

CHAPTER 15

SPECIAL USES

(Amended 7/28/93 as New Chapter)

SECTION 15.01 DESCRIPTION AND PURPOSE

The purpose of this article is to provide regulations for uses which are not essentially incompatible with uses permitted by right in a given district but which should not be permitted without restrictions or conditions being imposed by reason of special problems presented by the use itself or its particular location in relation to neighboring properties. The special use permit procedure established herein is designed to provide the Planning Commission with an opportunity to review and act upon any application for a conditional use permit.

SECTION 15.02 PROCEDURES FOR ALL SPECIAL USES. Any special use shall meet and continuously follow and adhere to the approved site development plan conditions placed upon the use and the requirements for approval and the requirements of the district in which they are located.

- (a) Applications - The applicant shall submit to the Planning Commission, Township Board or Zoning Administrator, as the case may be, through the Township Clerk, an application which shall include a site plan per the requirements of Chapter 14 and written evidence and drawings showing that all the requirements for the applicable special use are met. *(Amended 10-96)*
- (b) Public Hearing and Notices: All special land use applications and required supporting documentation shall be promptly transmitted to the Planning Commission. The Planning Commission shall hold at least one public hearing on all special land use requests it receives and shall provide notice for said hearing in the manner provided in Section 17.06 of the zoning ordinance. *(Amended 05-08)*
- (c) Conditions - Reasonable conditions may be required with the approval of a special land use, by the Planning Commission, Township Board or Building Inspector, as the case may be. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 - (1) 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.
 - (2) Be related to the valid exercise of the police power, and purposes which re affected by the proposed use or activity.
 - (3) 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.

- (d) Record Of Conditions - The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Planning Commission, Township Board, or Building Inspector, as the case may be, and the landowner. The approving Planning Commission, Township Board or Building Inspector, as the case may be, shall maintain a record of conditions which are changed.

SECTION 15.03 DISCRETIONARY STANDARDS. The following discretionary standards shall serve as the basis for decisions by the Planning Commission involving special use permits. The Commission shall find that in addition to any specific standards contained in Section 15.03, the minimum or maximum height and area regulations of the applicable zoning district, and other applicable general standards contained in the various chapters of this ordinance, (ref. Chapter 11- General Provisions, Chapter 12 - Parking and Loading Spaces and Chapter 14- Site Plan Review), the proposed use shall: *(Amended 10/96)*

- (a) Be designed, constructed, operated and maintained so it will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area in which it is proposed.
- (b) Be adequately served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, water and sewage facilities and schools.
- (c) Not create excessive additional requirements at public cost for public facilities and services.
- (d) Not involve uses, activities, processes, materials and equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (e) Be consistent with the intent and purpose of the zoning district in which such use will be located and not set precedents for development which could adversely affect the long term plans and policies of the Township.
- (f) Be compatible and in accordance with the Salem Township Master Plan.

SECTION 15.04 ADDITIONAL STANDARDS FOR SPECIFIC SPECIAL USES. The specific requirements set forth in this section are requirements which must be met by certain special uses in addition to the general standards outlined or referenced in the above Section 15.03. *(Amended 5/10/94)*

- (a) **Automobile service and gas stations, auto repair shops, and car washes.***(Amended 3-04)*
 - (1) No such facility existing on the effective date of this Ordinance shall be altered so as to provide a lesser degree of conformance with the provisions of this section than existing on said date.
 - (2) Minimum lot size shall be forty thousand (40,000) square feet and the minimum lot width at the street line and building lines shall be 200 feet.
 - (3) The principle building on the premises shall be located at least 50 feet from the right of way line. In accordance with the requirements of Section 11.13 this distance shall be increased to at least 100 feet from the centerline of the roadway

on lots abutting a county primary road. All buildings shall be located not less than twenty five (25) feet from any side or rear lot line abutting property used for residential purposes.

