

**HAYES TOWNSHIP**  
**ZONING ORDINANCE**

Charlevoix County, Michigan

July 1, 1974 – Effective Date

As amended through February 2008

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## **Article I: Purpose and Authority**

### **Preamble**

An Ordinance to establish zoning districts in the unincorporated portion of Hayes Township, Charlevoix County, Michigan, and to provide for the regulation, government, and administration thereof, in accordance with the provisions of the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

**The Township of Hayes ordains:**

## **Article I: Short Title and Purpose**

### **SECTION 1.01 - TITLE**

This Ordinance shall be known as the "Hayes Township Zoning Ordinance", and will be referred to herein as "this Ordinance".

### **SECTION 1.02 - PURPOSE**

The purpose of this Ordinance is to:

- A. Promote the public health, safety and general welfare;
- B. Encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land;
- C. Avoid the overcrowding of population;
- D. Provide adequate light and air;
- E. Lessen congestion on the public roads and streets;
- F. Reduce hazards to life and property;
- G. Facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties;
- H. Consider the character of each district, its suitability for particular uses, the existing property values and natural resources, and the general and appropriate trend and character of land, building and population development.

### **SECTION 1.03 – AUTHORITY**

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

### **SECTION 1.04 – VALIDITY**

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

## Article II: Rules Applying to Text and Definitions

### SECTION 2.01 - RULES APPLYING TO TEXT

The following rules of construction apply to the text of this Ordinance:

- a) The particular shall control the general.
- b) In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- d) Words used in the present tense shall include the future, the words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- e) The word "building" includes the word "structure".
- f) A "building" or "structure" includes any part thereof.
- g) The word "person" includes a Corporation as well as an individual.
- h) The words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended", "arranged", or "designed to be used", or "occupied".
- i) Any word or term not defined herein shall be used with a meaning of common or standard utilization.
- j) The term "adjoining lots and parcels" is intended to include lots and parcels separated by highways, roads, streets or rivers.

### SECTION 2.02 - DEFINITIONS

For the purposes of this Ordinance, the following terms and words are defined as follows:

**ACCESSORY BUILDING OR STRUCTURE:** A subordinate structure devoted to an accessory use and located on the same premises with a main structure. An accessory structure attached to a main structure shall be considered part of the main structure.

**ACCESSORY USE:** A use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main use.

**AGRICULTURE:** See "Farm".

**ALTERNATIVE TOWER STRUCTURE:** Any structure which, if intended to be used to locate an antenna or tower, may accommodate and conceal the presence of said antenna or tower,

including, but not limited to, man-made trees, clock towers, bell steeples, water towers, light poles and silos.

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

**APARTMENT:** A room or suite of rooms, including bath and culinary accommodations, in a multiple dwelling, intended or designed for use as a residence by a single family.

**BASEMENT:** That portion of a building which is partly underground and which has most of its floor to ceiling height below grade.

**BED AND BREAKFAST:** Accommodations for transient lodging within a single family dwelling unit and having limited food service. Bed and Breakfast establishments shall be permitted under same requirements as Home Occupations (Section 4.14)

**BILLBOARD:** A type of advertising sign which is either erected on the ground or attached to, painted on, or supported by a building which directs attention to a business commodity, service, entertainment, or other activity conducted, sold or offered at a place other than on the premises on which the sign is located.

**BOARDING HOUSE - ROOMING HOUSE:** A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three (3) persons or more.

**BOARDING LANDS:** All lands adjacent to a parcel of land, including, but not limited to those lands separated from the parcel by a road right-of-way, easements or public utility right-of-ways.

**BUILDING:** A structure either temporary or permanent, having a roof supported by columns or walls.

**BUILDING ENVELOPE** - Land area occupied, or intended to be occupied, by a principal structure, which is, or is intended to be, placed on a building site, together with any attached or detached accessory buildings and structures.

**BUILDING HEIGHT OF:** (5/07/90) The maximum height of a building or structure shall comply with the following requirements:

- Within 500 feet from a lake or stream - 25 feet
- On hills or ridges having slopes of 12% or more - 25 feet
- All other areas - 30 feet

The height shall be measured from the median height between the eave and the peak or any other portion of the building, whichever is highest, except chimneys. Agricultural structures shall be exempt from this height requirement.

Any roof line having an angle greater than 75 degrees is considered a wall, not a roof.

