permit.

C. The Zoning Administrator shall have responsibility to revoke or cancel any permit in case of failure or neglect to comply with the provisions of this Ordinance, or in case of false statements or misrepresentation made in the application. The owner shall be given reasonable notice in writing of liability to voiding action before revocation.

#### **Section 9.3.3 Fee Schedule and Escrow Account for Zoning Fees**

A. To assist in defraying the cost of administration, inspection, investigations, and necessary advertising, the Township Board may from time to time, by having a public meeting, and with approval at such meeting, adopt a Fee Schedule establishing basic zoning fees related to the following:

1. Zoning permits.

2. Special approval permits.

3. Site plan reviews.

4. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.

5. Classification of unlisted property uses.

6. Requests for variances from the Zoning Board of Appeals.

7. Requests for rezoning of property by individual property owners. Rezoning of property

initiated by the Township Board or the Planning Commission shall not be subject to a zoning fee.

8. Planned unit development reviews.

9. Site condominium subdivision reviews.

10. Special meetings.

11. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

B. All such fees shall be paid to the Zoning Administrator who shall place them with the Township Clerk after prescribed deduction for fees allotted to said Zoning Administrator in accordance with pre-established scale of fees to carry out the function of his responsibilities as directed by the Township Board. Said money is to be placed in a Township Zoning and Building Fund, which shall be used solely for costs of administration as directed by the Township Board. No fee shall be required for an accessory building or structure when applied for at the time as the principal building or structures.

C. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or PPP2036-01 R IX-2

\\indianrvr\projects\DATA\PLANNINGWIENNA\3ARTICLE IX ADMINISTRATION.doc participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Clerk such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

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## **ARTICLE X ZONING BOARD OF APPEALS**

### **Section 10.1 Zoning Board of Appeals**

There is hereby created the Vienna Township Zoning Board of Appeals which shall perform its duties and exercise its powers as provided by Act 184 of Public Acts of 1943, as amended, in such a way that the objectives of this Ordinance shall be observed, public safety secured and substantial justice done.

### **Section 10.2 Establishment and Membership**

As provided by said Act, the Zoning Board of Appeals shall consist of not less than three (3) members, the first (1st) member of such Zoning Board of Appeals shall be a member of the Township Planning Commission appointed by the Township Board; the second (2nd) member may be a member of the Township Board appointed by the Township Board; and the third (3rd) member shall be selected and appointed by the Township Board from electors residing in the unincorporated area of the Township. No elected officer of the Township shall serve as chairman of the Zoning Board of Appeals. No employee or contractor of the Township Board may serve simultaneously as a member of the Zoning Board of Appeals. A member shall disqualify himself from a vote in which he has a conflict of interest.

The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to serve as a regular member in the absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive Zoning Board of Appeals meetings. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

### **Section 10.3 Terms of Office**

Members shall serve terms of three (3) years, except that the members serving by virtue of their membership on the Township Planning Commission and Township Board shall serve a term expiring at the expiration of their terms on the Planning Commission or Township Board, and except that the other member initially appointed shall serve a term of one (1) year. A successor shall be appointed not more than one (1) month after the term of his predecessor has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

The Township Board shall provide for the removal of any member for non-performance of duty or misconduct in office.

### **Section 10.4 Expenses**

The total amount allowed any member of said Zoning Board of Appeals in anyone year as per diem or as expenses actually incurred in the discharge of his duty shall not exceed a reasonable sum, which sum shall be determined annually in advance by the Township Board.

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### **Section 10.5 Meetings and Records of Zoning Board of Appeals**

Meetings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the Zoning Board of Appeals in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The Zoning Board of Appeals shall maintain a record of its proceedings, which shall be filed in the office of the Township Clerk and shall be a public record.

### **Section 10.6 Hearings**

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by the agent or by attorney. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all powers of the officer from whom the appeal was taken, and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice be done.

### **Section 10.7 Decisions**

The Zoning Board of Appeals shall return a decision on an appeal or any other decision that the Zoning Board of Appeals is required to make pursuant to the Zoning Ordinance within a reasonable time. The Zoning Board of Appeals shall state the grounds of each determination. Any decision of the Zoning Board of Appeals shall become final five (5) days from the date of the decision, unless the Zoning Board of Appeals finds the immediate effect of such decision is necessary for the preservation of property or personal rights and shall make such decisions part of the record.

