

CHAPTER 15 SPECIAL LAND USES

Section 15.01. Purpose of Special Land Uses. Uses allowed as special land uses are those which, because of their nature, are not necessarily appropriate at all locations throughout a zoning district, or are appropriate only if subject to special conditions. The purpose of this chapter is to provide standards and procedures for reviewing requests for special land uses, and for imposing conditions upon such uses.

Section 15.02. Procedures for Special Land Uses. For the consideration of a special land use, an applicant shall do the following:

- (a) File a completed application with the Township Clerk for submission to the Planning Commission, together with a site plan in compliance with Chapter 17, and other materials and information necessary to demonstrate that all requirements for the applicable special land use have been met. Each such application shall be accompanied by the filing fee as specified by Township Board resolution.
- (b) Upon receipt of such application, one notice that a request for a special land use has been received shall be published in a newspaper which circulates within the Township, and shall be personally delivered or mailed to the applicant and to all persons to whom real property is assessed and to the occupants of all structures within 300 feet of the boundaries of the subject property. Such notice shall be given not less than five days nor more than 15 days before the date the application will be considered.
- (c) The notice shall state the following:
 - (1) The nature of the special land use requested.
 - (2) The property which is the subject of the special land use request.
 - (3) When and where a public hearing will be held to consider the special land use application.
 - (4) When and where written comments will be received concerning the application.
 - (5) The notice shall indicate that a public hearing on the special land use application shall be held by the Planning Commission, or in the case of special land uses requiring approval by the Township Board, the notice shall refer to a public hearing by the Township Board, if a hearing is being held under subsection (d).

- (d) In the case of special land uses requiring the approval of the Township Board, upon the request of the applicant or a property owner or occupant of a structure located within 300 feet of the boundaries of the subject property, a Township Board public hearing shall be held on the special land use application. The type and extent of notice for such hearing requested by the applicant or a property owner or an occupant shall be the same as that required for a Planning Commission public hearing on a special land use application.
- (e) All aspects of the special land use, including the location thereof, storm water control measures and public utility services shall be subject to the approval of the Township Engineer and the Montcalm County Drain Commissioner.
- (f) In its discretion, the Planning Commission or Township Board may require submission of an environmental impact assessment, traffic impact study, utility system plan, water supply system plan and other plans or studies, or any of them, bearing upon the operation and effects of the special land use.
- (g) In its review of a special land use application, the Planning Commission (or the Township Board, in the case of special land uses requiring Township Board approval) may submit the application, site plan and other materials and information bearing on the proposed special land use to its consulting engineer and other professional consultants and advisors, including the Township attorney, land use planning consultants, traffic engineers, governmental officials and other persons whose advice may be of assistance to the Planning Commission or Township Board in the consideration of a special land use application.

Section 15.03. General Standards. To approve a special land use, the Planning Commission (or the Township Board, if the Township Board is the approving body) must find that all the following general standards are satisfied, in addition to any applicable standards set forth in this Ordinance for particular special land uses:

- (a) The special land use shall be established, laid out and operated so as not to have a substantial adverse effect upon adjoining or nearby lands or any of the uses thereof.
- (b) The special land use must not have an adverse effect on water and sewer services, storm water drainage, road capacity and volume of traffic and traffic safety and circulation.
- (c) The special land use must not have an adverse effect on police and fire services and other public safety and emergency services.
- (d) The special land use must not have an adverse effect on the need and demand for public services and the protection and preservation of natural features and natural resources.

- (e) The special land use shall not have an adverse impact upon other pertinent land use factors including but not limited to the view from adjacent and nearby lands; off-street parking and loading; refuse removal and similar services; control of noise, glare and vibration; signs; outdoor lighting.
- (f) The special land use shall have safe and reliable facilities for the collection and disposal of sanitary sewage and the providing and distribution of water supply. In the discretion of the Planning Commission, water supply and sewage disposal plans shall be submitted for review by the Township's consulting engineer. The special land use shall be consistent with the intent and purposes of this Ordinance and the Master Plan.

Section 15.04. Decision.

- (a) The Planning Commission (or the Township Board with respect to any uses for which the Board is the approving body) shall deny, approve or approve with conditions a request for a special land use. The decision shall be incorporated in the minutes or in a separate statement containing the conclusions relative to the special land use under consideration, specifying the basis for the decision and any conditions imposed.
- (b) As to those special land uses which, according to this Ordinance, shall be approved through action of both the Planning Commission and the Township Board, the action taken by the Planning Commission shall be a recommendation on whether the proposed special land use shall or shall not be granted and, if granted, upon what conditions it shall be granted. Such recommendation shall be forwarded to the Township Board, and the final decision on the special land use shall be made by the Township Board, at a public meeting, and after considering the Planning Commission recommendation. In considering a recommended special land use, the Township Board need not convene a public hearing, nor give notice other than that otherwise required for a Township Board meeting, unless required to do so by other provisions in this Ordinance. In making its decision on a proposed special land use, the Township Board may adopt the recommendation of the Planning Commission or it may depart from the recommendation, either in whole or in part.

Section 15.05. Conditions of Approval. The Planning Commission may impose reasonable conditions on the approval of a special land use. Said conditions shall meet the following requirements:

- (a) Be designed to insure public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads caused by the proposed use.
- (b) Be designed to insure that said use is compatible with adjacent land uses and activities.

- (c) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (d) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (e) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- (f) The conditions imposed with respect to the approval of a special land use shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.

Section 15.06. Expiration of Special Land Use. A special land use shall expire one year after it is granted, unless construction is complete or commencement of the use has substantially begun. The Planning Commission may, upon request by the applicant, extend the term of the special land use by successive periods of up to one year each upon a finding that there have been no changed conditions in the area which would require reconsideration of the special land use application or site plan.

Section 15.07. Revocation of Special Land Use. If a violation of any of the conditions or standards imposed on a special land use is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the special land use and the Planning Commission that such violation exists and that the special land use will be revoked within 15 days of such notification. If said violation is not corrected within 15 days, the Planning Commission shall revoke the special land use. Furthermore, such a violation is hereby declared to be a violation of the Zoning Ordinance, subject to all of the remedies and penalties provided for in this Ordinance.

Section 15.08. Performance Standards. The following provisions are standards for specific special land uses which must be satisfied to qualify for a special land use, in addition to the general standards set forth in this chapter.

Section 15.09. Churches.

- (a) Churches shall be located on a parcel of land of at least two acres in area, unless the Planning Commission allows a lesser area, in accordance with the general standards for special land uses.
- (b) Playgrounds, athletic grounds or similar recreational areas associated with a church may be permitted if approved by the Planning Commission.

- (c) Steeples, spires and roof ornamentation in excess of the height permitted in the zoning district in which a church is located may be approved by the Planning Commission as a special land use.
- (d) A nursery school or child care center may be operated on church property if approved by the Planning Commission as an additional special land use. Any such nursery school or child care center shall be located in the church building or in an accessory building located on the church property. There shall be appropriate and sufficient off-street parking areas, outdoor play areas, appropriate fencing and other design elements and features for the safety of the children attending and the appropriate operation of the child care facility. The Planning Commission may require appropriate registration or licensing as may be required by law.

Section 15.10. Schools.

- (a) The area of associated playgrounds, athletic grounds and other recreational areas shall be subject to approval of the Planning Commission.
- (b) Provision shall be made for adequate off-street parking area, proper vehicle circulation routes within the school building site and appropriate routes and parking area for school buses shall be provided on the site.
- (c) The location of public and private schools, in relation to public streets and other land uses, shall be such as to provide for convenient ingress to and egress from school buildings and other school facilities and so as to avoid serious adverse effects upon adjacent and nearby lands.
- (d) Suitable arrangements for domestic and fire protection water supply, sanitary sewage disposal and the handling and management of storm water drainage shall be provided for.

Section 15.11. Libraries and Museums.

- (a) Libraries, museums and similar special land uses, owned and operated by a governmental agency or nonprofit organization, shall have direct and adequate access to and from a public street.
- (b) In considering the approval of a special land use for such purposes, the Planning Commission shall consider among other matters, the location of the facility, adequacy of access, sufficient off-street parking area and such other matters as will assure the design and operation of the facility in such a manner as to have no serious adverse effects upon adjacent or nearby lands.

Section 15.12. Parks, Playgrounds and Community Centers.

- (a) Parks, playgrounds and community centers shall have direct access from and to a public street. Adequate off-street parking shall be provided.

- (b) Outdoor lighting shall not be brighter than necessary to provide for the safe use of the facility, and any such lighting shall be directed away from adjoining properties and public rights-of-way.
- (c) The Planning Commission may require adequate screening of the use from adjacent and nearby lands or may require specified setbacks from property lines, so as to avoid serious adverse effects upon other lands and land uses.

Section 15.13. Golf Courses, Country Clubs and Riding Stables.

- (a) All such uses shall have direct access to a public street. Adequate off-street parking shall be provided.
- (b) Outdoor lighting, if any, shall be not brighter than necessary in order to provide for the safe use of the facility, and all such lighting shall be directed away from adjoining lands and public rights-of-way.
- (c) Retail sales and restaurants, including restaurants serving alcoholic beverages, may be permitted as an additional special land use.
- (d) In the case of golf courses and country clubs, tees, fairways, greens and trails shall be arranged in a manner so as to limit stray golf shots and trespassing onto adjacent lands. Fencing may be required.
- (e) In the approval of a special land use, the Planning Commission may specify additional building setbacks from property lines, so as to avoid adverse effect upon adjacent lands. Screening by means of landscaping may be required.

Section 15.14. Campgrounds.

- (a) The minimum size of a campground shall be three acres. For purposes of this section, a campground shall refer to an area established for camping, and shall include the use of tents, recreational vehicles and buildings.
- (b) The campground use shall have direct access to a public street.
- (c) All sanitary facilities shall be designed and constructed in full compliance with applicable county health department regulations.
- (d) The number of sites for camping use and the distance between camp sites shall be subject to the approval of the Planning Commission.
- (e) Adequate off-street parking area shall be provided. The Planning Commission may impose requirements with regard to generalized parking area, for campers and visitors, and also for a parking space or spaces within each individual campsite.
- (f) There shall be a recreation area, or other common use area within the campground. The Planning Commission may impose requirements on the area, location, landscaping and use of such common use area.

- (g) There shall be adequate provision for the proper handling of storm water drainage, and the Planning Commission may impose requirements relating thereto.
- (h) No business or commercial uses shall take place within a campground, except for such convenience-goods store or location that may be approved by the Planning Commission, and subject to limitations and minimum requirements imposed thereon.
- (i) Existing campgrounds in the Township, if previously approved as a special land use, shall be subject to subsequent approval under this section, upon the expiration of any current special land use, except that in granting any such further special land use of an existing campground, the Planning Commission may waive any of the above minimum requirements, and determine that the campground may be lawfully nonconforming, with regard to any such waived requirements. Such waiver of requirements shall not apply to any campground established after the effective date of this Ordinance. In waiving any of such requirements for an existing campground, the Planning Commission may, however, impose additional requirements, for the purpose of causing the existing campground to conform more fully to the requirements of this section.

Section 15.15. Bed and Breakfast Establishments.

- (a) The bed and breakfast establishment shall be located on lands with direct access to a public street.
- (b) The use shall be established only in a detached single family dwelling.
- (c) There shall be adequate off-street parking, so located as to minimize negative impacts upon adjacent lands.
- (d) The total number of guest rooms shall not exceed six, plus one additional guest room for each 10,000 square feet or fraction thereof by which the lot area of the property exceeds one acre, but in any event, there shall not be more than ten guest rooms.
- (e) Exterior refuse storage facilities shall be screened from view on all sides by a solid decorative fence or landscaping.
- (f) One freestanding sign shall be allowed for identification purposes only. The freestanding sign shall not exceed 16 square feet in area and shall not be more than four feet in height; it may not be illuminated.
- (g) The establishment shall also be the residence of the operator.
- (h) Breakfast may be served, but only to overnight guests and to the operator's family and employees. The establishment shall not be used for public restaurant purposes.

Section 15.16. Family Daycare Homes.

- (a) Family daycare homes for more than six minor children may be approved as a special land use by the Planning Commission.
- (b) Adequate off-street parking, including off-street pick-up and drop-off areas shall be provided.
- (c) There shall be adequate outdoor recreation space, sufficient for the number of persons being cared for in the home, and of such area as approved by the Planning Commission.
- (d) All applicable state licensing requirements shall be complied with.

Section 15.17. Adult Foster Care Family Homes.