The building height for any structure or portion of a structure (having its ground floor in a single

horizontal plane), is the vertical distance measured from the lowest elevation of the finished grade line of the ground around the structure to the highest point of the roof for flat roofs; to the deck line of the mansard roofs; and to the mean height level between eaves and ridge for gable, hip and gambrel roofs. Intrusions below finished grade about the building for a stair or window wells, courts or yards designed in basements or cellars, to accommodate the minimum glazing area requirements of the BOCA/National Building Code shall not be considered when calculating building height. Building height for buildings having ground floors in two (2) or more horizontal planes at differing elevations may be calculated as if each ground floor plane area were a separate building.

**BUILDING INSPECTOR:** The administrator of the building, housing, plumbing, electrical or other codes that have been adopted or may be adopted in the future by the Township or County.

**BUILDING MATERIALS** - Lumber, bricks, concrete or cinder blocks, plumbing or heating materials, electrical wiring or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in construction of any structure.

**BUILDING SITE** - A ground plot occupied by a building.

**CABIN:** A detached building which is used for seasonal occupancy, but not including motels or autotels, as a dwelling or sleeping quarters.

**CABIN COURT:** One (1) or more cabins used for seasonal occupancy as dwellings or sleeping quarters for transients or tourists for a fee.

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

**CONDOMINIUM PROJECT** - Land developed and owned under the provisions of the Condominium Act (P.A. 59 of 1978, as amended)

**DEVELOPMENT OR TO DEVELOP** - The act of establishing a new land use for a previously undeveloped lot, including a lot previously used as farmland, by the construction of any new building or structure on the lot or the relocation of any existing building or structure on the lot.

**DEVELOPMENT PLAN:** A scale drawing which shows the location and dimensions of improvements upon a parcel of land, including but not limited to location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems and drainage facilities, and environmental features.

**DISTRICTS:** "District" as used herein is synonymous with the word "zones" or "zoning districts".

**DOG KENNEL:** Any place where more than three (3) dogs over six (6) months of age are housed or cared for and which is not an animal hospital.

**DRIVE-IN RESTAURANT:** A public eating place where food is prepared and served or sold for consumption other than solely within a building on the premises.

**DURABLE MATERIALS** - Substances that are permanent, stable, lasting.

**DWELLING UNIT** - A building, or portion thereof, which is designed or used exclusively for

residential purposes to house a single family as defined herein.

**DWELLING MULTIPLE:** A dwelling or group of dwelling on one (1) plot and in one (1) structure, containing separate living units for three (3) or more families, but not including automobile courts, motels or hotels.

**DWELLINGS, SINGLE OR ONE-FAMILY:** A detached building designed for or occupied exclusively by one (1) family.

**DWELLINGS, TWO-FAMILY:** A detached building designed exclusively for occupancy by two (2) families living independently of each other.

**ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance by public utilities, municipal departments, commissions, or boards of underground or overhead gas, electrical, steam, water, sewer transmission, distribution, collection supply or disposal systems including poles, wires, mains, pipes, conduits, cables, hydrants, and other similar equipment and appurtenances necessary for such systems to furnish an adequate level of service. Telecommunication towers or facilities, alternative tower structures, wireless communication antenna, offices and buildings or yards used for bulk storage, fabrication or manufacturing of materials used by such utilities or municipal departments or other governmental agencies are not included within the definition.

**FAMILY:** An individual, or two (2) or more persons related by blood, marriage or adoption, or a group of not to exceed four (4) persons not related by blood or marriage, occupying the premises and living as a single non-profit housekeeping unit with single culinary facilities, as distinguished from a group occupying a boarding house, or lodging house, hotel, club, fraternity or similar dwelling for group use. The usual domestic servants residing in the premises shall be considered as a part of the family.

**FARM:** All the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner or by his agent or by a tenant farmer, provided that the area thereof is sufficient to constitute actual farming; and for the purpose of this ordinance, farms may be considered as including establishments as bona fide green houses, nurseries, orchards, chicken hatcheries, poultry farms, dairy farms and apiaries and other similar activities. The words "agriculture" and "farming" shall be considered synonymous.

**FENCE/FENCING** - A boundary consisting of posts, boards, wire, and other durable materials to be used to enclose or surround an area to ensure the safety of the public, including the means proposed for preventing access to particular sites or uses:

PERIMETER - Fencing upon the outer boundary of a lot or open mining face which is higher than three feet (3').

VISUAL BUFFER - Tight board fence between incompatible land uses.

SAFETY FENCE - Shall consist of at least a woven wire farm fence and shall be a minimum of four feet (4') high.