- (4) A landscaped green strip at least five feet in depth between the street right of way and the nearest parking or drive surface shall be required. This depth shall be increased to 22 feet on lots abutting a county primary road having a right of way width of 33 feet on the side of the street abutting the subject property. A ten foot green strip shall be provided along each side and rear property line. These green strips shall run continuously except to allow for entrance and exit driveways and joint access driveways between properties.
- (5) Fuel dispenser islands shall be located no closer than twenty five (25) feet from the required front yard green strip.
- (6) Notwithstanding the requirements of Section 11.13, pump island canopies shall extend located no closer than ten (10) feet to the front yard green strip.
- (7) No more than two (2) curb openings shall be permitted. No drive or curb opening shall be located nearer than seventy five (75) feet to an intersection or an adjacent residential property line. No drive shall be located nearer than fifty (50) feet, as measured along the property line, to any other drive on the premises. Curb openings shall not be more than thirty (30) feet wide. A curb cut will not be permitted where it may produce a safety hazard to pedestrian or vehicular traffic.
- (8) A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved areas and all landscaped areas located entirely within paved areas.
- (9) Except for desirable landscaped areas, the entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or paved bituminous surface.
- (10) When adjoining property is used or zoned for residential purposes, an effective vegetative screen or screening fence or decorative wall shall be erected and maintained along the common lot line, all walls and fences shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Walls and fences may be eliminated or shall be gradually stepped down in height within twenty five (25) feet of any right-of-way line to promote good traffic visibility.
- (11) All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties. Lighting under the canopy shall be recessed and the illumination under the canopy shall not exceed 25 foot-candles.
- (12) Compliance with state and federal environmental and safety regulations pertaining to the storage of hazardous material and ground water protection is required.
- (13) All repair lubrication and service work shall be done within an enclosed building.
- (14) Unless authorized as part of the special use permit and indicated on the approved site plan, all storage and display of equipment, materials and merchandise, with the exception of fuel shall be within the building.
- (15) All outside storage areas for trash, used tires, auto parts and similar items shall be in the side or rear yard and shall be enclosed by a six (6) foot high solid wall or fence.

- (16) The parking or storage of automobiles, trucks or trailers for a period in excess of seventy-two (72) hours or the sale or rental thereof is expressly prohibited without specific approval as part of the special use approval.
 - (17) Vacuuming activities shall not be located in the front yard and shall be at least fifty (50) feet from any adjoining side or rear property line.
 - (18) Adequate off-street vehicle parking, stacking and storage spaces shall be provided for all uses conducted on the site. No vehicle queue lines shall be permitted to extend off the premises.
 - (19) All washing activities must be within a building.
- (b) **Bed and breakfast establishments**
- (1) Location shall be outside of a platted residential subdivision.
 - (2) Subordination to the principle use of a single-family dwelling unit.
 - (3) Occupancy of no more than fifty (50) percent of the dwelling unit.
 - (4) The premises shall be the principal residence of the operations owner/operator when the establishment is active.
 - (5) The structure shall be erected or retained as a single-family structure. Commercial food preparation equipment and eating or bathroom facilities within individual sleeping quarters shall not be installed.
 - (6) Meal services shall be limited to during normal and customary breakfast hours and shall be provided only to lodgers registered at the establishment.
 - (7) Two (2) off-street parking spaces for the owner/operator and one (1) off-street parking space per room to be rented shall be provided.
 - (8) Signs shall be subject to the regulations applicable to signs in the district in which the use is located.
- (c) **Campground, travel trailer parks**
- (1) The minimum lot size shall be twenty (20) acres.
 - (2) No commercial enterprises shall be permitted to operate within the park except that a convenience goods shopping building not to exceed two thousand five hundred (2,500) square feet of floor area may be provided in a park containing more than fifty (50) campsites.
 - (3) No building or campsite shall be located within fifty (50) feet of any property line. A house used only for purposes of residence by a park manager or owner shall conform to the requirements of the zoning district. Setback requirements on the side or rear property line may be waived or modified when said line is constituted by the edge of a river or lake, and the Planning Commission shall find that no useful purpose would be served by the stipulated setback.
 - (4) All parks shall afford direct vehicular access of a public road with no opening closer than one hundred (100) feet to a side property boundary line.
 - (5) One identification sign, not exceeding one hundred (100) square feet in area, is permitted.
 - (6) All campgrounds shall be approved by the Michigan Department of Public Health.
- (d) **Churches, houses of worship, shall be considered relative to the following standards.**