- (a) Adult foster care family homes for more than six adults shall be subject to special land use approval by the Planning Commission.
- (b) All such facilities shall comply with applicable state licensing requirements.
- (c) Adequate off-street parking area and adequate recreational space within the property shall be provided, and shall be of such area as is approved by the Planning Commission.
- (d) Exterior refuse storage facilities shall be screened from view on all sides by a decorative fence or adequate landscaping.

Section 15.18. Junkyards, Salvage Yards and Recycling Stations.

- (a) The entire operation shall be completely enclosed by a screening fence at least eight feet in height or within a building.
- (b) A site development plan shall be submitted, and shall be subject to approval of the Planning Commission.
- (c) Specifications and detail for all screen fencing shall be submitted and shall be subject to approval of the Planning Commission.
- (d) The screening fence shall be of such design and material as to completely obscure the junk and other materials stored behind it. The area enclosed by the screening fence shall not include any of the area of the lands that is required for the minimum yard sizes under the terms of this Ordinance.
- (e) No such use shall be permitted within 200 feet of a property line or public street.
- (f) No materials or items stored or included in the use shall exceed the height of the screening fence.

Section 15.19. Roadside Stands.

- (a) Roadside stands with more than 200 square feet of sales area for the sale of produce grown on the premises and for other limited purposes shall be subject to special land use approval by the Planning Commission.
- (b) The roadside stand shall be situated a safe and adequate distance back from the traveled portion of the street right-of-way.
- (c) If approved by the Planning Commission, a roadside stand may sell, in addition to produce grown on the premises, other related goods and items, including though not limited to jams and jellies, cheese, small arts and crafts items, candies and specialized kitchen utensils.
- (d) The roadside stand shall be operated on a seasonal basis only.

Section 15.20. Farm Markets.

- (a) Farm markets having an area greater than 800 square feet shall be subject to special land use approval by the Planning Commission.
- (b) There shall be direct access from a public street and adequate off-street parking shall be provided.
- (c) The building or other facility in which the farm market operation is conducted shall be located a safe and adequate distance from the traveled portion of the street right-of-way.
- (d) Farm markets may sell produce grown on the premises, other produce and related food and agricultural goods and items, including small arts and crafts.
- (e) Any outdoor lighting shall be directed downward and shall not cause adverse effects on adjacent or nearby lands.
- (f) Access driveways shall be located not less than 25 feet from the nearest part of the intersection of any street.
- (g) Outdoor refuse storage areas shall be screened on all sides.
- (h) There may be one sign identifying the farm market, with the placement, size and height thereof to be subject to the approval of the Planning Commission.

Section 15.21. Intensive Livestock Operations.

- (a) The use shall comply with generally accepted agricultural and management practices approved by the Michigan Commission of Agriculture.
- (b) The approval of the use shall be accomplished by recommendation by the Planning Commission and approval by the Township Board.

- (c) Terms and conditions imposed on the use shall be for the purpose of assuring compliance with generally accepted agricultural and management practices approved by the Michigan Commission of Agriculture.

Section 15.22. Airfields and Landing Strips.

- (a) Private airfields and private landing strips may be allowed if authorized by the Planning Commission as a special land use.
- (b) Such use shall not adversely affect existing or future development of the Township.
- (c) The take-off and landing pattern within 1,000 feet of the end of a runway shall not pass over an occupied structure.
- (d) The airfield or landing strip shall be at least 200 feet away from any property line.
- (e) The airfield or landing strip shall be so located, operated and managed as to have no adverse effect upon the safety of persons living in the Township.
- (f) The airfield or landing strip shall comply with all applicable rules and regulations, including those of the State of Michigan and the Federal Aviation Administration.

Section 15.23. Utility and Public Service Buildings.

- (a) The materials, color and design of such buildings shall be generally compatible with the surrounding neighborhood.
- (b) Utility and public service buildings shall comply with the yard setback requirements of the district in which such buildings are located. The Planning Commission may, however, increase the minimum setback areas, as a condition of special land use approval.
- (c) Fencing and screening may be required.
- (d) Adequate driveways and off-street parking areas for the vehicles servicing the buildings shall be provided.

Section 15.24. Removal and Processing of Sand, Gravel and Other Mineral Resources.

- (a) The removal or extraction of sand, gravel, soil, rock and similar natural resources shall be permitted only with the intent and in such manner as to meet the need for such natural resources to be used, or to prepare the lands for use in accordance with the provisions of the district in which the lands are located.
- (b) Special land use approval shall not be required where the removal or extraction of natural resources is located more than 500 feet from any street or property line, occupies not more than two acres in area and does not constitute a weekly average intensity of use of more than five cubic yards of material per day and creates no area which fills with water, other than farm watering ponds.

- (c) An application for special land use approval for removal and processing of sand, gravel and other mineral resources shall include the following:
- (1) A written legal description of all of the lands proposed for the use.
 - (2) Eight copies of a plan for mineral removal, drawn and sealed by a registered civil engineer, and including the following:
 - (i) A north arrow, scale and date.
 - (ii) Shading indicating the extent of land area on which mineral removal operations and activities will take place.
 - (iii) The location, width and grade of all easements or rights-of-way on or abutting the lands.
 - (iv) The location and direction of all water courses and flood control channels which may be affected by the mineral removal operations.
 - (v) Existing elevations of the lands at intervals of not more than five feet.
 - (vi) Typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table.
 - (vii) Mineral processing and storage areas.
 - (viii) Proposed fencing, gates, parking areas, and signs.
 - (ix) Roads for ingress to and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles.
 - (x) A map showing access routes between the subject lands and the nearest County Primary Arterial road.
 - (xi) Areas to be used for ponding.
- (d) The applicant shall submit a narrative description and explanation of the proposed mineral removal operations and activities, including the date of commencement, proposed hours and days of operation, estimate of the type and quantity of mineral materials to be removed, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to insure compliance with the conditions of this section.
- (e) A site rehabilitation plan shall be submitted. It shall include the following:

- (1) A description of the planned site rehabilitation and the end uses, including methods of accomplishment, phasing and timing.
 - (2) A plan showing the final grades of the lands as rehabilitated, at contour intervals not exceeding five feet; and also including water courses, ponds or lakes, if any; landscaping and plantings; areas of cut and fill; and all of the components of the proposed end uses.
 - (3) A description of the proposed methods or features which will insure that the end uses are feasible and will comply with the Township Master Plan and the requirements of this Ordinance.
- (f) The Planning Commission may require an environmental impact statement, engineering data, traffic impact study or other studies or information concerning the need for and consequences of such mineral extraction and removal.
- (g) Each site rehabilitation plan shall be reviewed by the Planning Commission so as to determine its compliance with all of the following standards and requirements:
- (1) Topsoil shall be replaced on the site to a depth of not less than six inches, except where the end-use activities or features do not involve the planting of lawns or growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use. The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall not be replaced and slopes shall be graded and stabilized before mineral removal operations or activities are commenced in another area of the site.
 - (2) Final slopes shall have a ratio of not more than one foot of elevation to three feet of horizontal distance.
 - (3) Plantings of grass, shrubs, trees, and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end-uses, and enhance the beauty of the site as rehabilitated.
- (h) The Planning Commission may approve routes for truck movements to and from the removal site. Access roads within the area of operation shall have a dustless surface and the entry road shall be hard surfaced for such distance as required by the Planning Commission.
- (i) No machinery shall be located or used within 50 feet of any property or street line. No cut or excavation shall be made closer than 50 feet to any street right-of-way line or property line. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation.

- (j) Proper measures may be required so as to minimize the nuisance of noise, dust and other adverse impacts. Limitations may be imposed upon the stockpiling of excavated material on the site.
- (k) During activities and operations for the removal of mineral material, no such material or other excavated material shall be left during weekends or overnight in such condition or manner as to constitute a danger to those who may enter the removal area. All banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than one foot of elevation for each two feet of horizontal distance, after the cessation of daily operations; provided, however, that the Planning Commission may require some lesser daily grading requirement if the applicant provides a substantially constructed and maintained wire fence, or fence of other substantial material, of at least four feet in height, and so located that any slopes steeper than one foot of elevation for each two feet of horizontal distance cannot inadvertently be approached by persons who may enter the removal area.
- (l) The Planning Commission may require compliance with other conditions that may be necessary to ensure compliance with the terms of this section. Such conditions may include, though not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation and fuel loading and storage requirements.
- (m) An applicant for special land use approval shall submit a performance bond or letter of credit in accordance with the requirements of this Ordinance, naming the Township as the insured party and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the special land use. Such bond or letter of credit shall have such other terms and shall be in such amount as is required by the Planning Commission.
 - (1) The performance bond or letter of credit shall not be refunded, reduced or transferred until the mineral removal operations, land reclamation or restoration and all other required activities have received final inspection and approval, and until the Planning Commission has determined that the applicant has fully complied with all of the terms and conditions of the special land use.
 - (2) The timely and faithful compliance with all of the terms of the performance bond or letter of credit shall be a condition of mineral removal operations. In the absence of such compliance, or if the bond or letter of credit is revoked or if it expires and is not renewed, the Planning Commission need not approve the renewal of any special land use, even if the applicant has otherwise complied with the terms of the special land use.
- (n) The Planning Commission may impose a time limit on the special land use. A renewal of the use thereafter may be permitted by the Planning Commission, upon

such terms and with such duration as the Planning Commission may determine, after the same public hearing and the same public notice as is required for the original special land use.

- (o) The special land use may include only the excavation, processing and removal of mineral resources located on the lands. Other mineral resources or other materials may not be brought to the site for storage, processing or other purposes, except that additional permanent fill material may be brought to the site in compliance with an approved site rehabilitation plan.
- (p) No mechanical processing of natural resources shall be permitted in any district where such operation would be seriously detrimental to adjacent or nearby land uses. Mechanical processing may be limited to screening of gravel and other material, in the discretion of the Planning Commission, or it may also include crushing of gravel or stone, if authorized by the Planning Commission, and under such limitations as the Commission may provide.
- (q) Storm water runoff shall be directed to existing drainage systems, or shall otherwise be handled, in a manner approved by the Planning Commission.
- (r) The creation or enlargement of a lake, in connection with rehabilitation of the site, shall be permitted only where the applicant demonstrates from engineering and geological studies that the waters of the lake will not become polluted or stagnant. Any such lake shall be approved by agencies having jurisdiction, including the Department of Environmental Quality and the County Drain Commissioner.
- (s) No removal area, storage area, access drive, processing area or loading area shall be located closer than 150 feet to a principal structure on an adjoining or nearby property.
- (t) All structures and stored materials and equipment shall be removed from the site within two months of the discontinuance of the use for removal or extraction of natural resources.

Section 15.25. Antennas and Towers of a Height Greater than 30 Feet. Freestanding radio, television and telecommunications antennas and towers (including satellite dish antennas) exceeding a height of 30 feet above grade, or exceeding a dimension of 15 feet in any other direction, including any mounting structure, may be approved by the Planning Commission as a special land use upon compliance with the following requirements:

- (a) Any such antenna or tower shall be permanently secured to a stable foundation. It shall be grounded to protect against damage from lightning.
- (b) No part of the antenna or tower shall display any name, symbol, words or letters, advertising message, graphic representation or other written or pictorial matter visible from adjacent or nearby lands.

- (c) Any such antenna or tower shall be located only in a rear yard or side yard, unless otherwise permitted by the Planning Commission. It shall not be closer to a property line than its height, unless a lesser setback is permitted by the Planning Commission.
- (d) A commercial or public antenna or tower, including accessory buildings or structures, shall be fully enclosed by a sturdy fence, securely gated, and shall have such height as reasonably determined by the Planning Commission.
- (e) The antenna or tower shall not be so located or constructed so as to have a serious adverse effect on adjacent or nearby land uses.
- (f) The antenna or tower and the construction, installation, maintenance and operation thereof shall comply with all federal, state and local laws, ordinances and regulations.
- (g) Antennas and towers for commercial telecommunications services, including cellular telephone antennas and towers, shall comply with the following requirements:
 - (1) Such antennas and towers may be required by the Planning Commission to be located on an existing approved tower if such location is reasonably feasible and practical, in the opinion of the Planning Commission, based upon the facts concerning the existing tower, the area to be served by the proposed telecommunications antenna and other relevant factors.
 - (2) A proposed tower for commercial telecommunications services may be required, in the discretion of the Planning Commission, to be designed, constructed and placed so as to accommodate both the applicant's equipment and comparable equipment for at least two additional users. The Planning Commission may require that such towers be designed and constructed so as to allow for the future rearrangement of equipment upon the tower, and to accept equipment mounted at varying heights on the tower.
 - (3) Towers for commercial telecommunications services shall be designed so as to blend, insofar as possible, into the surrounding environment, through the use of color of equipment and architectural treatment, except in those cases where color of equipment may be dictated by state or federal agencies. Such towers shall be of a monopole design unless the Planning Commission determines that an alternative design would be satisfactory.
 - (4) The Planning Commission may require that commercial telecommunications towers not be illuminated, unless required by state or federal agencies having jurisdiction. No signs or other written or graphic matter not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings, except that a name identification sign may be located on an associated building.