**FLASHING SIGN:** Any sign having a conspicuous and intermittent variation in the illumination of the sign.

**FLOOR AREA:** The area of all floors computed by measuring the

dimensions of the outside walls of a building. Porches, patios, terraces, breezeways, carports, verandas, garages, unfinished

attics, all basements, except walkout basements, are excluded.

GARAGES - PRIVATE: A detached accessory building or portion of main building for the parking or temporary storage of automobiles, boats, house trailers and similar vehicles owned and used by the occupants of the building to which it is accessory.

GARAGES - PUBLIC: A building, or other than a private garage, used for the sale, repair or equipment of automobiles, motorcycles, snowmobiles, boats and other similar vehicles or where such vehicles are parked or stored for remuneration, hire or sale.

GASOLINE SERVICE STATION: A structure or structures and space combined, used solely for servicing motor vehicles with the usual operating commodities such as gasoline, fuel oil, grease, water, batteries, tires and other minor accessories, or services such as washing, waxing and lubricating and in connection with which there is no repair or refinishing of motor vehicles except that the repair of tires, lights, charging batteries, or engine repairs and adjustments when conducted within an enclosed building shall not be excluded.

GRADE: An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

GREENBELT: A planting strip or buffer strip at least twenty five (25) feet in width, composed of a mix of deep rooted trees (either deciduous or evergreen) and woody shrubs, with not less than thirty percent(30%) consisting of deciduous or evergreen trees. Deciduous trees shall be no further apart than eight(8) feet, evergreen(pine, spruce, and cedar) no further apart than six(6) feet, and woody shrubs no further apart than three(3) feet and not less than five(5) feet in height. A greenbelt as described herein, is not synonymous with greenbelt zoning. Adopted 3-13-95 effective upon publication 3-17-95.

HAYES TOWNSHIP PLANNING COMMISSION: The Planning Commission shall consist of seven (7) members, who are appointed by the Township Board, and who shall make a plan for the land use plan of the Township. Such plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development within the Township which will be in accordance with present and future needs. The planning Commission shall also establish zoning districts and boundaries, recommend the text of a zoning ordinance, serve as an advisory body to the Township Board on matters involving proposed amendments, recommend the manner of administering and enforcing the zoning ordinance and perform such other duties as shall be delegated to it under the provisions of this Ordinance, and make decisions on Special Use Permits.

HEAVY INDUSTRY: Manufacturing, fabricating activities or other large scale specialized industrial operation have external effects which shall be felt to some degree by surrounding uses.

HOME OCCUPATIONS: Occupations engaged in within a dwelling by the resident or residents of the same.

HOME SATELLITE RECEIVER: Any antenna for use in receiving Satellite TV transmission.

HOTEL: A building in which transient lodging or boarding and lodging are offered to the public for compensation. Boarding houses, motels, motor hotels and apartments are excluded.

**INDUSTRIAL PARKS:** Any site, field or tract upon which three (3) or more industrial sites are available.

**INOPERABLE MOTOR VEHICLE:** Any vehicle made to be propelled or operated by a motor or engine which is no longer in an operating condition, and which is useful only for parts.

**INSTITUTIONAL OR PUBLIC USE:** Churches, schools, teaching academic subjects, hospitals, convalescent and nursing homes, parks, civic centers, libraries and other governmental structures.

**JUNK:** Worn out and discarded material that may be returned to some use. Rubbish of any kind that may be returned to some use.

**JUNK DEALER** - A person, firm or corporation who operates a junk or salvage yard as defined in the Zoning Ordinance

**JUNK YARD:** Any parcel of land maintained or operated for the purchase, sale, storage, dismantling, demolition or use of junk, including scrap metals, motor vehicles, machinery, buildings, structures, construction material or other salvaged material. Also, any premises upon which two (2) or more unlicensed used motor vehicles which cannot be operated under their own power are kept or stored outside a building for a period of fifteen (15) days or more. The purchase and storage of used cars in operable condition, used or salvaged materials, used furniture and household equipment are excluded if carried on in enclosed buildings.

**LIQUID INDUSTRIAL WASTES** - Any liquid brine, by-product, industrial wastewater, leachate, off-specification commercial product, grease-trap clean-out residue, used oil, or other liquid waste produced by, incident to or resulting from industrial or commercial activity except any liquid brine normally used in oil or gas extraction on a site permitted by the Michigan Supervisor of Wells.