- (1) The size, character and nature of the church building.
 - (2) The proximity of the church to adjoining properties.
 - (3) The off-street parking which is to be provided for the church.
 - (4) The potential traffic congestion and hazards which will be caused by the church use.
 - (5) The degree with which the church harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.
 - (6) The effect of the church on adjoining properties and the surrounding neighborhood.
- (e) **Equipment storage and /or maintenance yards, structures and establishments for building trades, heavy equipment and petroleum and well field operators and contractor yards, provided that:**
- (1) The site good street access and the operation of the site will not damage or materially increase the cost and frequency of street maintenance of the street on which the use is located.
 - (2) The site contains at least one acre in size and all structures, drives and storage areas meet the standards for front yard, side yard, rear yard and screening as applied to commercial uses in the C-1 District (ref. Section 9.05).
 - (3) All parking and storage areas and all driveways shall meet the standards of Section 12.05-Standards for Parking Areas, except that areas used for long term outdoor storage or parking of heavy equipment need not be hard surfaced.
(Amended 1-97)
- (f) **Golf courses, country clubs**
- (1) The minimum area shall be forty (40) acres for a par 3 course, sixty-five (65) acres for a 9-hole course, and one hundred twenty (120) acres for an 18-hole course.
 - (2) No building or non-golfing use, with the exception of parking, shall be located within two hundred (200) feet of the front lie or four hundred (400) feet of the side and rear property lines.
 - (3) A greenbelt shall be required if parking is located less than fifty (50) feet from a property line.
 - (4) Parking shall be provided at a minimum of five (5) spaces per hole plus one space for each fifty (50) square feet of combined dining rooms and bar area.
 - (5) Signs shall be subject to the regulations applicable to signs in commercial districts.
 - (6) All lighting shall be shielded or designed so as not to extend beyond the property lines.
 - (7) There shall be not more than two driveways.
- (g) **Group Day Care Homes**
- (1) The home is located not closer than fifteen hundred (1,500) feet to any of the following facilities, as measured along a street, road or other public thoroughfare, excluding an alley:
 - a) Another licensed group day care home.

- b) An adult foster care small group home or large group licensed by the State of Michigan.
- c) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people, licensed by the State of Michigan.
- d) A community correction center, residence home, half-way house or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.

(h) **Mini-warehouses**

- (1) The minimum lot area shall be two (2) acres.
- (2) Mini-warehouse facilities shall be limited to dead storage use. Other commercial or associated uses are prohibited.
- (3) A residence may be permitted for security personnel or on-site operator.
- (4) Parking and circulation:
 - a) One parking space shall be provided for each ten (10) storage cubicles, equally distributed throughout the storage area. The parking requirement can be met with the parking lanes required for the storage area.
 - b) Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
 - c) One (1) parking space shall also be required for every twenty (20) storage cubicles up to a maximum of ten (10) spaces, to be located adjacent to the rental office for the use of prospective clients.
 - d) The following parking lanes and access aisles shall be required. The parking lanes may be eliminated when the access aisle does not serve storage cubicles.

	Aisle or Lane Width (ft.) # of Lanes or Aisles Required			
	<u>One-Way</u>	<u>Two-Way</u>	<u>One-Way</u>	<u>Two-Way</u>
Parking Lane	10	10	1	1
Access Aisle	15	12	11	2

- e) All driveways, parking, loading, storage and vehicular circulation areas shall be paved.

(i) **New and used car sales and rentals**

- (1) The display of new and used cars shall not be carried out within any required front yard green strip area.
- (2) All outdoor vehicle display areas shall be of an improved paved surface.
- (3) Vehicle display or storage shall not be carried out within areas required for visitor, employee or service parking.

(j) **Racing Facilities**

- (1) The Planning Commission shall find that such use will not adversely affect existing or future development of the area.
- (2) There shall be a minimum of eighty (80) acres and the parcel location shall be such that at least one property line abuts a state highway or paved road. Primary access to the facility shall be directly from said streets.