- (5) The Planning Commission may require that commercial telecommunications towers, or other related structures or buildings, be screened with landscaping, berms, walls or a combination of any of them.
- (6) Towers for commercial telecommunications services which are abandoned or unused shall be removed, along with any associated buildings, structures or equipment within one year of the ceasing of operations, unless a time extension is granted by the Zoning Administrator. One time extension, of up to six months, shall be permitted if the Zoning Administrator determines that the owner or former operator of the facility is taking active steps to insure its removal.
- (h) The Planning Commission in its reasonable discretion may impose other terms and conditions regulating the construction, installation, use and maintenance of any such antenna or tower. Such other terms and conditions may include, though need not be limited to, the following:
 - (1) The screening or buffering of an antenna or tower and any accessory buildings or structures thereof.
 - (2) The timely removal of unused or unsafe antennas or towers or accessory buildings or structures thereof.
 - (3) The prohibition on the construction or occupancy of dwellings or other buildings or the construction and use of other structures within a specified isolation distance from an antenna or tower.
 - (4) The preservation of existing trees and other existing vegetation not required to be removed for installation of an antenna or tower; the reasonable restoration of trees or other vegetation removed or destroyed during the construction or installation of an antenna or tower or accessory buildings or structures thereof.
- (i) Where the effect of any of the provisions of this section would be to prevent or preclude the operation of amateur radio antennas (being antennas operating for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code) and licensed by the Federal Communications Commission, such amateur radio antenna may be approved by the Planning Commission as a special land use if it is reasonably demonstrated that the application of any of the provisions of this section would be to preclude or prevent the operation of such amateur radio antenna. In granting any such special land use for an amateur radio antenna, the Planning Commission may impose reasonable conditions upon such approval, but such conditions shall not interfere with the reasonable accommodation of amateur radio communications and such conditions, if any, shall be no more than the minimum practicable regulations necessary to accomplish the Township's legitimate purposes in regulating such amateur radio antennas.

Section 15.26. [Reserved].

Section 15.27. Restaurants With Drive-Up or Drive-Through Facilities.

- (a) There shall be sufficient stacking capacity for the drive-through portion of the restaurant so that traffic does not extend into the public right-of-way. At least ten stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicle circulation within the restaurant site.
- (b) In addition to other parking space requirements, at least three parking spaces shall be provided in close proximity to the exit of the drive-through portion of the restaurant site, so as to allow for the temporary parking of the vehicles of customers who are waiting for delivery of orders.
- (c) Access driveways shall be located at least 25 feet from the nearest part of a street intersection or any other driveway.
- (d) Outdoor speakers and lighting for the drive-through portion of the restaurant shall be so located that sound transmission and glare of lighting toward adjacent properties is minimized.

Section 15.28. Motor Vehicle Service Stations.

- (a) Access driveways shall be located not less than 25 feet from the nearest part of a street intersection or any other driveway.
- (b) Pump islands shall be located at least 15 feet from any public right-of-way or lot line.
- (c) Where a motor vehicle service station adjoins residentially-zoned or used property, a solid wall or fence, six feet in height, or a substantial landscaped screen, six feet in height, shall be erected or planted along any common lot line. Such fence, wall or landscaping shall be maintained in good condition.
- (d) Inoperable vehicles left on the site shall, within two days, be stored within an enclosed building, or in an area screened by a solid fence not less than six feet in height. Such fence shall be maintained in good condition.
- (e) Storage of motor vehicle components and parts, trash, supplies or equipment outside of a building is prohibited.
- (f) All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, and except for temporary outdoor checking or testing of vehicles, shall be kept within an enclosed building.

Section 15.29. Motor Vehicle Repair or Body Shops.

- (a) Access driveways shall be located not less than 25 feet from the nearest part of a street intersection or any other driveway.

- (b) Inoperable vehicles left on the site shall, within two days, be stored within an enclosed building, or in an area screened by a solid fence not less than six feet in height. Such fence shall be maintained in good condition.
- (c) Storage of motor vehicle components and parts, trash, supplies or equipment outside of a building is prohibited.
- (d) All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, and except for temporary outdoor checking or testing of vehicles, shall be kept within an enclosed building.

Section 15.30. Mini Warehouses and Self-Storage Facilities.

- (a) Adequate driveways and safe and adequate areas for circulation of vehicle traffic on the site shall be provided.
- (b) Any receptacles or other facilities for the outdoor disposal of trash or debris shall be shielded from view from adjoining lands or streets, by walls, solid fences or substantial landscaping.
- (c) Outdoor lighting, if any, shall be so arranged as to avoid the glare of lighting onto adjacent and nearby lands or streets.

Section 15.31. Taverns or Bars Serving Beer, Wine and Spirits.

- (a) The appropriate state license shall be obtained and shall be kept in force at all times; the Township Board shall give its approval of the use, if such approval is a condition of the state licensing of the use.
- (b) Adequate, safe and convenient driveways and off-street parking areas shall be provided.
- (c) In determining whether to approve the special land use, the Planning Commission shall consider the proximity of the proposed use to adjoining properties; the extent to which the proposed use harmonizes with adjoining commercial and other properties; the general effect of the use on adjoining and nearby lands, including residential lands in the vicinity.

Section 15.32. Open-Air Businesses.

- (a) Required yard setback areas shall not be used for the sale or display of merchandise.
- (b) A fence or wall may be required to be constructed along or near boundaries of the site, so as to keep trash, paper and other debris from being carried by wind to other lands.
- (c) All applicable county health department regulations shall be complied with.

- (d) That portion of the site used for vehicle parking and areas used for outdoor display or storage shall have a durable and dustless surface, and such areas shall be properly graded and drained so as to dispose of all surface water.
- (e) All outdoor lighting shall be shielded so as to prevent glare from lighting onto adjacent lands and nearby streets.

Section 15.33. Contractor Yards and Construction Equipment.

- (a) Adequate, safe and convenient driveways for the ingress and egress of construction equipment shall be provided.
- (b) Fencing of the site may be required.
- (c) The screening of all or portions of the site, from the view from adjacent lands, may be required, by means of solid fencing and/or substantial landscaping. Any such fencing or landscaping, once provided, shall be continuously maintained in good condition.
- (d) The portion of the site used for the driving and parking of construction vehicles and construction equipment shall be located a sufficient distance away from adjoining land so that there are no serious adverse effects upon such lands by reason of excessive noise, vibration, dust, dirt or other adverse effects.

Section 15.34. Commercial Kennels.

- (a) Buildings for the housing of animals shall not be located within 200 feet of any property line or street right-of-way.
- (b) The minimum lot area shall be two acres.
- (c) The kennel shall include facilities for the disposal of manure and refuse and shall have proper insect control methods. Fencing of the site may be required.
- (d) Outdoor areas for the keeping and exercise of animals shall be located a sufficient distance away from adjoining lands so as to avoid adverse effects upon such lands by reason of noise made by the animals and so as to avoid other adverse effects.

Section 15.35. Automatic and Self-Serve Vehicle Wash Facilities.

- (a) There shall be sufficient stacking capacity for the drive-through portion of the establishment, so as to assure that vehicle traffic does not extend into a public right-of-way. At least ten stacking spaces for an automatic wash facility shall be provided. For self-service establishments, each stall shall have at least two stacking spaces at the entrance and one stacking space at the exit.
- (b) Safe, adequate and convenient driveways and vehicle circulation areas shall be provided.

- (c) Wash bays for self-service establishments shall be located at least 50 feet away from any residential district.
- (d) Where such establishments adjoin residentially-zoned or residentially-used property, a solid wall or fence, six feet in height, shall be erected along or near the common property line. Such fence shall be continuously maintained in good condition.
- (e) Outdoor lighting shall be shielded so as to prevent the glare of lighting onto adjacent or nearby lands or streets.

Section 15.36. Motels and Hotels.

- (a) The minimum lot area shall be four acres.
- (b) Safe, adequate and convenient access driveways shall be provided. Such driveways shall be located not less than 50 feet from the nearest part of any intersection or from any other driveway.
- (c) Areas and facilities for the temporary outdoor accumulation of refuse shall be shielded from the view from adjacent lands and streets by a solid fence or substantial landscaping. Such fencing or landscaping shall be continuously maintained in good condition.

Section 15.37. Theaters.

- (a) Adequate, safe and convenient access driveways shall be provided. Such driveways shall be located not less than 50 feet from the nearest part of any street intersection or any other driveway.
- (b) Theater buildings shall be set back at least 100 feet from any residential property line.
- (c) A traffic impact study may be required. Such study shall include proposed traffic circulation routes on the site and projected impacts of the theater operation, by reason of traffic and other effects, upon adjacent and nearby streets.
- (d) Outdoor lighting shall be shielded so as to prevent the glare of lighting onto adjacent or nearby properties or streets.

Section 15.38. Commercial Storage Warehouses.

- (a) The minimum lot area shall be two acres.
- (b) Adequate, safe and convenient driveways and vehicle circulation areas on the site shall be provided. Driveways shall be located at least 25 feet away from any street intersection and from other driveways.
- (c) Outdoor lighting shall be so located, and outdoor lights shall be so shielded, that lighting shall not adversely affect nearby lands or the adjacent streets.

- (d) Any receptacles or areas for the temporary outdoor storage of trash and debris shall be shielded from the view from adjacent lands and streets by a solid fence or substantial landscaping. Any such fence or landscaping shall be continuously maintained in good condition.

Section 15.39. Warehousing, Storage and Transport of Fuels.

- (a) Warehousing, bulk storage and transport of propane, liquid petroleum, natural gas, fuel oil and similar fuels (not including gasoline) are subject to special land use approval by the Planning Commission.
- (b) All federal and state requirements for the location and construction of such facilities, and the installation of equipment, shall be complied with.
- (c) The site for the facilities included in the special land use shall be located on a state highway or a county primary road; provided, however, that in its approval of the special land use, the Planning Commission may approve a site for such facilities on a paved public street that is neither a state highway nor a county primary road.
- (d) No storage shall take place closer to any property line than is permitted by applicable state or federal regulations, but in any event, such storage shall not take place closer than 50 feet from any property line. There shall be no storage of explosive or volatile chemicals in gaseous form closer than 250 feet from any existing dwelling."
- (e) Adequate and safe driveways and vehicle circulation areas on the site shall be provided.
- (f) Fencing, outdoor lighting, security arrangements and other appropriate conditions may be required.
- (g) Retail sales shall not be permitted on the premises.

Section 15.40. Dismantling or Disassembly of Used Motor Vehicles.

- (a) The minimum lot area shall be two acres.
- (b) The outdoor dismantling, disassembly or other work on used motor vehicles shall take place only behind a solid fence, enclosing all of such activity.
- (c) Outdoor storage of vehicle components and parts, trash, supplies or equipment shall take place only within a completely enclosing, solid fence. Any such materials shall not be stacked higher than the height of the fence.
- (d) There shall be safe and adequate driveways to and from the vehicle dismantling area.
- (e) The dismantling, disassembly or other work on used motor vehicles shall take place only at a location within the site that is a sufficient distance away from property lines, so that there are no adverse effects upon adjacent or nearby lands by reason of noise, vibration or other aspects of the use.

- (f) Other requirements concerning screening and fencing may be required.

Section 15.41. Bottling Plants and Dairies.

- (a) Safe and adequate driveways for trucks and other vehicles shall be provided.
- (b) All bottling facilities and related facilities and equipment shall be located a sufficient distance away from property lines so that there are no serious adverse effects upon adjacent and nearby lands by reason of noise, vibration or other impacts.

Section 15.42. Machine Shops.

- (a) The minimum lot area shall be one acre.
- (b) The principal building any accessory buildings and structures shall not be located within 100 feet of any residential district or the property line of any residential use.
- (c) Any outdoor repair or storage activities shall be adequately screened from the view from adjacent and nearby lands.

Section 15.43. Light Industrial Uses Not Otherwise Permitted in District.

- (a) Light industrial uses not listed as permitted uses in the I District may be permitted if approved by the Planning Commission as a special land use.
- (b) In considering whether to approve such other light industrial uses, the Planning commission may impose conditions and requirements relating to driveways, outdoor lighting, screening and buffering, isolation distance from other uses and may impose other requirements for the purpose of avoiding adverse impacts upon adjacent or nearby lands.

Section 15.44. Billboards.