**LIVING SPACE:** That area within a structure intended, designed, erected or used for human occupancy.

**LOT** - An area of land that is described and fixed in a platted subdivision, or a parcel of land described by metes and bounds, or a site condominium unit.

**LOT - CORNER:** A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of less than 145 degrees.

**LOT COVERAGE:** The amount of a lot, stated in terms of percentage that is covered by all roofed buildings and other structures located thereupon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio-roofs and the like, whether open box types and/or lathe roofs of fully roofed, but shall not include fences, walls or hedges used as fences, or swimming pools.

**LOT DEPTH:** The distance between the front and rear lot lines measured in the mean direction of the side lot lines.

**LOT - FRONT:** In the case of an interior lot, the boundary line of the lot immediately adjacent to the right-of-way upon which the lot fronts, and in the case of a corner lot, the front lot line shall be the boundary line of the lot immediately adjacent to the narrowest street frontage.

LOT - INTERIOR: A lot other than a corner lot.

LOT - REAR: A lot line which is opposite and most distant from the front lot line and, in the case of an irregular shaped lot, a line at least ten (10) feet in length within the lot, parallel to and at the maximum distance from the side lot line.

LOT SIDE: Any boundary line not a front lot line or a rear lot line.

LOT - THROUGH: A lot, other than a corner lot, having frontage on more than one (1) street.

LOT WIDTH: The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

LOT OF RECORD - A lot in a described subdivision, or a parcel of land recorded by metes and bounds, that has been recorded in the office of the Register of Deeds for Charlevoix County prior to the effective date of this Ordinance.

MOBILE HOME - A structure of a type and quality conforming with all Federal and State mobile home construction and safety standards, which is transportable in one or more sections and designed to be used as a dwelling with or without a permanent foundation.

MOBILE HOME PARK: Any site, field or tract upon which three (3) or more occupied mobile homes are harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile park which site, lot, field or tract shall be licensed and regulated by the Michigan Department of Commerce.

MOTEL: Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade, commonly known as hotels or motor courts.

MOTOR VEHICLES - Any wheeled vehicle which is, or is designed to be self-propelled.

NATURAL STATE: (6/12/89) An area where bedrock soil and vegetation is left undisturbed and void of structural improvements. An area that is untouched and undisturbed by man. An area that is declared a natural state will remain as it presently is, without improvements, mowing, removal of trees and shrubs or contouring, filling or removal of soil. Previous land use may show the effects of human use such as fences, foundations, orchards, etc. These may be considered for inclusion as a natural state at the discretion of the planning commission if and only if there is no further use of improvement of these effects. If any of these previous effects are to be utilized they will not be considered as a natural state.

NONCONFORMING USE: Any use, whether a building or other structure or a tract of land, which does not conform to the applicable use regulations for the district, either at the effective date of this Ordinance, or as a result of a subsequent amendment thereof.

OPEN SPACE: Land not used for any of the following: Parking and loading spaces, road right-of-ways, building coverage, sewage disposal areas, water-well houses, related uses.

OWNER: A person holding any legal, equitable, option or contract interest in land.

PLANNING COMMISSION: See Hayes Township Planning Commission.

PERSONS: "Persons" includes any individual, political subdivision, estate, trust, or body of persons, whether incorporate or not, acting as a unit.

PRINCIPAL OR MAIN USE: The primary or predominant use of the premises.

RECREATIONAL VEHICLE - A motorized or non-motorized vehicle, or prefabricated portable structure designed and intended for use as a temporary living quarters for recreational, camping or travel use.

RIDGELANDS - The top of a long, linear hill. Those lands which have the unique character of defining a linear high area for a particular landscape. They usually accompany valleys. A topographical map (one that shows the contours of the land) shall be examined to identify property containing ridgeland.

RIGHT-OR-WAY: A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

SHORELINE PROPERTY - That land which abuts a lake, river, or stream at the ordinary high water mark.

SIGN: Any announcement, written declaration, pictorial representation, emblem, flag, illustration, insignia or any figures of similar character which is a structure or any part thereof or is attached to, painted, or in any other manner represented on a building or structure and is used to announce, direct attention to, or advertise and is visible from outside a building. Signs shall include billboards but shall not include illustrations, pictorial representations or other similar items within a building.

SITE CONDOMINIUM SUBDIVISION - A division of land, on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act of 1967 (P.A. 288 of 1967, as amended).

SITE CONDOMINIUM UNIT - That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

STORY: That portion of a building included between the surface of any floor and surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it and exclusive of any mezzanine, balcony or basement.