### **Section 10.8 Majority Vote**

A majority concurring vote of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which they are required to pass, or to effect any variation in the strict interpretation of this Ordinance.

### **Section 10.9 Duties and Powers of Zoning Board of Appeals**



A. Appeals: Appeals to the Zoning Board of Appeals may be made by any person aggrieved by any order, requirement, decision or determination, or by any officer, department or board of the Township. Any appeal from the ruling of the Zoning Administrator, Planning Commission or Township Board concerning the enforcement of the provisions of this Ordinance must be made to the Zoning Board of Appeals within ten (10) days from the date that the Zoning Administrator, Planning Commission or Township Board provides written notice of the decision. Such appeal shall be filed with the Zoning Administrator who shall immediately transmit to the chair of the Zoning Board of Appeals, all papers constituting the record upon which the action appealed from was taken.

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**B. Interpretation:** The Zoning Board of Appeals shall have the power to:

1. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Ordinance.
2. Determine the precise location of the boundary line between Zoning Districts.
3. Classify a use which is not specifically mentioned as part of the use regulations of any Zoning District so that it conforms to a comparable permitted use, in accordance with the purpose and intent of each district.

**C. Variance:** The Zoning Board of Appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, PROVIDED ALL of the BASIC conditions listed herein and any ONE (1) of the SPECIAL conditions listed thereafter can be satisfied.

1. Basic Conditions: Any variance granted from this Ordinance:

- a. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
- b. Will not cause a substantial adverse effect upon property values in the immediate vicinity, in the district in which the property of the applicant is located or in similar districts throughout the Township.
- c. Is one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably impractical.
- d. Will relate only to property that is under control of the applicant.
- e. Is one where the applicant does not cause the hardship.

2. Special Conditions: When ALL of the foregoing basic conditions can be satisfied, a variance may be granted when any ONE (1) of the following special conditions can be clearly demonstrated:

- a. Where there are practical difficulties or unnecessary hardships, which prevent carrying out the strict letter of this Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of the particular parcel of land.
- b. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same Zoning District. Such circumstances or conditions shall not have resulted from any act of the applicant after the adoption of this Ordinance.
- c. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

3. Rules: The following rules shall be applied in the granting of variances:

- a. The Zoning Board of Appeals may specify, in writing, such conditions regarding the character, location, and other features that will in its judgement, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
- b. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance and the

occupancy of land, premises, or buildings authorized by the variance has taken place within two (2) years after the granting of the variance.

c. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds, or newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid.

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#### **Section 10.10 Stay**

An appeal stays all proceedings in furtherance of the action appealed for unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeals shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the circuit court, on application on cause shown, after notice to the officer from whom the appeal is taken.

#### **Section 10.11 Appeals from Zoning Board of Appeals Decisions**

A person having an interest affected by a determination of the Zoning Board of Appeals may appeal to the Circuit Court of Montgomery County. Upon appeal, the circuit court shall review the record and decision of the Zoning Board of Appeals to insure that the decision:

- A. Complies with the constitution and laws of the state.
- B. Is based upon proper procedure.
- C. Is supported by competent, material and substantial evidence on the record.
- D. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

If the court finds the record of the Zoning Board of Appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the Zoning Board of Appeals, the court shall order further proceedings before the Zoning Board of Appeals on conditions which the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decisions shall be filed with the court.

As a result of the review required by this section, the court may affirm, reverse or modify the decision of the Zoning Board of Appeals.

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### **ARTICLE XI VIOLATIONS AND PENALTIES**

#### **Section 11.1 Violations**

Buildings and structures erected, altered, enlarged, moved, converted or any use of land or premises not in compliance with the provision of this Ordinance are declared to be in violation of the Ordinance. The Zoning Administrator shall inspect each alleged violation and shall order correction in writing to the owner of the premises of all conditions found to be in violation.

#### **Section 11.2 Correction Period**

All violations shall be corrected within thirty (30) days following date of issuance of written notice to correct. However, the Zoning Administrator shall have the authority to extend the correction period to not more than an additional thirty (30) days under circumstances where he deems an extension is warranted.