- (a) Billboards may be constructed, installed, maintained and used only if approved by the Planning Commission as a special land use in accordance with this section, and further, billboards may be located only within the following described lands:
 - (1) Lands in the C-1, C-2 and I Districts.
 - (2) Within those lands located only within one mile north and one mile south from the centerline of Cannonsville Road and within a strip of land extending not more than 100 feet east of the easterly right-of-way line of US-131 and not more than 100 feet west of the westerly right-of-way line of US-131.
- (b) Billboards shall be subject to all of the following requirements:
 - (1) Billboards shall be located not closer than 25 feet and not further away than 200 feet from the nearest right-of-way line of a federal or state highway, provided, however, that billboards shall be located not further away than 100

feet from the nearest right-of-way line of Highway US-131, within the area described in subsection (a)(2) of this section.

- (2) Billboards shall not exceed 400 square feet in area and shall not exceed 35 feet in height.
- (3) A billboard shall not be located closer than 1,200 feet from any other billboard; and further, a billboard shall not be located such that it interferes with, obstructs the view of, or may be confused with any authorized traffic sign, signal or device, nor shall any billboard otherwise constitute a nuisance.
- (4) Billboards may be illuminated, but no flashing lights or other intermittent lights shall be permitted. Illumination, if any, shall be shielded so as to prevent light from being directed at any part of a highway or street. A billboard shall not be so illuminated that it interferes with the effectiveness of any official traffic sign, signal or device.
- (5) The owner of a billboard shall apply for any required permit pursuant to the Highway Advertising Act of 1972 or other applicable state law. A township sign permit shall also be required, together with payment of the fee prescribed therefor.
- (6) Except as stated in this section, the provisions of the Highway Advertising Act of 1972 or other applicable state law shall regulate and control the size, lighting, placement and spacing of billboards or any part thereof.
- (7) In approving a billboard as a special land use, the Planning Commission may impose additional terms, conditions and limitations relating to the size, height, location, nature, spacing and other features of a billboard.

Section 15.45. Solid Waste Disposal. Solid waste disposal and processing facilities for the receiving and processing of solid waste, excluding toxic or hazardous materials, are permitted only in the AG District and only if approved by the Planning Commission and Township Board as a special land use in accordance with the requirements of this section.

- (a) Special land use approval for solid waste disposal and processing shall be permitted only with the intent and in such manner as to meet a demonstrated need for such disposal and processing, either in the case of a new solid waste disposal site or for the modification or expansion of an existing solid waste disposal site.
- (b) All solid waste disposal sites must be duly licensed at all times by state and county agencies having jurisdiction. Unlicensed disposal sites or landfills or any public or private dumps are prohibited.
- (c) An application for special land use approval for solid waste disposal and processing shall include the following:

- (1) A written legal description of all of the lands proposed for the use.
- (2) Eight copies of a plan of the entire solid waste disposal site, drawn and sealed by a registered civil engineer, and including the following:
 - (i) A north arrow, scale and date.
 - (ii) Shading indicating the extent of land area on which disposal and/or processing operations will take place.
 - (iii) The location, width and grade of all easements or rights-of-way on or abutting the lands.
 - (iv) Existing elevations of the lands at intervals of not more than five feet.
 - (v) Proposed fencing, gates, parking areas, and signs.
 - (vi) Roads for ingress to and egress from the disposal site, including on-site roads and other areas to be used for movement of vehicles.
 - (vii) A map showing access routes between the subject lands and the nearest public streets.
 - (viii) Written demonstration of compliance with all applicable state, county and other governmental regulations.
- (d) The applicant shall submit a narrative description and explanation of the proposed solid waste disposal and processing operations and activities, including the date of commencement, proposed hours and days of operation, estimate of the quantity of waste to be handled and disposed of, description of the handling and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to ensure compliance with the conditions of this section.
- (e) An end use plan shall be submitted with the application. The plan shall include the following:
 - (1) The proposed final use or uses of the land, following the conclusion of waste disposal operations, including methods of accomplishing the end use or end uses, the phasing thereof and the periods of time within which such use or uses will be achieved.
 - (2) A description of all aspects of revision and rehabilitation of the site, upon the conclusion of waste disposal operations.
 - (3) A plan showing final grades of the lands as rehabilitated and prepared for end uses, at contour levels not exceeding five feet; and also including all aspects and features of the proposed end uses.

- (4) A description of the land development methods or the proposed features of the land which will assure that the end uses are feasible and that they will comply with the Township Master Plan and the requirements of this Ordinance.
- (f) Each end use plan shall be reviewed by the Planning Commission and Township Board so as to determine the plan's compliance with all of the following standards and requirements:
- (1) Top soil shall be placed on the site to a depth of not less than six inches, except where the end use activities or features do not involve the planting or growing of vegetation. Slopes shall be graded and stabilized to such extent that they will accommodate the proposed end uses.
 - (2) Final slopes shall have a ratio of not more than one foot of elevation to three feet of horizontal distance, or such other ratio as may be approved by the Planning Commission and Township Board.
 - (3) Plantings of grass, trees and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end uses and enhance the appearance of the site as rehabilitated and as prepared for the end uses.
- (g) A solid waste disposal and/or solid waste processing facilities, or any part thereof, shall not be located within 1,000 feet of any existing residential structure, nor shall the site or the facility be located within one mile of any city or village limit or any body of water or wetland.
- (h) The area in which the waste disposal and/or processing will be located must be completely surrounded by a sturdy permanent fence at least six feet in height, with a 12-inch barbed wire barrier on the top. The fence must be equipped with gates that must be locked when access routes are not in use.
- (i) There must be a layer of clay of a minimum thickness of five feet, located below the waste disposal site, and all portions thereof, such that no liquid waste or other waste material of any kind will escape into the surrounding earth, groundwater or surface water. Such clay barrier shall be of a bowl-type design, with sides at least five feet thick, so as to completely surround any and all material in the disposal site, on all sides. The clay barrier shall be of such low permeability as to maintain the full integrity of the barrier on a permanent basis.
- (j) At least two test wells, and more if required by the Township, shall be drilled down-gradient and within 75 feet of the area proposed to be used for the placement of wastes. Such test wells shall be monitored and tested on a monthly basis for purity, and copies of such tests shall be filed with the Township Clerk within 30 days after the taking of samples. Such monitoring and testing of the wells and the filing of the tests with the Township shall continue even after the waste disposal site is no longer actively used.

- (k) There shall be plantings of grass, shrubs, trees and other vegetation at locations within the solid waste disposal site, so as to screen the disposal and processing area and so as to assist in preventing the blowing of waste material off the site, prior to the burying of such material.
- (l) All waste material brought to the site and/or processed at the site shall be properly covered with earth or otherwise disposed of in such a manner and to such extent as is required by the licenses granted for the disposal operation.
- (m) The Planning Commission and Township Board may approve routes for truck movements to and from the waste disposal site.
- (n) No machinery shall be located or used within 50 feet of a property line or street line. The Planning Commission and Township Board may require greater distances for the location of machinery, the storage or parking of equipment or the limits of disposal and processing operations.
- (o) Proper measures may be required so as to minimize the nuisance of noise, dust and other adverse impacts. All disposal and processing shall be carried out in such a manner as to have no serious adverse effects upon adjacent or nearby lands, by reason of heat, glare, fumes, odors, dust, noise, vibration or the presence of large quantities of insects, rodents, vermin, bats or birds beyond the lands on which the solid waste disposal facility is located.
- (p) The Planning Commission and Township Board may impose limitations on days and hours of operations.
- (q) The special land use may be limited in its duration. A renewal of the special use thereafter may be permitted by the Planning Commission and Township Board, upon such terms and with such duration as the Commission and the Board may determine, after the same public hearing and the same public notice as is required for an original special land use.
- (r) The application, site plan, end use plan and all other studies and materials pertinent to the application shall be submitted to the Township engineers and to other professional consultants of the Township, for their review and approval. In approving the special land use, the Planning Commission and Township Board may condition such approval upon approval of pertinent aspects of the use by the Township engineers and other Township professional consultants.
- (s) The Planning-Commission may require an environmental impact statement, engineering data, groundwater studies, traffic impact analysis and other studies or information concerning the need for and consequences of the solid waste disposal special land use, and the operations and activities that will occur as part of the use.

- (t) The Planning Commission and Township Board may require compliance with other terms and conditions appropriate to ensure compliance with the terms of this section. Such conditions may include, though not be limited to, fencing and visual screening, additional groundwater monitoring wells and the sampling thereof, planting of vegetation, noise control of equipment, and other requirements imposed for the purpose of avoiding contamination and pollution of the earth and groundwater and other adverse effects.
- (u) An applicant for the special land use shall submit a performance bond or letter of credit in accordance with the requirements of this Ordinance, naming the Township as the insured party and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the special land use. Such bond or letter of credit shall have such other terms and shall be in such amount as is required by the Planning Commission.
 - (1) The performance bond or letter of credit shall not be refunded, reduced or transferred until the waste disposal operations and all other required activity have been completed and have received final inspection and approval, and until the Planning Commission and Township Board have determined that the applicant has fully complied with all of the terms and conditions of the special land use.
 - (2) The timely and faithful compliance with all of the terms of the performance bond or letter of credit shall be a condition of the continuance of solid waste disposal and processing operations. In the absence of such compliance, or if the bond or letter of credit is revoked or if it expires and is not renewed, the Planning Commission and Township Board need not approve the continuation of the special land use, even if the applicant has otherwise complied with the terms of the use.
- (v) In the event that there is a failure of compliance with any term or condition of the special land use approval, the Township may take all lawful action to obtain such compliance or to cause the cessation of the disposal and processing operations. Such actions may include the issuance of a stop work order and the commencement of any legal action authorized by law. Upon the issuance of any stop work order, the applicant shall promptly and fully comply therewith. Any failure of compliance with a stop work order shall be a violation of this Ordinance.
- (w) Existing landfills and solid waste disposal sites shall be subject to this section, except to the extent that the nonconforming use provisions of Chapter 20 may apply. This section shall fully apply to all expansions, extensions, additions to or modifications of any existing landfill or existing solid waste disposal site or operation.

Section 15.46. Wind Energy Systems. Wind energy systems may be permitted as a special land use if approved by the Planning Commission in accordance with Sections 15.01 through 15.07 and Section 15.52 of this Ordinance.

Section 15.47. Seasonal Retail Sales in Certain Existing Buildings in the R-1 District. Retail sales, conducted on a seasonal basis, in certain existing buildings in the R-1 District may be approved by the Planning Commission as a special land use upon compliance with the following requirements:

- (a) Any such sales shall take place in existing buildings only.
- (b) The special land use shall be conducted only on parcels of land of 25 acres or more in area.
- (c) Such sales shall be conducted on a seasonal basis only and not throughout the year.
- (d) All sales and related activities shall take place indoors only, except for permitted motor vehicle parking and permitted signs.
- (e) Safe, adequate and convenient off-street parking shall be provided.
- (f) Signs shall comply with the sign requirements of the R-1 District, except that the Planning Commission may permit additional or larger signs as a part of its approval of the special land use and if such additional or larger signs do not have serious adverse effects upon adjacent or nearby lands used for residential purposes.
- (g) In considering approval of the special land use the Planning Commission may include additional terms, restrictions and conditions.

Section 15.48. Rental Storage in Certain Existing Buildings in the R-1 District. Rental storage of personal goods, furniture, equipment and vehicles in existing buildings in the R-1 District may be approved by the Planning Commission as a special land use upon compliance with the following requirements:

- (a) Such rental storage shall take place in existing buildings only.
- (b) The special land use shall be conducted only on a parcel of land of at least 25 acres in area.
- (c) No outdoor storage shall be permitted.
- (d) Such rental storage shall not include the establishment or operation of a commercial warehouse or other commercial storage.
- (e) Safe, adequate and convenient off-street parking area shall be provided.
- (f) Signs shall comply with the sign requirements of the R-1 District, except that the Planning Commission may permit additional or larger signs as a part of its approval

of the special land use and if such additional or larger signs do not have serious adverse effects upon adjacent or nearby lands used for residential purposes.

- (g) In considering approval of the special land use the Planning Commission may include additional terms, restrictions and conditions.

Section 15.49. Alternative Energy Facilities and Equipment in I District. Biomass gasification plants may be permitted by the Planning Commission as a special land use in accordance with Sections 15.01 through 15.07 and Section 15.56 of this Ordinance.

Section 15.50. Sexually Oriented Business. It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact a content neutral ordinance which addresses the adverse secondary effects of sexually oriented businesses.

There are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary in order to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding area. These special regulations are itemized in this section.

A primary goal of regulation of these uses is to prevent a concentration of the uses in any one area of the Township; to minimize and/or prevent the well documented adverse secondary effects of such uses; to insure the integrity of the Township's residential and agricultural areas; and to protect the integrity of churches, synagogues or other places of religious worship, schools, licensed day-care facilities, parks and playgrounds, and other areas where persons congregate. Nothing in this section shall be construed as permitting or allowing a violation of any state or federal law.