STORY - HALF: An uppermost story lying under a sloping roof having an area of at least two-hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purpose of this ordinance the usable floor area is only that area having at least four feet (4') clear height between the floor and ceiling. Does not exceed two-thirds of the floor area in the story directly below.

STRUCTURE: Anything constructed, erected or to be moved to or from any premises, which is permanently located above, on, or below the ground, including signs and billboards.

TELECOMMUNICATION TOWERS AND FACILITIES OR TOWER: All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio

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

**TOTALLY CLOSED STRUCTURE** - A building capable of being sealed on all sides such as a house, garage or storage shed with a roof, floor and walls or closable doors around its perimeter.

**TRAVEL TRAILER**: A travel trailer shall mean a mobile home which is less than ten (10) feet in width and is generally moved from location to location by a passenger car and is generally used for recreation purposes.

**TRAVEL TRAILER PARK**: Any site, lot, field or tract upon which one (1) of more occupied travel trailers are harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such travel trailer park; which site, lot field, or tract shall be licensed and regulated by the Michigan Department of Health.

**UTILITIES** - Reliable source of power (natural gas, electric power lines, water [a public water system or adequate groundwater supply], sewage disposal system, adequate surface or subsurface drainage).

**VEHICLE** - Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power and mobile homes as defined in this Ordinance.

**VEHICLES SALES - NEW**: An authorized dealership primarily for the sale of new vehicles but as an incidental use may include the sale of used vehicles, and having enclosed facilities on the premises for the service, repair and sale of new vehicles and accessories.

**VEHICLES SALES - USED**: An authorized dealership for the sale of used vehicles with office and sales facilities on the premises. All related activities incidental to the sale of used vehicles such as minor repairing, servicing and restoring, shall be performed within an enclosed facility.

**WINDMILL**: Any device used to harness the wind for generation of electricity or pumping water.

**WIRELESS COMMUNICATION SERVICES** shall be any communication service which includes or utilizes wireless communication towers or facilities.

**YARD**: An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building or structure.

**YARD - FRONT**: A yard extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest point of the building.

YARD - REAR: A Yard extending across the rear of the lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On the corner lots, the rear yard shall be considered to be parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

YARD - SIDE: A yard between the side lot line and the nearest side line of the building and extending from the rear line of the building of the front line of the building.

ZONING ADMINISTRATOR: The administrator of this Ordinance, appointed by the Hayes Township Board.

ZONING PERMIT: A standard form issued by the Zoning Administrator upon application and declaration by the owner of his duly authorized agent regarding proposed construction and use of land and buildings and structures thereupon granting approval for the construction or use applied for.

## Article III: Districts

### SECTION 3.01 - KINDS OF DISTRICTS

- A. For the purpose of the Ordinance, Hayes Township is hereby divided into zoning districts as defined and as detailed on the accompanying zoning map.

R-1	Residential, Single Family
R-2	Residential, Single Family
R-3	Residential, Single Family and Two Family
R-4	Residential, Multiple Family
R-5	Residential, Mobile Home Park
R-6	Mobile Home Subdivision, privately owned
C-1	Resort Commercial
C-2	General Commercial
C-3	Highway Commercial
I-1	General Industrial
I-2	Heavy Industrial
CR	Conservation Reserve
A-1	Agricultural
FF	Farm Forest
RR-1	Rural Residential, Single Family

- B. No land shall hereafter be used, and no building or structure erected, altered or used for other than the uses permitted in the pertinent specific zone district.
- C. The Zoning Map, including all information and notation thereupon is hereby made a part of this Ordinance. Unless otherwise provided, the boundary lines of all zoning districts shall be interpreted as following along section lines or the division of sections such as quarter and eight lines; or the centerline of highways; streets and waterways; or the shoreline of water bodies; or the boundaries of incorporated areas, recorded plats or subdivisions; or property lines of legal record on the date of enactment of this Ordinance.