- (3) One sign shall be permitted on each road from which there is a driveway to the track. Such signs shall be subject to the regulations applicable to signs in commercial districts.
- (4) The safety of participants, spectators, and all other persons on the screen is provided for within the general safety practices and precautions of race tracks.
- (5) The track and all spectator areas shall be at least five hundred (500) feet from any adjoining property or road.
- (6) Off-street parking shall be provided at a ratio of at least one (1) space for three (3) seats or six (6) feet of benches in the spectator area.
- (7) All lighting shall be shielded or designed so as not to cause glare upon adjacent properties.

(k) **Sawmills**

- (1) The minimum lot area shall be ten (10) acres.
- (2) All structures and storage yard areas shall be set back a minimum of one hundred (100) feet from the street right-of-way and fifty (50) feet from any side or rear property lines.
- (3) Stockpiles of sawdust, slab-wood, and other wood products shall be held to a minimum so as not to create a fire hazard or public nuisance.
- (4) To reduce noise emissions, the sawmill, including carriage, headgear, and power source, shall be in an enclosed structure and the outlets of blower pipes shall be oriented downward and away from habitable structures located on adjacent properties.

(l) **Rural Enterprises/Re-use of Existing Farm Buildings and Farmsteads in the A-1 and R-1 Districts** (*amended 01-04-11*). This provision recognizes the desire among residents to preserve the rural character of the Township and importance that the preservation of the traditional farmstead represents as a component of that overall character. The intent of this provision is to promote the useful continuation of the farmstead as physical feature of the landscape through the adaptive reuse of the buildings and land area immediately supportive of such buildings. The buildings and lots eligible for adaptive re-use and the small rural enterprises permitted on such parcels shall meet all of the conditions of this Subsection.

- (1) The use shall be specifically identified in Section 5.02A and 6.03 as a use that may be authorized as a Re-use of an existing farm building. (*Amended 01-04-11*)
- (2) The use shall be restricted to occupying only those building(s) existing on or before January 10, 2007. New additions to such buildings may be authorized but shall comprise not more than 25 percent of the total building area that is to be occupied by the use.
- (3) Each building or buildings utilized and any addition, demolition, relocation or replacement thereto shall be subject to approval by the Planning Commission as part of the permitting process. All additions shall be and architecturally similar in character with existing farmstead buildings located on the site.
- (4) Parcels of less than 5 acres at the time of application will not be considered eligible for consideration and in no case shall the

Planning Commission be authorized to approve creation of a farmstead parcel of less than five acres.

- (5) In the case of farmsteads that have a usable farm dwelling, the dwelling may not be separated from the overall parcel unless it is first authorized by the Planning Commission. In considering whether to approve the separation of the farm dwelling and one or more other buildings from the balance of the farmstead, the Planning Commission must first find that the each lot will meet the minimum lot size requirements and that the minimum setback requirements for the district will be either met or will not be further diminished.
- (6) At the time of its approval, the boundary of the farmstead shall not be located within 1000 feet in any direction of any zoning district where the Re-use of existing farm buildings and farmsteads for a rural enterprise is not permitted.
- (7) At the time of application the farmstead boundary shall not be located within 1000 feet in any direction of any other approved special use business or another farmstead where the adaptive Re - Use of Existing Farm Buildings and Farmsteads for a small business has been authorized.
- (8) Unless authorized as part of the 25% increase permissible under paragraph 2 herein, the building(s) used for a rural enterprise shall not be one relocated from an unrelated parcel or tract.
- (9) Outdoor accessory uses such as parking and loading areas and outdoor storage may only be extended to surrounding parts of the lot with the approval of the Planning Commission.
- (10) The farmstead shall not be located on a public street located within a platted or condominium residential development or any private street that serves one or more residential lots.
- (11) Unless specifically authorized by the Planning Commission the total employment is limited to a proprietor and no more than 6 employees or assistants on the premises and no more than 3 additional employees or assistants who report to the site for work performed off the premises.
- (12) No use shall be conducted upon, or from the premises that will constitute a nuisance or annoyance to adjoining property or residents by reason of noise, smoke, odor, electrical disturbance, night lighting or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbance or the source of lighting shall not be discernible beyond the boundaries of the property from which the use is conducted.
- (13) Storage of explosives is prohibited. Storage of volatile liquid, flammable gases or hazardous material may be prohibited or allowed to occur if kept for purposes and in quantities and concentrations customarily found on farms in the Township.