A sexually oriented business shall be permitted only if approved as a special land use under the terms of this chapter. It shall be subject to review and approval under Chapter 17, Site Plan Review, and the following provisions.

- (a) Location. A sexually oriented business shall be located only in the C-2 General Business District. Further, a sexually oriented business shall not be located or operated within 500 feet of existing specified land uses, as follows:
 - (1) This requirement may be waived upon a determination by the Planning Commission and Township Board that a second sexually oriented business would not contribute to blighting or an excessive concentration of such uses.
 - (2) Church, synagogue or other places of religious worship, park, playground, school, or licensed day-care facility.
 - (3) Agricultural, recreational or residential zoning district, or any residential dwelling.

- (4) For purposes of the distance limitations, the measurement shall be made by extending a straight line from the property line of the sexually oriented business to the nearest property line occupied by any other use or to the property line of any church, synagogue or other place of religious worship, park, playground, school, licensed day-care facility, or any adjacent agricultural, residential or recreational district.
- (b) Signs. Any message, image or picture that depicts or refers to any specified anatomical area or specified sexual activity shall be prohibited. All signs shall comply with the requirements of Chapter 25.
- (c) Building Exterior. Upon order of the Zoning Administrator, graffiti appearing on any exterior surface of a building or structure shall be removed and that surface restored within 72 hours of notification of the owner or person in charge of the premises. Adult products or services or any picture or other representation shall not be displayed so as to be visible from a point outside the establishment.
- (d) Lighting Requirements.
- (1) All off-street parking areas and premises entries of sexually oriented businesses shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct.
- (2) The premises of all sexually oriented businesses, except adult motion picture theaters, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than two foot- candle of light as measured at the floor level.
- (3) Adult motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to provide an illumination of not less than one foot- candle of light as measured at the floor level.
- (e) Age Requirement Regulations.
- (1) It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

- (2) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business' regular business hours. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished a valid operator's, commercial operator's, or chauffeur's driver's license; or a valid personal identification certificate issued by the State of Michigan verifying that such person is 18 years of age or older.
- (f) Hours of Operation. Hours of operation of a sexually oriented business shall be limited to 10:00 a.m. to 10:00 p.m.
- (g) Other Regulations, Permits or Licenses. The provisions of this section do not waive or modify any other provision of this Ordinance, any other Ordinance of the Township, or any county, state or federal law or regulation.
- (h) Alcohol Prohibited. Open alcohol shall not be permitted in any sexually oriented business as defined by this Ordinance.
- (i) Information Submission. In addition to the information and documents required to be submitted with an application for a special land use in accordance with the requirements of this chapter, an applicant for a special land use to establish a sexually oriented business shall submit the following:
- (1) A floor plan of the premises showing the following:
- (i) Location and dimensions of any manager's station, demonstrating that there is an unobstructed view from a least one of the manager's stations of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.
 - (ii) Location of all overhead lighting fixtures.
 - (iii) Identification of any portion of the premises in which patrons will not be permitted.
 - (iv) The location of any stage.
 - (v) Identification of the use of each room or other area of the premises.
- (2) A current certificate and straight-line drawing, prepared within 30 days prior to the application, by a land surveyor depicting the property lines and the structures of the sexually oriented business, showing a circle extending 1,000 feet from the property line of the property on which the business will be located, and depicting the property line of any church, synagogue, regular place of worship, park, playground, school, licensed day care facilities, or

agricultural, recreational or residential zoning district or residences within 1,000 feet of the property on which the business will be located.

- (j) Application to be Complete. The Township Clerk shall not accept any application that is not complete in every detail. In the event that the Clerk determines that an application is incomplete, the Clerk shall notify the applicant accordingly.
- (k) Limit on Reapplication. No application for a sexually oriented business which has been denied in whole or in part shall be resubmitted for a period of one year from the date of the denial, except on the grounds of new evidence not previously available or proof of changed conditions.
- (l) Conditions Requiring Rejection of Special Land Use Application. The Planning Commission shall not approve a special land use application for a sexually oriented business if it finds one or more of the following to be true:
 - (1) An applicant is under 18 years of age.
 - (2) An applicant is overdue in payment to the Township of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.
 - (3) An applicant has failed to provide information required by the Zoning Ordinance or has knowingly answered a question or request for information falsely.
 - (4) The premises to be used for the sexually oriented business has not been approved by the building inspector and the zoning enforcement officer as being in compliance with applicable laws and ordinances.
 - (5) The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has had a sexually oriented business license or adult business license revoked or suspended within one year prior to the date of application.
 - (6) The applicant or a director, officer, partner, member, principal manager or chief executive officer of the applicant has operated a sexually oriented business or adult business which was determined to be a public nuisance under laws of any state, county, city, village or township within one year prior to the date of application.
 - (7) The applicant is not in good standing or authorized to do business in Michigan.
 - (8) The application fee has not been paid.
 - (9) An application of the proposed sexually oriented business is in violation of or is not in compliance with, any of the provisions of this chapter.

- (10) The applicant or owner has been convicted of any of the following criminal offenses in any jurisdiction within the last ten years:
 - (i) Prostitution, procuring a prostitute, or solicitation of a prostitute.
 - (ii) Sale, distribution or display of obscene material.
 - (iii) Sale, distribution or display of material which is harmful to minors.
 - (iv) Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor.
 - (v) Possession, sale or distribution of child pornography.
 - (vi) Public lewdness.
 - (vii) Indecent conduct with a child;.
 - (viii) Sexual assault or rape.
 - (ix) Sexual solicitation of a child.
 - (x) Contributing to the delinquency of a minor.
 - (xi) Harboring a runaway child.
- (m) Inspection. An applicant or owner shall permit all representatives of the Township, Montcalm County and the State of Michigan to inspect the premises of the sexually oriented business for the purpose of insuring compliance with applicable law.
- (n) Exterior Structural Requirements. All sexually oriented businesses must meet the following exterior structural requirements:
 - (1) The merchandise or activities of the sexually oriented business may not be visible from any point outside the business.
 - (2) The exterior portion of the sexually oriented business may not utilize flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner.
 - (3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the sexually oriented business to be painted any color other than one neutral color.
- (o) Interior Structural Requirements.
 - (1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the

premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose excluding restrooms from at least one of the manager's station. The view required in this subsection shall be by direct line of sight from the manager's station.

- (2) A manager's station shall not exceed 32 square feet of floor area.
 - (3) No alteration to the configuration or location of a manager's station shall be made without the prior approval of the Township zoning enforcement officer.
 - (4) Viewing rooms or peep booths shall be separated from other viewing rooms or peep booths by a solid, opaque, uninterrupted physical divider which is a minimum one-inch thick and serves to prevent physical contact between patrons.
 - (5) No private viewing rooms or booths shall be constructed unless one side is always open to a central public area. No door shall be placed on any viewing room or peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two adjacent viewing rooms or peep booths.
- (p) Standards of Conduct. The following standards of conduct shall be adhered to on the premises of the sexually oriented business by all employees, managers, officers and agents of any sexually oriented business:
- (1) No employee or entertainer mingling with the patrons or serving food or drinks shall be unclothed or in such attire, costume or clothing so as to expose to view any specified anatomical areas.
 - (2) No employee or entertainer shall engage in, encourage or permit any specified sexual activities on the premises of the sexually oriented business.
 - (3) No employee or entertainer while in view of the patrons on the licensed premises shall be unclothed or in such attire, costume or clothing so as to expose any specified anatomical areas, except upon a stage which shall be fixed and immovable at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron or behind a solid, uninterrupted physical barrier which completely separates the entertainer from any patrons. This barrier must be a minimum of one-quarter inch thick and have no openings between the entertainer and any patrons.
 - (4) A list of food and drink prices shall be conspicuously posted in the common areas of each sexually oriented businesses offering entertainment.
 - (5) Any tips for entertainers shall be placed by a patron into a tip box which is permanently affixed in the sexually oriented business and no tip may be handed directly to an entertainer. A business that desires to provide for such

tips from its patrons shall provide one or more containers to receive tips. Any physical contact between a patron and an entertainer is strictly prohibited.

- (6) No entertainment occurring on the premises shall be visible at any time from the outside of the premises.
 - (7) An owner, manager or an employee shall not allow the possession, use, or sale of controlled substances on the premises.
 - (8) An owner, manager, or an employee shall not allow prostitution on the premises.
 - (9) An owner, manager, or an employee shall not allow any live specified sexual activity to occur in or about the premises.
 - (10) An owner, manager, or an employee shall not illegally offer for sale or illegally allow to be consumed or possessed upon the premises, or upon any parking areas, sidewalks, walkways, access ways or grounds of the premises, narcotics or dangerous drugs or fermented malt, malt, vinous or spirituous beverages.
 - (11) At least one manager must be on duty and situated in each manager's station at all times that the business is open to the public.
 - (12) All doors to public areas on the premises must remain unlocked during business hours.
 - (13) It shall be the duty of the owner, and it shall also be the duty of any agents and employees present in the premises to ensure that any view area or peep booth remains unobstructed by any doors, curtain, drapes, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - (14) No viewing room or peep booth may be occupied by more than one person at any one time.
- (q) **Massage Parlors.** No establishment, regardless of whether it is a public or private facility, shall operate as a massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex unless the person(s) massaging any client or customer is a graduate of a recognized school and certified as a massage therapist by the American Massage Therapy Association or by the Associated Bodywork and Massage Professionals. In addition:

- (1) The premises of each massage parlor may be inspected by law enforcement personnel or by the Township zoning enforcement officer during business hours and at other reasonable times to ensure compliance with this Ordinance.
- (2) All persons offering massages in a massage parlor shall, not less than five months and not more than six months following the issuance of a special land use approval for a massage parlor, file with the Township Clerk a statement from a licensed medical doctor or osteopath certifying or recertifying that such person has been examined within the 30 days immediately prior thereto and has been found to be free from all communicable or contagious diseases, including but not limited to, sexually transmitted diseases. Failure to comply with this requirement shall constitute grounds for revocation of special land use approval.
- (3) No employee of a massage parlor, or any other person associated with a massage parlor, on the premises of a massage parlor, may offer or engage in any specified sexual activity.
- (4) Each massage parlor and massagist shall comply with the following standards:
 - (i) No patron shall be serviced who is infected with any fungus or other skin infection; nor shall any service be performed on a patron exhibiting skin inflammation or eruptions.
 - (ii) All massagists shall wash their hands in hot water before giving any service or treatment to each separate patron.
 - (iii) All towels, tissues, sheets or other coverings shall be used singularly for each patron and discarded for laundry or disposal immediately after use.
 - (iv) Nondisposable tools of the trade shall be disinfected after use upon each patron.
 - (v) In any establishment in which massage services are rendered to members of the same sex at any one time, such persons of the same sex may be placed in a single, separate room, or the operators of the massage parlor may elect to place such persons of the same sex in separate enclosed rooms or booths having adequate ventilation to an area outside said room or booth while massage services are being performed.
 - (vi) No massage or massage service may be carried on within any cubicle, room, booth, or area within a massage parlor which is fitted with a door capable of being locked.
 - (vii) Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker for each patron to be served, which locker

shall be capable of being locked, as well as a minimum of one toilet and wash basin, shall be provided by every massage parlor; provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate bathing, a separate massage room, or rooms, separate dressing and separate toilet facilities shall be provided for male and female patrons.

- (viii) All walls, ceiling, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and/or showers shall be thoroughly cleaned after each use.
- (5) Non-transparent uniforms or garments covering the torso shall be worn by massagists at all times while attending patrons. Such uniforms or garments shall be of a washable material and shall be kept in a clean condition.
- (r) License Required. It shall be unlawful to operate or cause to be operated a sexually oriented business in the Township without a valid license issued pursuant to the provisions of this chapter. The granting of a special land use under this chapter does not confer a license on the applicant.
- (s) License Application.
 - (1) All applicants for a sexually oriented business license shall file an application for such license with the Zoning Administrator. Each individual applicant, partner of a partnership, member of a limited liability company, partner of a limited liability partnership, officer and director of a corporation and all managers shall be named in each application and each of them shall be photographed and fingerprinted by the Montcalm County Sheriff's Department.
 - (2) The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the Township building inspector and zoning enforcement officer.
 - (3) If a person who wishes to operate a sexually oriented business is an individual, he or she must sign the application for a license as the applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a 10 percent or greater interest in the corporation must sign the application for a license as applicant, along with each officer and director of the corporation. If the applicant is a partnership, each partner must sign the application. If the applicant is a limited liability company each member must sign the

application. If the applicant is a limited liability partnership each partner must sign the application.