#### **Section 11.3 Municipal Civil Infraction**

Upon expiration of the designated correction period, any uncorrected violation of any provisions of this Ordinance by any person, firm, corporation, or association is hereby designated as a municipal civil infraction, as defined in Public Act 236 of 1961 (The Act), as amended. The Zoning Administrator, who administers and enforces this Ordinance, is hereby authorized to issue municipal civil infraction citations for uncorrected violations of this Ordinance, in accordance with the provisions of Section 8707 and 8709 of the Act.

The Zoning Administrator may issue a citation to a defendant (1) if the official witnesses a

defendant commit a violation of this Ordinance; (2) if, based upon investigation, the official has reasonable cause to believe that the defendant committed a violation of this Ordinance; or (3) if based upon investigation of a complaint by someone who allegedly witnessed the defendant commit a violation of this Ordinance, the official has reasonable cause to believe that the defendant is responsible for a violation of this Ordinance, and if the Township attorney approves in writing the issuance of the citation.

#### **Section 11.4 Penalties and Proceedings**

A. A defendant found responsible by the judge or magistrate for a violation of this Ordinance shall pay a fine not to exceed \$500.00 plus costs of not less than \$9.00 nor more than \$500.00, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction, up to the entry of judgment. Except as otherwise provided by law, costs shall be payable to the general fund of the Township. In addition to ordering a defendant to pay a civil fine and costs, the court may issue and enforce any judgment, writ, or order necessary to enforce this Ordinance.

B. Failure of the defendant to appear within the time specified on a citation or at the time scheduled for a hearing or appearance is a misdemeanor punishable by up to 90 days in jail and/or up to a \$500.00 fine plus costs of the prosecution, and will result in entry of a default judgment against the defendant on the municipal civil infraction.

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C. If a defendant fails to comply with an order or judgment issued pursuant to Section 8727 of the Act within the time prescribed by the court, the court may proceed under Sections 8302, 8729, and 8731 of the Act, as applicable.

D. If a defendant does not pay a civil fine or costs or an ordered installment within 30 days after the date on which payment is due in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the Township may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the register of deeds for the county in which the land, building, or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated into or attached to the court order. A lien is effective immediately upon recording of the court order with the register of deeds. The court order recorded with the register of deeds shall constitute notice of the pendency of the lien. In addition, the Township shall send a written notice of the lien by first-class mail to the owner of record of the land, building, or structure at the owner's last known address. The lien may be enforced and discharged by the Township in the manner prescribed by Section 8731 of the Act.

E. Each day on which any violation of this Ordinance continues constitutes a separate offense and shall be subject to the applicable fine, costs, penalties, and sanctions as a separate offense.

F. In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a defendant to restrain, prevent, or abate any violation of this Ordinance.

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#### **ARTICLE XII AMENDMENTS**

Amendments or supplements to this Ordinance may be adopted from time to time in the manner as provided by the Township Zoning Act (Public Act 184 of 1943, as amended) for the enactment of the original Ordinance.

#### **Section 12.1 Initiation**

Proposals or supplements may originate with the Township Board, the Township Planning Commission, the Zoning Board of Appeals, or by written petition by any property owner in the Township. Petition by property owner shall be accompanied by the fee prescribed in the Fee Schedule adopted by the Township Board to cover the cost of advertising public hearing and investigation.

#### **Section 12.2 Filing of Application**

All petitions for amendment to this Ordinance or Zoning Map shall be in writing, signed and filed in triplicate with the Township Zoning Administrator with appropriate fee, for presentation to the Township Planning Commission. All petitions for amendments to this Ordinance shall contain, but not be limited to:

- A. The petitioner's name, address and interest.
- B. The name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
- C. The nature and effect of the proposed amendment.
- D. A fully dimensioned map, showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning classification, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration.