- (14) Outdoor sales display may be authorized if it occupies an area no larger than 500 square feet; and is located in a required setback or in a side yard or rear yard. Outdoor storage must be located in a side yard or rear yard. Outside storage areas shall be screened by at least two rows of deciduous evergreen trees which will reach a minimum of five (5) feet in height after one growing season. An alternative screening approach may be approved by the Planning Commission if it conceals the area as effectively as the first alternative and is consistent with the character of the area.
- (15) For purposes of identification, one (1) non-illuminated business sign not exceeding six (6) square feet in area may be permitted. Such sign shall identify only the use of the operation.
- (16) A special use permit granted and the conditions imposed shall run with the property, unless such use ceases for a period of 12 consecutive months in which case, the special use permit shall expire.
- (17) If the use as permitted by the Planning Commission is proposed to change, the landowner shall submit an application for a Special Use in accordance with this Chapter.
- (18) Conditions: When authorizing a Special Use permit for the adaptive re-use of an existing farm buildings and farmsteads the Planning Commission may impose restrictions and limitations upon the use, relating, but not limited to, consideration of the following:
 - (a) The hours of operation.
 - (b) The floor area of the use.
 - (c) The area, height, bulk and location of the building(s) and their relationships to neighboring properties and land uses.
 - (d) The outdoor storage or display of goods, inventory or equipment and the screening thereof.
 - (e) Machinery or electrical activity that may interfere with nearby radio or television reception or create noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
 - (f) Motor vehicle and/or pedestrian traffic and its circulation on and off site.
 - (g) The amount of off-street parking provided, and the location and surfacing and drainage thereof.
 - (h) The number of permitted associates, employees or assistants whether working on-site or performing duties principally off-site.
 - (i) Water usage and the adequacy of the water supply.
 - (j) Solid and human waste generation and the proposed means and adequacy of treatment, storage and disposal.

(Amended 12-06)

(m) **Seasonal/Migrant Farm Labor Camps.** (Added in its entirety by Ordinance No. 12-14-2010-1, eff. 01-04-11) Farm Labor Camps (i.e. five or more seasonal or migratory laborers engaged in agricultural activities) A Farm Labor Camp may be approved as a Special land Use in any **A-1 or R-1 District** as provided in this sub-Section. All farm labor camps shall be located on a parcel or a portion of a parcel on which agricultural activities occur and which contains a minimum of ten acres of continuous land, uninterrupted by Street or Private Road right-of-way or easement.

- (1) *Definitions.* As used in this section, the following words and phrases shall be defined as follows:
 - (a) *Seasonal Farm Labor* means one or more individuals currently engaged in seasonal or migratory agricultural labor activities, including related food processing.
 - (b) *Farm Labor Camp* means a Lot with Buildings or other Structures, part of which is established, occupied, or used as living quarters for five or more seasonal or migratory laborers currently engaged in agricultural activities, including related food processing.
- (2) Unless otherwise provided under paragraph (3) below, each Farm Labor Dwelling must comply with the requirements of the State Building Code.
- (3) If Manufactured Homes or Modular Homes are to be utilized to provide shelter for Farm Labor, then each Dwelling must comply with the following requirements:
 - (a) Each Dwelling must be firmly attached to a permanent foundation, or firmly anchored to the ground, in a manner which complies with the requirements of the Michigan Manufactured Housing Commission. If attached to a foundation, the foundation must be constructed on-site and in compliance with all requirements of the State Building Code. The frame of a Manufactured Home must be supported by concrete piers or concrete block piers, which are spaced at no more than ten-foot intervals.
 - (b) Each Dwelling must satisfy the design and manufacturing standards of the U.S. Department of Housing and Urban Development in effect at the time of manufacture. Any Dwelling manufactured prior to January 1, 1976 must comply with the regulations adopted by the U.S. Department of Housing and Urban Development in 1976.
 - (c) If a Farm Labor Dwelling other than a Manufactured Home or Modular Home which satisfies the requirements of subsection (2) above is connected to electricity, its electrical distribution system must comply with all applicable regulations of the State Electrical Code.
- (4) ***Standards Applicable To All Seasonal or Migrant Farm Labor Camp Dwellings.*** The following minimum standards shall apply to all Farm Labor Dwellings:
 - (a) The Lot shall be owned or leased by a Farm operator who employs Farm Labor either on the same or on an abutting Lot. The Farm Labor housed by a Farm operator must actually be employed by that Farm operator.