- (4) Applications for a license, whether original or renewal, must be made to the zoning enforcement officer by the intended operator of the sexually oriented business. Applications must be submitted by hand delivery to the office of the Zoning Administrator during regular working hours. The intended operator shall be required to give the following information on the application:
 - (i) If the applicant is an individual, the individual shall state his legal name and address and any aliases.
 - (ii) If the applicant is a partnership, the partnership shall state its complete name, and the names and addresses of all partners and whether the partnership is general or limited.
 - (iii) If the applicant is a limited liability company, the limited liability company shall state its complete name and the names and addresses of all of its members.
 - (iv) If the applicant is a limited liability partnership, the limited liability partnership shall state its complete name and the names and addresses of all of its partners.
 - (v) If the applicant is a legal entity other than a partnership, limited liability company or limited liability partnership, the application shall state its complete name, the date and place of its organization, the names, addresses and capacity of all officers and directors of a corporation and of the chief executive officer and manager for any other legal entity, and the name of the resident agent and the address of the registered office for service of process.
 - (vi) The name under which the sexually oriented business is to be operated and a general description of the services to be provided.
 - (vii) The telephone number of the sexually oriented business.
 - (viii) The address and legal description of the real property on which the sexually oriented business is to be located.
 - (ix) If the sexually oriented business is in operation, the date on which the owner(s) acquired the sexually oriented business for which the license is sought, and the date on which the sexually oriented business began operations as a sexually oriented business at the location for which the license is sought.

- (x) If the sexually oriented business is not in operation, the expected start-up date (which shall be expressed in number of days from the date of the application). If the expected start-up date is to be more than ten days following the date of the application, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same is also required.
 - (xi) Whether the applicant or any other individual identified in the application had a previous sexually oriented business license under this chapter or other adult business ordinance from another city, village, township or county denied, suspended or revoked, including the name and location of the sexually oriented or adult business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
 - (xii) Whether the applicant or any other individuals identified in the application has been partner in a partnership, a member of a limited liability company or partnership or an officer, director, chief executive officer or manager of any other legal entity that is permitted under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented or adult business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
 - (xiii) Whether the applicant or any other individual identified in the application holds any other licenses under this chapter or other similar sexually oriented or adult business ordinance from another city, village, township or county and, if so, the names and locations of such other permitted business.
 - (xiv) The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s), if any.
 - (xv) The applicant's mailing address and residential address.
 - (xvi) The applicant's driver license number, social security number and/or federally issued tax identification number.
- (5) The application shall be accompanied by the following:
- (i) Payment of the application, investigation and license fees.
 - (ii) If the applicant is an individual, satisfactory proof that he or she is at least 18 years of age.

- (iii) If the applicant is a Michigan corporation, a certified copy of the articles of incorporation, together with all amendments thereto, and a current good standing certificate.
 - (iv) If the applicant is a corporation incorporated in another state, a certified copy of the certificate of authority to transact business in Michigan.
 - (v) If the applicant is a partnership, a copy of the partnership agreement, together with all amendments thereto.
 - (vi) If the applicant is a Michigan limited partnership, a certified copy of the certificate of limited partnership, together with all amendments thereto.
 - (vii) If the applicant is a limited partnership formed under the laws of another state, a certified copy of the Michigan certificate of registration.
 - (viii) If the applicant is a Michigan limited liability company, a certified copy of the articles of organization, together with all amendments thereto.
 - (ix) If the applicant is a limited liability company formed under the laws of another state, a certified copy of the Michigan certificate of authority.
 - (x) If the applicant is a Michigan limited liability partnership, a certified copy of the registration of limited liability partnership, together with all amendments thereto.
 - (xi) If the applicant is a limited liability partnership formed under the laws of another state, a certified copy of the Michigan registration.
 - (xii) Documentation identifying the owner(s) of the real property on which the sexually oriented business is to be situated.
 - (xiii) If the person(s) identified as the owner(s) of the real property identified above is not also the owner(s) of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually oriented business to have or obtain the use and possession of the real property thereof that is to be used for the purpose of the operation of the sexually oriented business.
- (6) The application shall contain a statement under oath that:
- (i) The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct.
 - (ii) The applicant has read the provisions of this chapter.

- (7) A separate application and license shall be required for each sexually oriented business.
- (t) **Approval of License Application.** The Zoning Administrator shall approve the issuance of a license to an applicant within 60 days after receipt of an application if the application is complete and meets all the requirements of this chapter, unless he or she finds that the applicant or owner is ineligible for special land use approval for any of the reasons set forth in subsection (1) above.
- (u) **Display of License.** The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
- (v) **Denial of License.** In the event that the Zoning Administrator determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within 60 days of the receipt of the application by the Zoning Administrator, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten days at any time before the notice is issued in order to make modifications necessary to comply with this chapter.
- (w) **Appeal to Board of Zoning Appeals.** An applicant may appeal the decision of the Zoning Administrator regarding a denial of an application or the revocation of a license to the Board of Zoning Appeals by filing a written notice of appeal within 15 days after the applicant is given notice of the Zoning Administrator's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Zoning Administrator may submit a memorandum in response to the memorandum filed by the applicant on appeal. After reviewing the relevant information, the Board of Zoning Appeals shall vote to either uphold or overrule the zoning enforcement officer's decision. Such vote shall be taken within 60 calendar days after the date on which the Board of Zoning Appeals receives the notice of appeal. However, the applicant shall be required to comply with the Zoning Administrator's decision during the pendency of the appeal.
- (x) **Investigation of Applicant.** Upon receipt of a properly completed application, together with all information required in connection therewith, fingerprints and photographs, and the payment of the application, investigation and license fee, the Zoning Administrator shall transmit the application to the Montcalm County Sheriffs Department for investigation of the background of each individual applicant, the partners of a partnership, the members of a limited liability company, the partners of a limited liability partnership, or the officers and directors of a corporation and manager of the proposed sexually oriented business.

- (y) Application Fee. Each applicant shall pay an application fee at the time of filing an application for a license in an amount as established from time to time by resolution of the Township Board. The application fee shall include the cost of the investigation by the Montcalm County Sheriffs Department. The application fee shall be non-refundable.
- (z) License Fee. Each licensee issued a license pursuant to this chapter shall pay an annual license fee at the time of application for the license as herein provided. The annual license fee shall be established from time to time by resolution of the Township Board. The license fee shall be refunded if the license is not approved.
- (aa) License Renewal. Any application for renewal of a license shall be filed with the Zoning Administrator not less than 45 days prior to the date of expiration. The Zoning Administrator may, for a good cause shown, waive the requirement for timely filing of a renewal application.
- (bb) Term of License. All licenses issued pursuant to this chapter shall be for a term of one year. Said term shall commence on January 1 of each year and terminate upon December 31 of the same year. Applications for a license filed at any other time during the year shall be treated the same as if they were filed January 1 of that year and shall terminate on December 31 of that same year, and no proration fees shall be permitted.
- (cc) Revocation of License. The Zoning Administrator shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months. The Zoning Administrator shall also revoke a license if he or she determines that any of the following has occurred:
 - (1) Any condition exists that would warrant disapproval of a license as set forth in this chapter;
 - (2) A licensee, operator manager or employee has engaged or has allowed patrons or employees to engage in acts of misconduct on the licensed premises in violation of any Township Ordinance, the laws of the State of Michigan or of the United States when the licensee, operator, manager or employee knew or should have known such acts were taking place; or
 - (3) Repeated disturbances of public peace have occurred within the licensed sexually oriented business or upon any parking areas, sidewalks, access ways or grounds of the licensed sexually oriented business involving patrons, employees, or the licensee.
 - (4) When the Zoning Administrator revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented license for one year from the date revocation became effective. If, subsequent to revocation, the Zoning Administrator finds that the basis for the revocation

has been corrected or abated, a license may be reinstated if at least 90 days have elapsed since the date the revocation became effective.

- (dd) Registration of Managers, Entertainers and Employees.
- (1) No person shall work as a manager, entertainer or employee at a sexually oriented business without being registered under this section.
 - (2) All managers, entertainers and employees shall provide to the Township their legal name and any aliases, social security number, home address, telephone number, date of birth and satisfactory proof that they are 18 years of age or older, and any other necessary identifying information for the Township to conduct a criminal background check on the manager, entertainer or employee.
 - (3) The registration fee shall be as established from time to time by resolution of the Township Board.
 - (4) The owner or manager of a sexually oriented business shall provide the Township with the names, any aliases, dates of birth, and social security numbers of all managers, entertainers and employees within five days of employment. This information will be used to verify the information submitted by the manager, entertainer or employee, who must also register with the Township within five days of employment.
- (ee) Exemptions from Enforcement. It is a defense to prosecution under this section that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:
- (1) By a proprietary school, licensed by the State of Michigan or a college, junior college, or university supported entirely or partly by taxation; or
 - (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
- (ff) Reporting of Violations. Any owner, manager or employee shall immediately report to the Township Clerk and to the Montcalm County Sheriffs Office any violation of this chapter or any breach of the peace or unlawful or disorderly act, conduct or disturbance committed on the sexually oriented business, including any parking area or adjoining area under the control or management of the owner, provided that the owner, manager or employee knew or should have known of such violation of law.

Section 15.51. Nursing and Convalescent Homes; Homes for the Elderly and Retired.

- (a) The minimum lot area shall be two acres, unless a lesser area is permitted by the Planning Commission.

- (b) Adequate off-street parking shall be provided. Access driveways shall be located a sufficient distance from the nearest intersecting street so as to avoid adverse traffic impacts.
- (c) If the use is required to be state-licensed, any such license shall be maintained in full force and effect and all of its terms and conditions shall be fully complied with.

Section 15.52. Wind Energy Harvest Site. A wind energy harvest site (also known as a wind farm) and a tower exceeding 50 feet in height, associated wind turbine generator and other equipment used to provided electricity to an individual dwelling and accessory buildings and uses, may be permitted by the Planning Commission and the Township Board as a special land use upon compliance with all of the terms and conditions of this section.

- (a) Definitions. For the purposes of this section, the following terms and phrases shall be defined as provided below:
 - (1) Wind Energy Harvest Site (Wind Farm). A location where one or more commercial, grid-connected wind turbines are sited for the purpose of extracting kinetic energy from the wind and supplying it, in the form of electrical energy, to the local electrical transmission utility ("grid").
 - (2) Wind Turbine Generator (WTG). A wind turbine generator is a device designed to extract energy from the wind and supply it in the form of electrical energy that is suitable for use by the local electrical transmission utility, or that is utilized to provide electricity to an individual dwelling and accessory buildings and uses.
 - (3) Horizontal Axis Wind Turbine (HAWT). A wind turbine designed with a rotor mounted on a horizontal axis of rotation. The rotor thus sweeps through a vertical plane perpendicular to the motion of the wind.
 - (4) Rotor. An element of a wind turbine which acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
 - (5) Nacelle. The structure designed to "yaw" (turn) into the wind that is mounted on top of the tower and houses the rotor support shaft, mechanical and electrical components, and generator.
 - (6) Tower. The structure, above grade, that supports the nacelle, rotor assembly, and other components.
 - (7) Tower Foundation. The tower support structure, below grade, that supports the entire weight of the wind turbine.