## **Article IV: Zone District Regulations**

### **SECTION 4.01 - "R-1", RESIDENTIAL, SINGLE FAMILY**

A. Uses allowed:

1. Single family dwellings.
2. Parks, playgrounds, public buildings.
3. Special uses that may be authorized in this zone district include the following uses, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Section 5.11 and Article VI of the Ordinance.
  - a. Churches and church related structures such as parish halls, parsonages, etc.
  - b. Public utility buildings.
  - c. Schools and school related structures.
  - d. Home Business Group as regulated by Section 4.14 of this Zoning Ordinance.
4. Accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off street parking (Section 5.17) and loading spaces (Section 5.18) and signs (Section 5.16)

## **SECTION 4.02 - "R-2", RESIDENTIAL, SINGLE FAMILY**

- A. Uses allowed - Any use permitted in the R-1 District, subject to the requirements of Special Uses set forth therein.
1. Single Family dwellings.
  2. Parks, playgrounds, public building.
  3. Special uses that may be authorized in this zone district include the following uses, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Section 5.11 and Article VI of this Ordinance.
    - a. Churches and church related structures such as parish halls, parsonages, etc.
    - b. Public utility buildings.
    - c. Schools and school related structures.
    - d. Hospitals and other institutions for human care.
    - e. Home Business Group as regulated by Section 4.14 of this Zoning Ordinance.
  4. Accessory uses customarily incidental to the preceding listed permitted use including, but not limited to, off street parking and loading spaces (section 5.17) and signs (section 5.16).

## **SECTION 4.03 - "R-3, RESIDENTIAL, SINGLE FAMILY AND TWO FAMILY**

### **A. Uses allowed:**

1. Single family dwellings
2. Two (2) family dwellings
3. Parks, Playgrounds, public buildings
4. Special uses that may be authorized in this zone district include the following uses, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Section 5.11 and Article VI of this Ordinance.
  - a. Churches and church related structures such as parish halls, parsonages, etc.
  - b. Public utility buildings.
  - c. Schools and school related structures.
  - d. Hospitals and other institutions for human care.
  - e. Professional offices.
  - f. Home Business Group as regulated by Section 4.14 of this Zoning Ordinance.
5. Accessory uses customarily incidental to the above permitted uses including, but not limited to, off-street parking and loading spaces (section 5.17) and signs (section 5.16).

## **SECTION 4.04 - "R-4", MULTIPLE FAMILY RESIDENTIAL**

### **A. Uses Allowed:**

1. Multiple family dwellings, as defined herein.
2. Parks, Playgrounds, Public buildings.
3. Accessory uses customarily incidental to the above permitted uses, including, but not limited to, off-street parking and loading spaces (section 5.17) and signs (section 5.16).

### **B. Establishment of Zone Districts.**

1. This zone district will be established only upon approval of an application from the owner of the property proposed for a preplanned apartment, garden apartment or condominium apartment complex.
2. Establishment of the Zone District shall follow the provisions of Article VIII, Section 8.05 of this Ordinance.

### **C. Density regulations of this zone district - No land shall hereafter be used in this zone district unless the following density regulations are followed and maintained.**

1. Not more than four (4) dwelling units per net acre shall be permitted in this zone district, except as otherwise herein provided.
2. There shall be a minimum of fifty (50) percent of the gross area of the proposed "R-4" Zone District maintained as open space or non-profit recreational uses.
3. In the process of determining the usable net acreage in a particular "R-4" project, the developer shall not consider lands having a slope greater than 20% (20 feet of vertical fall in 100 lineal feet).

### **D. Floor space regulations - Each dwelling unit in this zone district shall have an average floor area of nine hundred (900) square feet of usable floor area exclusive of porches, patios, garages, and basements. If the developer proposes a mixture of units having differing floor plans, a minimum floor space of eight hundred fifty (850) square feet shall be maintained.**

### **E. Other development Regulations:**

1. Parking areas shall be placed so as not to interfere with any recreation or service area and shall not be less than twenty-five (25) feet from any property lines or street right-of way lines.
2. All areas provided for use by vehicles shall be surfaced with bituminous asphalt, concrete or other similar materials.
3. Areas for loading and unloading delivery trucks and other vehicles and for refuse collection service, fuel and other services shall be provided per Section 5.18 of

this Ordinance.