- (b) All applicable statutes, regulations and requirements of both the State of Michigan and the federal government must be satisfied by any housing for Farm Labor. If a license or permit is required by the State or federal government, then the owner or operator of the Farm Labor camp must maintain the license in full force and effect in order for the use to be permitted as a Special Land Use.
- (c) All Farm Labor Dwelling structures must be setback at least 75 feet from each Street or Private Road right-of-way on which the Lot fronts.
- (d) All Farm Labor Dwelling structures must be set back at least 100 feet from the nearest Side and Rear Lot Lines. Setbacks shall be increased to 150 feet when a Side or Rear Lot Line is adjacent to a separate Lot supporting a Single or Two-Family Dwelling in the A-1 or any residential zoned district and owned by a person other than the owner of the Farm Labor Dwelling.
- (e) All Farm Labor Dwelling structures must be located at least 20 feet from each other.
- (f) A minimum of two improved Motor Vehicle parking spaces shall be provided for each Farm Labor Dwelling unit.
- (g) Required Yards and open space within minimum required setbacks may not be used to support agricultural processing or storage operations or the parking of machinery.
- (h) Garbage, refuse, and other waste materials must be effectively stored and screened and disposed of in accordance with the requirements of this Chapter and other applicable provisions in this ordinance and applicable State and federal laws and regulations.
- (i) Each Farm Labor Dwelling shall be provided with the following provided that the regulations of this subsection shall not be construed as imposing greater requirements than would apply to any Single-Family, Two-Family or Multifamily Dwellings.
 1. One operating smoke/fire detector shall be required per dwelling unit.
 2. One exit door, defined as a side-hinged door that is at least three feet wide and at least six feet, eight inches high, shall be required per dwelling unit.
 3. Each sleeping room shall have at least one operable window or exterior door for emergency egress or rescue. The window or door must be operable from the inside to a full clear opening without the use of separate tools. Any windows provided as the means of egress or rescue shall have a sill not more than 44 inches above the floor, a minimum net clear opening of 5.7 square feet, a minimum net clear opening height of at least 24 inches, and a minimum net clear opening width of 20 inches.
 4. Each Farm Labor dwelling unit must be connected to a potable source of water, with plumbing inside the Dwelling unit which satisfies the requirements of the State of Michigan Plumbing Code,

even though the Dwelling unit may be exempt from the Plumbing Code.

5. Within each Farm Labor Dwelling unit shall be at least one bathroom equipped with a functioning water closet and lavatory.
6. Each Farm Labor Dwelling must be connected to either a public sewer or a septic system approved by the Allegan County Environmental Health Department. Outdoor privies or outhouses shall not be acceptable in any event.

SECTION 15.04A ANTENNAS AND TOWERS EXCEEDING 50 FEET. (*Amended 1-18-00*)

- (a) Purpose - It is the general purpose and intent of the Township to comply with the requirements of the Federal Telecommunications Act of 1996 by authorizing towers and antennas needed to operate wireless communication systems. However, it is the further purpose and intent of the Township to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values, and quality of the Township.