- (8) Met Tower. A guy-wire supported tower containing instrumentation such as anemometers that is designed to, and used for, the assessment of the wind resource on site.
 - (9) Swept Rotor Arc/Diameter. The largest circumferential path traveled by a wind turbine airfoil rotor blade.
 - (10) Blade Clearance. In reference to a horizontal axis rotor, the distance from grade to the lowest point of the rotor's swept arc.
 - (11) Total Height. The height from grade to the highest vertical point of the swept rotor arc. In the case of a wind turbine with a horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter.
 - (12) Sub-station. An electrical construction designed to collect and modify electrical energy produced by the wind turbines for the purpose of supplying it to the local electrical utility.
- (b) Application. Applications for a wind energy harvest site special land use shall include the following:
- (1) A site plan, which, in addition to the site plan requirements of Chapter 17, shall include the following:
 - (i) The proposed location, size, height and type of all Met towers proposed to assess the wind resource, including the setback distance between the proposed towers and the nearest residential unit and residentially-zoned properties.
 - (ii) The proposed location of all wind turbines and access roadways.
 - (iii) The proposed location of all underground and overhead cabling.
 - (iv) The physical size and electrical nameplate capacity of the proposed wind turbines including the total height and the swept rotor diameter.
 - (v) The method of screening or buffering.
 - (vi) The method and type of tower lighting, if so required.
 - (2) A visual representation including scale elevations, photographs and/or digital information of the proposed wind farm.
 - (3) A copy of the applicant's lease with the landowner(s) for the wind farm, which must include a provision requiring the applicant to remove all equipment and restore the site upon cessation of wind farm operations.
 - (4) The manufacturer's specifications indicating:

- (i) The rated nameplate output, in kilowatts or megawatts, of the wind turbines.
 - (ii) Safety features and sound characteristics.
 - (iii) Type of material used in foundation, tower, blade, and/or rotor construction.
- (5) A noise impact study which includes information on the noise levels to be generated by the use, measured in dB(A).
- (6) Proof that the applicant has obtained or applied for approval from all county, state or federal agencies having jurisdiction over the proposed use, or any aspect thereof.
- (c) Minimum Requirements. A wind farm and also a tower exceeding 50 feet in height and a wind turbine generator used to provide electricity to an individual dwelling and accessory buildings and uses shall comply with the following minimum requirements:
- (1) All structures shall comply with or exceed applicable standards and regulations of the Federal Aviation Administration and any other state or federal agency having jurisdiction.
 - (2) All structures constructed for a wind farm shall comply with the standards contained in applicable state and local building codes.
 - (3) All towers shall be permanently secured to a stable foundation.
 - (4) All towers shall be grounded to protect against damage from lightning.
 - (5) No portion of any tower or blades shall display any name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification.
 - (6) All wind farms, Met towers and towers exceeding 50 feet used to provided electricity for an individual dwelling or accessory building shall comply with the minimum required building setbacks for the district in which the wind farm, Met tower or other individual tower is located, plus an additional setback equal to the height of the highest wind turbine generator within the wind farm, or the height of an individual tower, as measured from the ground at the base of the tower to the tip of the blade of the rotor when the blade is in a vertical position.
 - (i) For the purposes of determining whether a proposed wind farm or Met tower complies with the setback requirements of a district, the dimensions of the entire lot or parcel of land shall control, even though the wind farm or Met tower may be located on leased parcels within such lot or parcel.

- (7) Setbacks may be reduced from the minimum setback requirements of this section, in the discretion of the Planning Commission. Pursuant to this provision, the Planning Commission shall consider the technical needs of the applicant for a reduction in setbacks, the feasibility of alternate locations and the proximity of existing dwellings.
 - (8) A Met tower shall be located no closer to a dwelling than a distance equal to the height of the tower.
 - (9) All wind farms and towers exceeding 50 feet in height used to provide electricity to an individual dwelling and accessory buildings, and the construction, installation, operation, maintenance and repair thereof shall comply with all federal, state and local laws, ordinances and regulations.
 - (10) Structures within a wind farm and other towers regulated by the terms of this section shall not be illuminated by artificial means and shall not display strobe lights unless required by the Federal Aviation Administration or other state or federal authority having jurisdiction.
 - (11) A wind farm, a wind turbine generator and all other devices and equipment regulated under the terms of this section shall be designed, located and operated so as to cause no serious adverse effect on other lands or other land uses by reason of noise. Constant velocity turbines shall be required; provided, however, that if variable speed turbines are proposed, the applicant shall submit additional data concerning noise generated when the revolutions per minute of such turbines exceed 24 rpm's, and the Planning Commission may decline to approve any such variable speed turbines.
 - (12) All wind turbines shall be finished in a single, non-reflective matte finished color which minimizes the visual impact of the wind farm.
 - (13) The minimum vertical blade tip clearance from grade shall be 30 feet for a wind turbine employing a horizontal axis rotor (HAWT).
 - (14) Any wind turbine generator, including the foundation, the tower, the rotor and all other components shall have a total height not exceeding 200 feet, as measured from the ground at the base of the tower to the tip of the blade of the rotor, when the blade is in a vertical position.
 - (15) Towers exceeding 50 feet in height shall be only freestanding tubular towers.
 - (16) All power lines from a wind turbine generator and connecting to a sub-station or grid, shall be underground, unless otherwise permitted by the Planning Commission.
- (d) Discretionary Conditions. The Planning Commission, in its reasonable discretion, may impose other terms and conditions regulating the construction, installation, use,

maintenance, repair and removal of any wind farm, Met tower or other tower regulated by the terms of this section. Such other terms and conditions may include, though are not limited to, the following:

- (1) The screening or buffering of structures (other than towers) with landscaping, berms, walls or any combination thereof.
 - (2) The prohibition on the construction or occupancy of dwellings on the lands where the wind farm or Met tower is located, within the separation distances specified by this section.
 - (3) The preservation of existing trees and other existing vegetation not required to be removed for installation of a wind farm, Met tower or other regulated tower.
 - (4) The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a wind farm, Met tower, other regulated tower or accessory buildings or structures.
 - (5) The providing of a performance bond or letter of credit, in favor of the Township, and conditioned upon the timely and faithful performance of all required conditions of the special land use, including but not limited to the timely and complete removal of a wind farm, or any individual tower, wind turbine generator, or other device or equipment regulated under the terms of the section, upon the failure of the same to be removed when required. Such performance bond or letter of credit shall remain in effect during and after the operation of a wind farm or any wind turbine generator or other such equipment, until the cessation of operations and the removal of the same.
- (e) Removal.
- (1) A wind farm and other towers and other equipment regulated by the terms of this section, including all turbines, accessory structures and all other components thereof, not later than when the wind farm or other individual tower or equipment is no longer operating or when it has been abandoned.
 - (2) A tower, a wind turbine generator, or other individual device or equipment regulated under the terms of this section shall be removed not later than when the device or equipment is no longer operating or when it has been abandoned.
 - (3) A wind farm, or any individual tower, wind turbine generator or other device or equipment, regulated under the terms of this section shall be deemed abandoned when it has not produced electrical energy for 12 consecutive months.
 - (4) The failure to remove a wind farm or any device or equipment regulated by the terms of this section shall be a violation of this Ordinance.

- (5) In the event that the owner or operator of a wind farm or any device or equipment regulated under the terms of this section fails to remove the same after the ceasing of operations or after abandonment thereof, the Township may proceed with all appropriate enforcement and remedial action, including but not limited to the obtaining of funds pursuant to the applicable performance bond or letter of credit, and the use of such funds to accomplish the removal of all non-operating or abandoned towers, wind turbine generators, accessory structures and other devices and equipment regulated hereunder.
- (f) Inspections. Upon the provision of reasonable prior notice to the site operator, the Township Zoning Administrator and/or his or her designated representative may inspect any property for which special land use approval has been granted pursuant to this section to determine whether the site complies with the applicable requirements of law and the terms of the special land use approval.
- (g) Prohibited Structures. The following structures are prohibited as a part of any wind farm or as a part of any individual tower regulated under the terms of this section:
 - (1) Vertical axis wind turbines, commonly known as a "VAWT" or "Darrieus" wind turbine.
 - (2) Wind turbines with a nameplate generation capacity of less than 500 KW.
 - (3) Wind turbines (HAWT's) with a rotor design consisting of a number of airfoil rotor blades other than three.
 - (4) Wind turbines utilizing a lattice tower structure.
- (h) The provisions of this section shall apply to individual wind turbine generators, individual towers and other individual devices or equipment for the extracting of energy from wind and supplying it, in the form of electrical energy, to a local electrical grid.

Section 15.53. Accessory Ground-Mounted Solar Energy Systems (SES) - Large

LARGE ACCESSORY GROUND-MOUNTED SES

- (a) Large Accessory Ground-Mounted SES are permitted by special use in agricultural and industrial zoning districts and shall meet the following requirements:
- (b) **Height:** Ground-Mounted SES shall not exceed twenty (20) feet measured from the ground to the top of the system when oriented at maximum tilt.
- (c) **Setbacks:** A Ground-Mounted SES must meet the setback that would apply to accessory structures in the side or rear yard in the respective zoning district. Setback

distance is measured from the property line to the closest point of the solar array at minimum tilt or any SES components.

- (1) A Ground-Mounted SES is not subject to property line setbacks for common property lines of two or more participating lots, except road right-of-way setbacks shall apply.
- (d) **Lot Coverage:** The area of the solar array shall not exceed twenty percent (20%) of the square footage of the parcel, unless it is sited over required parking (i.e., solar carport), in which case there is no maximum lot coverage for the Ground-Mounted SES. A Ground-Mounted SES shall not count towards the maximum number or square footage of accessory structures allowed on site or maximum impervious surface area limits if the ground under the array is pervious.
- (e) **Visibility:** A Large Accessory Ground-Mounted SES shall be located in the side or rear yard to minimize visual impacts from the public right-of-way(s).
- (1) Ground-Mounted SES may be placed in the front yard where the applicant can demonstrate that placement of the SES in the rear or side yard will:
 - (i) Decrease the efficiency of the SES due to topography, accessory structures, or vegetative shading from the subject lot or adjoining lots;
 - (ii) Interfere with septic system, accessory structures, or accessory uses; or
 - (iii) Require a lot having frontage on a body of water to place a SES on the waterfront side of the building housing the primary use.
 - (2) No portion of a Ground-Mounted SES approved to be placed in the front yard may be located in the area between the principal building and the street, where the area is formed by lines drawn from the opposite ends of the principal building facing the street, when the lines form right angles with the front lot line adjacent to the street right-of-way.
- (f) **Screening/Landscaping:** A Large Accessory Ground-Mounted SES shall follow the screening and/or landscaping standards for the zoning district of the project site. Any required screening and landscaping shall be placed outside the perimeter fencing.
- (1) When current zoning district screening and landscaping standards are determined to be inadequate based on a legitimate Township purpose consistent with Township planning documents, the Planning Commission may require substitute screening.

- (2) The Planning Commission may reduce or waive screening requirements provided that any such adjustment is in keeping with the intent of this Ordinance.
- (3) Screening/landscaping detail shall be submitted as part of the site plan that identifies the type and extent of screening for a principal-use SES, which may include plantings, strategic use of berms, and/or fencing.
- (g) **Exemptions:** A SES used to power a single device or specific piece of equipment such as a lawn ornament, lights, weather station, thermometer, clock, or other similar singular device that is eight (8) square feet or smaller in size is exempt from Section 4.42.
- (h) **Nonconformities:** A Large Accessory Ground-Mounted SES installed on a nonconforming lot or use shall not be considered an expansion of the nonconformity.
- (i) **Application:** All SES applications must include a site plan. Applications for Ground-Mounted SES must include drawings that show the location of the system on the property, height, tilt features (if applicable), the primary structure, accessory structures, and setbacks to property lines. Accessory use applications that meet the ordinance requirements shall be granted.

Section 15.54. Accessory Ground-Mounted Solar Energy Systems (Ses) - Small

SMALL ACCESSORY GROUND-MOUNTED SES

- (a) Small Accessory Ground-Mounted SES are permitted by special use in all zoning districts where structures of any sort are allowed, and shall meet the following requirements:
- (b) **Height:** Ground-Mounted SES shall not exceed twenty (20) feet measured from the ground to the top of the system when oriented at maximum tilt.
- (c) **Setbacks:** A Ground-Mounted SES must meet the setback that would apply to accessory structures in the side or rear yard in the respective zoning district, whichever. Setback distance is measured from the property line to the closest point of the solar array at minimum tilt or any SES components.
 - (1) A Ground-Mounted SES is not subject to property line setbacks for common property lines of two or more participating lots, except road right-of-way setbacks shall apply.

- (d) **Lot Coverage:** The area of the solar array shall not exceed ten percent (10%) of the square footage of the parcel, unless it is sited over required parking (i.e., solar carport), in which case there is no maximum lot coverage for the Ground-Mounted SES. A Ground-Mounted SES shall not count towards the maximum number or square footage of accessory structures allowed on site or maximum impervious surface area limits if the ground under the array is pervious.
- (e) **Visibility:** A Small Ground-Mounted SES shall be located in the side or rear yard to minimize visual impacts from the public right-of-way(s).
- (1) Ground-Mounted SES may be placed in the front yard where the applicant can demonstrate that placement of the SES in the rear or side yard will:
- (i) Decrease the efficiency of the SES due to topography, accessory structures, or vegetative shading from the subject lot or adjoining lots;
 - (ii) Interfere with septic system, accessory structures, or accessory uses; or
 - (iii) Require a lot having frontage on a body of water to place a SES on the waterfront side of the building housing the primary use.
- (2) No portion of a Ground-Mounted SES administratively approved to be placed in the front yard may be located in the area between the principal building and the street, where the area is formed by lines drawn from the opposite ends of the principal building facing the street, when the lines form right angles with the front lot line adjacent to the street right-of-way.
- (f) **Screening/Landscaping:** A Small Accessory Ground-Mounted SES shall follow the screening and/or landscaping standards for the zoning district of the project site. Any required screening and landscaping shall be placed outside the perimeter fencing.
- (1) When current zoning district screening and landscaping standards are determined to be inadequate based on a legitimate Township purpose consistent with Township planning documents, the Planning Commission may require substitute screening.
- (2) The Planning Commission may reduce or waive screening requirements provided that any such adjustment is in keeping with the intent of this Ordinance.