### **Section 12.3 Hearing and Notice**

Before submitting its recommendations on a proposed amendment to the Township Board, the Planning Commission shall hold not less than one (1) public hearing, notice of which hearing shall be given by two (2) publications in a newspaper of general circulation in the Township, the first (1 51

) to be printed not more than thirty (30) days nor less than twenty (20) days and the second (2nd) not more than eight (8) days before the date of the hearing. Not less than twenty (20) days notice of the time and place of the hearing shall also be given by mail to each electric, gas, pipeline, and telephone public utility company, and to each railroad operating within the district or zone affected, that registers its name and mailing address with the Township for the purpose of receiving such notices. An affidavit of mailing shall be maintained. The notice shall include the places and times at which the tentative text and any maps of the zoning ordinance may be examined.

If an individual property or several adjacent properties are proposed for rezoning, the Township Planning Commission shall give a notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single-family and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, PPP2036-01 R XII-1

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an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be made not less than eight (8) days before the hearing stating the time, place, date and purpose of the hearing.

### **Section 12.4 Action by Planning Commission**

The Planning Commission shall hold the required public hearing as noticed. Following the hearing, the Planning Commission shall submit the proposed amendment to the county zoning commission or county coordinating zoning committee for thirty (30) day review period and recommendation, if such body has been appointed. Following county review, the Planning Commission shall submit its recommendations and a summary of comments received at the public hearing along with the proposed amendment, including any zoning maps, to the Township Board.

### **Section 12.5 Action by Township Board**

Upon receipt of the transmittal, the Township Board shall commence final consideration of the Planning Commission's recommendation. In this regard, the Township Board may decide to hold additional hearings on the proposed amendment, if in its judgement, it deems that further hearings may be necessary. Notice of such addition hearing shall be published in a newspaper of general circulation not more than fifteen (15) days or less than five (5) days before the hearing. In the event the Township Board considers further amendments, changes, additions or departures to the initial recommendation by the Township Planning Commission, the Township Board shall refer these further amendments, changes, additions or departures back to the Planning Commission for a report on such additional matters by a specified date. After receiving the report, the Township Board shall grant a hearing on a proposed amendment to

any property owner, who by certified mail, addressed to the Township Clerk, requests a hearing. Thereafter, at a regular or special meeting properly called, the Township Board may adopt the proposed amendment by a majority vote of its membership with or without amendments that have been previously considered by the Planning Commission or at a hearing.

**Section 12.6 Notice of Adoption**

Following Township Board adoption, the amendments or supplements shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation within fifteen (15) days after adoption. The notice of adoption shall include the following:

- A. A summary of the regulatory effect of the amendment, including the geographic area(s) affected, or the text of the amendment as adopted.
- B. The amendment shall take effect upon the expiration of seven (7) days after publication or at such later date after publication as specified by the Township Board.
- C. The place and time where a copy of the amendment may be purchased or inspected.

**Section 12.7 Resubmittal Procedure**

No petition for rezoning, which has been disapproved by the Township Board shall be submitted for a period of one (1) year from the date of disapproval, except as may be permitted by the Township Board after learning of new and significant facts or conditions which might result in a favorable action upon resubmittal.

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**ARTICLE XIII SEVERANCE AND ENACTMENT PROVISIONS**

**Section 13.1 Severance Clause**

All parts of this Ordinance shall be deemed severable. Should any section, paragraph, or provision be declared invalid or unconstitutional by the courts, such holdings shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared. The Township Board hereby declares that it would have enacted this Ordinance and each part thereof, irrespective of the fact that anyone or more parts, section, subsection, phrase, sentence or clause be declared invalid.

**Section 13.2 Repeal of 1981 Zoning Ordinance**

- A. A Zoning Ordinance regulating the development and use of land was adopted by the Vienna Township Board, Montmorency County, Michigan on September 14, 1981.
- B. The 1981 Zoning Ordinance previously adopted by the Township and all amendments thereto, are hereby repealed. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted, or inflicted.

**Section 13.3 Adoption, Publication, and Effective Date**

Public Hearing was held on the 22nd day of May, 2001, for this Zoning Ordinance of Vienna Township, and the Ordinance was adopted by the Vienna Township Board of Trustees at a regular meeting held on the 10th day of July, 2001.

- A. Notice of adoption shall be published in a newspaper having general circulation in Vienna Township within fifteen (15) days after adoption.
- B. The Zoning Ordinance shall take effect upon the expiration of seven (7) days after publication.

VIENNA TOWNSHIP

By: (~ *KJR,ULI*

Cheryl K in, Supervisor

By:

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