4. Provisions shall be made for safe and efficient ingress and egress to the public streets and highways servicing the "R-4" District without undue congestion or interference with normal traffic flow.
5. All multiple family dwellings within this Zoning District shall be served by an adequate sanitary sewage disposal system and public water supply system. All utility lines (power, telephone, water, gas, cable TV) servicing the "R-4" Zoning District shall be placed underground.
6. The developer shall be required to preserve or incorporate natural features such as woods, streams and open spaces which add to the overall development of the area.
7. The development plan shall provide community areas, laundry facilities, playground and tot lots, open areas for recreation, and other services necessary for the comfort and convenience of "R-4" residents, where four or more units exist.
8. The Zoning Administrator shall forward the Development Plan application, and supporting data, to the Planning Commission. Upon receipt of such application, accompanied by payment of the fee, the matter shall be set for Site Plan Review in accordance with Article V, Section 5.11 of the Ordinance.
9. A development permitted under Section 4.04 which has frontage upon a lake, pond, river or other body of water, may establish bathing beaches and other water-related recreational uses of its shoreline. Not more than one (1) mooring, slip or dock space for each one hundred (100) feet of lake frontage may be provided for mooring or dockage of boats.
10. Multiple family lake front development, consisting of eight (8) or more units, shall install and maintain a Health Department approved main sewage pump-out service.

## **SECTION 4.05 - "R-5", MOBILE HOME PARK RESIDENTIAL**

### **A. Uses allowed:**

1. Mobile home parks, provided all state requirements governing mobile home parks and the following requirements are met:
  - a. Each park shall be in single ownership and shall contain a minimum land area of ten (10) acres.
  - b. All mobile home parks must maintain a one hundred (100) foot landscape setback from any public street that borders the park boundaries, and fifty (50) foot minimum landscaped rear and side yards shall be provided and maintained adjacent to any adjoining properties.
  - c. All public and private utilities shall be installed underground.
  - d. Each park shall have a minimum of two (2) access streets entering a public arterial or collector street with no ingress or egress to and from a local street.
  - e. All streets within a mobile home park shall be blacktopped or paved with the provision of a forty (40) foot right-of-way and a minimum roadway of twenty (20) feet, exclusive of parking facilities.
  - f. Health Department approval of the proposed park must be obtained and must be submitted with the application for a zoning permit.
  - g. Off-street parking shall be provided per the standards in Section 5.17 of this Ordinance.
  - h. At least ten (10) percent of the park area shall be retained for open space and recreation purposes.
  - i. Buildings housing laundry facilities, offices, rest room or shower facilities, a pool, or the sale of retail goods, for the exclusive use of the residents of the park may be permitted as an accessory use.
  - j. Sites for travel trailers or camping accommodations may be provided within a mobile home park for temporary stays not to exceed twenty-eight (28) days. These sites shall be provided with at least common rest rooms, showers, laundry facilities and water supply. Provision shall be made for the sanitary disposal of sewage into a Health Department approved system on the premises.
  - k. A development plan shall be submitted for each mobile home park in accordance with Article V, Section 5.11 of this Ordinance.

### **B. Establishment of Zone District.**

1. This zone district will be established only upon approval of an application from the owner of the property proposed for a mobile home park.
2. Establishment of this zone district shall follow the provisions of Article VIII, Section 8.05 of this Ordinance.

## **SECTION 4.05A - "R-6", MOBILE HOME SUBDIVISION, PRIVATELY OWNED**

No provisions included in this Ordinance for "R-6", Mobile Home Subdivision, Privately Owned.

## **SECTION 4.06 - "C-1", RESORT COMMERCIAL**

### **A. Uses Allowed:**

1. Motels, hotels and cabins.
2. Restaurants and taverns.
3. Book, stationary, gift, florist or souvenir shop.
4. Grocery stores, package take-out stores.
5. Boat houses and wet/dry boat storage.
6. Boat motor or related marine repair establishments.
7. Marinas.
8. Arts, crafts, antique shops.
9. Privately-owned recreational facilities for commercial gains.
10. Other similar uses provided that such uses shall be found to be similar by the Hayes Township Planning Commission.
11. Accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off-street parking and loading spaces (Section 5.17) and signs (Section 5.16).
12. Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a Special Use Permit and approved in accordance with the procedures, provisions and standards of Section 5.11 and Article VI of this Ordinance.
  - \* Single family residence, which shall conform to the requirements as described in Section 4.13 for single family residences.
  - \* Extraction of sand, gravel and earthen materials.

### **B. Development Regulations.**

1. A development plan, in accordance with Article V, Section 5.11 of this Ordinance, shall be submitted for uses in this zone district.