- (3) Screening/landscaping detail shall be submitted as part of the site plan that identifies the type and extent of screening for a principal-use SES, which may include plantings, strategic use of berms, and/or fencing.
- (g) **Exemptions:** A SES used to power a single device or specific piece of equipment such as a lawn ornament, lights, weather station, thermometer, clock, or other similar singular device that is eight (8) square feet or smaller in size is exempt from Section 4.42.
- (h) **Nonconformities:** A Ground-Mounted SES installed on a nonconforming lot or use shall not be considered an expansion of the nonconformity.
- (i) **Application:** All SES applications must include a site plan. Applications for Ground-Mounted SES must include drawings that show the location of the system on the property, height, tilt features (if applicable), the primary structure, accessory structures, and setbacks to property lines. Accessory use applications that meet the ordinance requirements shall be granted.

SECTION 15.55. PRINCIPAL-USE SOLAR ENERGY SYSTEM (SES)

- (a) **PRINCIPAL-USE SES:** A principal-use SES is a special land use in the commercial and industrial zoning districts and shall meet the following requirements:
 - (1) **Height:** Total height for a principal-use SES shall not exceed the 20 feet.
 - (2) **Setbacks:** Setback distance shall be measured from the property line or road right-of-way to the closest point of the solar array at minimum tilt or any SES components and as follows:
 - (i) In accordance with the setbacks for principal buildings or structures for the zoning district of the project site.
 - (ii) One-hundred (100) feet from any existing dwelling unit on a non-participating lot.
 - (iii) A Ground-Mounted SES is not subject to property line setbacks for common property lines of two or more participating lots, except road right-of-way setbacks shall apply.
 - (3) **Fencing:** A principal-use SES shall be secured with perimeter fencing to restrict unauthorized access. Each principal-use SES shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning

Commission may waive such requirements, upon presentation of satisfactory evidence that such security measures are not reasonably necessary for the location and type of SES under review. All access doors to principal-use SES and electrical equipment shall be locked, to prevent entry by non-authorized persons.

- (4) **Screening/Landscaping:** A principal-use SES shall follow the screening and/or landscaping standards for the zoning district of the project site. Any required screening and landscaping shall be placed outside the perimeter fencing.
- (i) When current zoning district screening and landscaping standards are determined to be inadequate based on a legitimate Township purpose consistent with Township planning documents, the Planning Commission may require substitute screening.
 - (ii) The Planning Commission may reduce or waive screening requirements provided that any such adjustment is in keeping with the intent of this Ordinance.
 - (iii) Screening/landscaping detail shall be submitted as part of the site plan that identifies the type and extent of screening for a principal-use SES, which may include plantings, strategic use of berms, and/or fencing.
- (5) **Ground Cover:** A principal-use SES shall include the installation of ground cover vegetation maintained for the duration of operation until the site is decommissioned. The applicant shall include a ground cover vegetation establishment and management plan as part of the site plan. All vegetation must be species native to the State of Michigan. Vegetation establishment must include invasive plant species and noxious weed control. The following standards apply:
- (i) Sites bound by a Farmland Development Rights (PA 116) Agreement must follow the Michigan Department of Agriculture and Rural Development's Policy for Allowing Commercial Solar Panel Development on PA 116 Lands.
 - (ii) Ground cover at sites not enrolled in PA 116 must meet one or more of the four types of Dual Use defined in this ordinance.

(I) Pollinator Habitat

(II) Conservation Cover

(III) Forage

(IV) Agrivoltaics

(iii) Project sites that are included in a brownfield plan adopted under the Brownfield Redevelopment Financing Act, PA 381 of 1996, as amended, that contain impervious surface at the time of construction or soils that cannot be disturbed, are exempt from ground cover requirements.

- (6) **Lot Coverage:** A principal-use SES shall not count towards the maximum lot coverage or impervious surface standards for the district.
- (7) **Land Clearing:** Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system and to ensure sufficient all-season access to the solar resource given the topography of the land. Topsoil distributed during site preparation (grading) on the property shall be retained on site.
- (8) **Access Drives:** New access drives within the SES shall be designed to minimize the extent of soil disturbance, water runoff, and soil compaction on the premises. The use of geotextile fabrics and gravel placed on the surface of the existing soil for the construction of temporary drives during the construction of the SES is permitted, provided that the geotextile fabrics and gravel are removed once the SES is in operation.
- (9) **Wiring:** SES wiring (including communication lines) may be buried underground. Any above-ground wiring within the footprint of the SES shall not exceed the height of the solar array at maximum tilt.
- (10) **Lighting:** principal-use SES lighting shall be limited to inverter and/or substation locations only. Light fixtures shall have downlit shielding and be placed to keep light on-site and glare away from adjacent properties, bodies of water, and adjacent roadways. Flashing or intermittent lights are prohibited.
- (11) **Signage:** Each principal-use SES shall have one sign, not to exceed two square feet in area, posted at each entrance to the site. The sign shall contain at least the following:
- (i) The statement: “Warning High Voltage.”

- (ii) Manufacturer's and principal-use SES owner/operator's name.
 - (iii) Emergency Contact Numbers
- (12) Any additional signage shall meet the setback, illumination, and materials/construction requirements of the zoning district for the project site.
- (13) **Noise:** Noise emanating from the operation of a principal-use SES shall not exceed, at any time, the maximum permissible sound levels stated in Section 4.32 of this Ordinance.
- (14) **Electrical Substations:** Any substations used in conjunction with an SES must meet the provisions of Section 21.11 Electrical Substation or Gas Regulator Station of this Ordinance.
- (15) **Repowering:** In addition to repairing or replacing SES components to maintain the system, a principal-use SES may at any time be repowered, without the need to apply for a new special land use permit, by reconfiguring, renovating, or replacing the SES to increase the power rating within the existing project footprint.
- (i) A proposal to change the project footprint of an existing SES shall be considered a new application, subject to the ordinance standards at the time of the request.
- (16) **Decommissioning:** A decommissioning plan is required at the time of application.
- (i) The decommission plan shall include:
 - (I) The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g., access drive, fencing), or restored for viable reuse of the property consistent with the zoning district,
 - (II) The projected decommissioning costs for removal of the SES (salvage value shall not be used) and soil stabilization, less the amount of the surety bond posted with the State of Michigan for decommissioning of panels installed on PA 116 lands,

- (III) The method of ensuring that funds will be available for site decommissioning and stabilization (in the form of cash deposit, surety bond, or irrevocable letter of credit naming the Township as the beneficiary).
- (ii) A review of the amount of the performance guarantee based on inflation, and current removal costs shall be completed every three (3) years, for the life of the project, and approved by the Board of Trustees. An SES owner may at any time:
 - (I) Proceed with the decommissioning plan approved by the Planning Commission under Section 21.13 and remove the system as indicated in the most recent approved plan; or
 - (II) Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.
- (iii) Decommissioning an SES must commence when the soil is dry to prevent soil compaction and must be complete within eighteen (18) months after abandonment. An SES that has not produced electrical energy for twelve (12) consecutive months shall prompt an abandonment hearing.
 - (I) An abandonment hearing shall be held as a public hearing in the same manner the use was established at the Planning Commission. During the hearing, the Planning Commission will hear comments and make a determination if the SES has been abandoned. If the Planning Commission determines the SES has been abandoned, the decommissioning plan shall proceed as described within the approved decommissioning plan.

Section 15.56. Biomass Facilities. Point-of-Use Electric Power Generation Facilities and equipment for the generation of alternative or renewable energy by means of biomass gasification plants ("biomass facility") may be approved by the Planning Commission as a special land use in the I District upon compliance with the following requirements and in accordance with Sections 15.01 through 15.07 of this Ordinance:

- (a) A biomass facility is a facility or plant designed and operated for the production of energy from waste and byproducts of plant and animal origin from agriculture, forestry and other sources, including waste wood, plants animal manure and similar waste materials, byproducts and residues from which energy may be obtained or extracted through various processes.

- (b) A biomass facility does not include a plant, facility or process utilizing fossil fuels and any products and byproducts from fossil fuels for the purpose of obtaining or producing energy, nor does it include sanitary sewage, sewage waste, sewage sludge, landfill gas or other landfill byproducts or materials or byproducts from sewage treatment plants or installations.
- (c) A biomass facility may include combustion systems and other systems and equipment for the purpose of processing or converting permitted raw material into energy or into forms from which energy may be derived.
- (d) A biomass facility shall be located only in the I Industrial District. The facility shall comply with the minimum lot area, the minimum for width and the minimum required building setbacks specified for the I District, or such greater lot area, such greater lot width and such greater building setbacks as may be required by the Planning Commission in its approval of the special land use.
- (e) The biomass facility shall comply with the maximum building height specified for the I District, or such greater height as may be permitted by the Planning Commission in its approval of the special land use.
- (f) Site plan review and approval shall be required under the terms of Chapter 17 of this Ordinance.
- (g) The biomass facility shall comply with all applicable federal, state and county laws, rules and regulations. All required federal, state and county permits and approvals shall be obtained. Two copies of any such permits and approvals shall be submitted to the Township.
- (h) A biomass facility shall comply with state air pollution control laws and regulations. A state air pollution control permit shall be obtained, if required. In its approval of the special land use, the Planning Commission may impose air pollution control requirements, including those in excess of such requirements under the terms of state air pollution control regulations.
- (i) The biomass facility shall have such screening and landscaping as may be required by the Planning Commission, for the purpose of shielding or obscuring the facility from view from adjacent and nearby lands and the public streets.
- (j) Safe and convenient access shall be provided to and from the facility for motor vehicles, including trucks and other vehicles delivering raw material to the site. Access points and the configuration thereof shall be subject to the approval of the

Montcalm County Road Commission, including any required acceleration and deceleration lanes.

- (k) In its approval of the special land use, the Planning Commission may regulate and impose terms and conditions concerning buildings, raw material storage, storm water drainage, off-street parking and loading areas, outdoor lighting, signage, isolation distance from other lands, utility services, noise, hours of operation and other elements and aspects of the special land use.
- (l) All aspects of the facility, including the location thereof, storm water control measures and public utility services shall be subject to the approval of the Township engineer. Storm water control measures shall be subject to the approval of the Montcalm County Drain Commissioner.
- (m) A building permit shall be required; the applicant shall otherwise comply with all applicable provisions of the Township Building Code as administered by the Montcalm County Building Department.
- (n) A site plan complying with the provisions of Section 17.03 shall be submitted by the applicant, together with such other information as may be required by the Planning Commission. Such other information may include an environmental impact statement, traffic impact study, noise control plan, outdoor lighting plan, signage detail, landscape and screening plan, storm water management plan, utility plan, proposed air pollution control measures and other plans, information and data sufficient to enable the Planning Commission to consider all aspects of the proposed use and the site thereof.
- (o) In considering the application for the special land use, the site plan and other materials submitted by the applicant, the Planning Commission shall consider the standards for approval of the special land use as stated in Section 15.03.

Section 15.57. Geothermal Energy Systems

- (a) Point-of-Use Electric Power Generation for direct-use on and for the land containing a geothermal source of energy, and utilizing measures other than heat pumps as authorized above in this chapter, may be permitted as a special land use in the AG, R-R, and R-1 Districts approved by the Planning Commission under the terms of this section and in accordance with Sections 15.01 through 15.07 of this Ordinance.
 - (1) Such geothermal direct uses may include one or more wells and other facilities on a property, together with such other geothermal-energy measures and equipment as may be approved by means of special land use.

- (2) In approving a special land use for such purpose, the Planning Commission shall impose where applicable the following minimum requirements, among others:
- (i) Ground or surface water protection standards;
 - (ii) Separation requirements from other land uses, and in particular noise-sensitive uses such as single-family dwellings, school buildings and others;
 - (iii) Road improvement requirements, where necessary;
 - (iv) Dust abatement requirements and other requirements for the avoidance of nuisances during the drilling of wells and installation of equipment;
 - (v) Maximum noise limitations for well-drilling and operational activities;
 - (vi) Access protection requirements with respect to fencing or other deterrents to public access at wellheads or other above-ground equipment;
 - (vii) Standards for the placement and installation of pipelines, if any;
 - (viii) Requirements that may be necessary for the mitigation of any possible land subsidence that may occur as a result of the use of geothermal resources; and
 - (ix) Such other standards and requirements as may be imposed by the Planning Commission in the approval of the special land use, consistent with the protection of public health and safety.