It is the further purpose and intent of this Section to:

- (1) Facilitate adequate and efficient provision of sites for towers and antennas.
 - (2) Ensure that towers and antennas are situated in appropriate locations and relationships to other land uses, structures and buildings.
 - (3) Limit overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
 - (4) Require adequate information about plans for towers and antennas in order to permit the Township to effectively plan for the location of such facilities.
 - (5) Minimize adverse impacts of the technological obsolescence of such facilities.
 - (6) Minimize the negative visual impact of towers and antennas on neighborhoods, community landmarks, natural beauty areas and public rights-of-way, by reducing the numbers of towers through co-location where feasible.
- (b) Application - Antennas and towers exceeding a height of 50 feet shall be permitted only if approved as a special land use by the Planning Commission under the terms of this section.
- (1) The application for special land use for such antenna or tower shall include the following information, in addition to what is otherwise required by the terms of this chapter:
 - (a). A detailed site development plan depicting the nature, type, appearance and location of the antenna and tower, any buildings or other structures and all other external features of the special land use, including driveways, fencing, isolation distances, screening and landscaping and other matters.
 - (b). A visual impact analysis which shall include graphic depiction of the anticipated visual appearance of the tower from important vantage points in the surrounding area. Methods used in preparing the analysis shall be reviewed and approved by the Township Planner.

- (c). A justification for the proposed height of the antenna and tower and an evaluation of alternative designs which might result in lower heights.
 - (d). A maintenance plan and any applicable maintenance agreement, prepared so as to ensure long-term, continuous maintenance of the antenna and tower and any supporting structures.
 - (e). A list of all properties investigated for placement of the proposed tower and antenna and the rationale and other background material for selecting the proposed location. The applicant shall provide copies of correspondence to and from owners of properties who have been contacted by the applicant and who have refused to allow their property to be utilized, purchased or leased by the applicant.
 - (f). A list of other wireless communication providers who have been contacted by the owner regarding co-location as well as any correspondence to and from the other providers.
 - (g). A map showing existing and known proposed telecommunications facilities or other structures within and surrounding the Township which could possibly be used by the applicant to co-locate the proposed antenna.
- (c) Co-location -It is the policy of the Township that all wireless communication providers co-locate on existing towers or structures capable of accommodating antennas to minimize the overall number of newly established towers within the Township and to encourage the use of existing towers and structures for new antennas. Thus, if a party who owns or otherwise controls a tower as defined herein, shall fail or refuse to allow the alteration of a tower so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
- (d) Approval of co-located antenna. An application for co-location on an existing tower shall require only site plan review in order to obtain approval. The site plan shall be reviewed in accordance with the requirements of Chapter 14 of this Ordinance. The Planning Commission shall also review the application in accordance with the applicable requirements and standards of this Section.
- (e) Requirements and Standards - An antenna or tower approved as a special land use shall comply with all of the following requirements:
- (1) Items (1) and (2) and (4) through (8) of Section 15.03A.
 - (a). In addition to the standards for approval of all special land use permit applications contained in this Chapter, the Planning Commission shall consider the following factors in determining whether to issue a special use permit for a communications antenna or tower;
 - (b). Height of the proposed tower;
 - (c). Proximity of the tower to residential structures and residential district boundaries;
 - (d). Nature of uses on adjacent and nearby properties;
 - (e). Surrounding topography;
 - (f). Surrounding tree coverage and foliage;

- (g). Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - (h). Proposed ingress and egress; and
 - (i). Availability of suitable existing towers, or other structures for co-location, or alternative technologies not requiring the use of towers or structures, as discussed in Section 15.04A(e)(3) below.
- (1) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structures or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (a). No existing towers or structures are located within the geographic area which meets the needs of the applicant.
 - (b). Existing towers or structures are not of sufficient height to meet the applicant's needs.
 - (c). Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (d). The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (e). The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (f). The applicant demonstrates that there are other material limiting factors that render existing towers and structures unsuitable.
 - (g). The applicant demonstrates that an alternative technology that does not require the use of towers or structures is unsuitable.
- (2) Facilities shall be located and designed so as to be reasonably harmonious with the surrounding area.
- (3) The maximum height of the antenna and tower shall be the minimum height necessary for reasonable communications by the applicant, and by other entities which may collocate on the structure.
- (4) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes.
- (5) The support system shall be constructed in accordance with all applicable building codes.
- (6) A proposed tower for commercial telecommunications services shall be required to be designed, constructed and placed so as to accommodate both the applicant's

equipment and comparable equipment for at least three or more additional users. The Planning Commission may permit a tower design which would allow fewer than three other users if the Commission finds that three additional users would not be consistent with the intent and purposes of this section.

- (7) 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.
- (8) Towers for 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. The monopole may be designed to resemble natural features or to fit in with the design of other existing structures in the area.
- (9) The Planning Commission may require that telecommunications towers, or other related structures or buildings, be screened with landscaping, berms, walls or a combination of any of them. The Commission may require plantings to be placed on properties adjacent to the tower site in order to provide a more effective visual screen.
- (10) Towers for commercial telecommunications services which are abandoned or unused shall be removed by the owner or operator along with any associated buildings, structures or equipment within 180 days of a written notice from the Township, 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.
- (11) If the height required for the tower to serve its intended function decreases from the installed height, due to technological advancement, additional tower installations at other locations, or other factors, the tower shall be lowered to such decreased minimum upon notice given by the Township.
- (12) High Intensity Strobe lighting shall not be permitted unless required by federal or state agencies.
- (13) Any ancillary building housing equipment needed for the operation of the antenna or tower, or any other appurtenance, shall be of a size, type, color and exterior materials which are aesthetically compatible with existing principal buildings within the surrounding area.
- (14) The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.
- (15) Where a tower or antenna is proposed for the roof a building or for the top of another existing structure, the tower shall be designed, constructed and maintained so as to be reasonably architecturally compatible with the principal building or structure.
- (16) Any 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 based on documentation from the applicant that a closer setback will not create a hazard to adjoining properties or roadways.

- (17) The requirements of the Federal Aviation Administration, the Federal Communications Commission and the Michigan Aeronautics Commission shall be fully complied with.
 - (18) In its reasonable discretion, the Planning Commission may impose additional terms and conditions regulating the construction, installation, use, repair, maintenance and removal of an antenna or tower in order to achieve the intent and purposes of this section.
- (f) Revocation of Permit. Failure to comply with conditions of approval stipulated for a tower or antenna under this section may result in the revocation of the Special Land Use Permit. In considering whether to revoke a Special Land Use Permit, a hearing shall be held by the Planning Commission in accordance with the procedures of Section 15.02. *(Amended 05-08)*

SECTION 15.05 REVOCATION OF PERMIT. If a violation of any of the above conditions, regulations, or special conditions is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the special use and the Planning Commission, Township Board, or Building Inspector (whichever allowed the special use) that such violation exists and that the permit will be revoked within fifteen (15) days of such notification. If said violation is not corrected within fifteen (15) days, the body or official who allowed the special use shall revoke the permit. *(Amended 5/10/94)*

SECTION 15.06 EFFECT OF PERMIT. Any Special Use Permit granted and the conditions imposed shall run with the land, regardless of land ownership. Such permit shall remain in effect unless revoked under Section 15.05 above or unless an activity permitted by the Special Use Permit ceases for a consecutive period of 12 months. In such case, the Special Use Permit shall be considered void, and a new Special Use Permit required for the activity to recommence. *(Amended 5/10/94)*

SECTION 15.07 APPEALS AND VARIANCES. Unless appealed through the courts, the Planning Commission shall have final authority with respect to approval, approval with conditions, denial or revocation of a special use permit. Furthermore, once a special use has been approved by the Planning Commission, the Zoning Board of Appeals may not accept an application to waive or modify any written standard or imposed condition pertaining to the approved special use.

Prior to a decision by the Planning Commission to approve or deny a special use permit, an application for a variance from any written standard other than the discretionary standards of Section 15.03 may be made to, and decided upon by the Zoning Board of Appeals. If the Zoning Board of Appeals waives or modifies a standard, the Planning Commission may accept the waiver or it may modify to a lesser degree, or uphold the standard as originally specified in the Zoning Ordinance, if in its discretion, compliance is deemed necessary to satisfy the standards of Section 15.03. *(Amended 10/96)*