## **SECTION 4.07 - "C-2", GENERAL COMMERCIAL**

### **A. Uses Allowed:**

1. Personal Service Shops, including:
  - \* Barber Shops
  - \* Beauty Shops
  - \* Laundry and Dry cleaning pick-up shops
  - \* Dressmaking and tailoring shops
  - \* Shoe Repair Shops
2. Grocery Stores, Shopping Centers
3. Professional Offices
4. Banks
5. Restaurants
6. Publicly-owned buildings, public utility buildings, telephone exchange buildings and substations without storage or service yards.
7. Community clubs, fraternal lodges and similar civic and social organizations when not operated for profit.
8. Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a Special Use Permit and approved in accordance with the procedures, provisions and standards of Section 5.11 and Article VI of this Ordinance.
  - a. Dance and recreation halls
  - b. Bars and taverns
  - c. Single family residence, which shall conform to the requirements as described in Section 4.13 for Single family Residences.
  - d. Extraction of sand, gravel and earthen materials.
  - e. Telecommunication towers and facilities and alternative tower structures.
9. Accessory uses, buildings and structures customarily incidental to any of the above permitted or approved uses, including, but not limited to, off-street parking (Section 5.17) and loading spaces (Section 5.18) and signs (Section 5.16).
10. Other similar commercial enterprises, provided, however, that such use shall be found to be similar by the Hayes Township Planning Commission.

### **B. Development Regulations**

1. A development plan, in accordance with Article V, Section 5.11 of this Ordinance, shall be submitted for uses in this zone district.

## **SECTION 4.08 - "C-3", HIGHWAY COMMERCIAL**

### **A. Uses Allowed:**

1. Automobile and other vehicle sales, new and used.
2. Automobile laundry, if wholly enclosed and provided with adequate vehicle waiting lanes.
3. Automobile repair shops or garage, if all operations are conducted within a completely enclosed structure.
4. Automobile service stations.
5. General contractors (plumbing, heating, electrical), provided all operations and storage are conducted within a completely enclosed structure.
6. Contractor's equipment storage yard, provided it is surrounded by a fence, as per Article V, General Provisions, Section 5.12.
7. Drive-in restaurants and drive-in theaters, provided, that the screen is not visible from the roadway.
8. Nursery, flower plant or garden shops, provided all incidental equipment and supplies, including all fertilizer, tools and containers, are kept within a completely enclosed structure.
9. Other similar commercial enterprises, provided, however, that such use shall be found to be similar by the Township Planning Commission.
10. Accessory uses customarily incidental to the preceding permitted uses including, but not limited to, off-street parking (Section 5.17) and loading spaces (Section 5.18) and signs (Section 5.16).
11. Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a Special Use Permit and approved in accordance with the procedures, provisions and standards of Section 5.11 and Article VI of this Ordinance.
  - a. Single family residence, which shall conform to the requirements as described in Section 4.13 for single family residences.
  - b. Extraction of sand, gravel and earthen materials.
  - c. Telecommunication towers and facilities and alternative tower structures.

### **B. Development Regulations**

1. A development plan, in accordance with Article V, Section 5.11 of this Ordinance, shall be submitted for uses in this zone district.

## **SECTION 4.09 - "I-1", GENERAL INDUSTRIAL**

### **A. Uses Allowed:**

1. Warehousing and storage buildings
2. Wholesale commercial shipping establishments.
3. Dry cleaning establishments
4. Veterinary or dog and cat hospitals, kennels, pet cemeteries.
5. Machine Shops.
6. Assembly and repair of electrical appliances, instruments and devices.
7. Storage of bulk petroleum products.
8. Freight or trucking terminal.
9. Accessory use customarily incidental to the preceding listed permitted uses, including, but not limited to, restaurant or cafeteria facilities for employees, off-street parking (Section 5.17) and loading spaces (Section 5.18) and signs (Section 5.16).
10. Other uses, provided such uses shall be found to be similar and compatible by the Township Planning Commission.
11. Special uses that may be authorized in this zone district include the following, provided that an application is submitted for a Special Use Permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance.
  - a. Extraction of Sand, gravel and earthen materials.
  - b. Telecommunication towers and facilities and alternative tower structures.

### **B. Development Regulations**

1. A development plan, in accordance with Article V, Section 5.11 of this Ordinance, shall be submitted for uses in this zone district.
2. All outside storage is required to be fenced.
3. No fencing is required when all activity is conducted within a full enclosed structure.

## **SECTION 4.10 - "I-2", HEAVY INDUSTRIAL**

### **A. Uses Allowed:**

1. Mining, quarrying and excavating activities, including the stockpiling of rock, stone, clay, limestone, gravel, brine, or similar material.
2. Processing of the above materials.
3. Sanitary Landfills.
4. Automobile junk yards and salvage areas.
5. Radio and television transmission towers.
6. Other uses, provided such uses shall be found to be similar and compatible by the Hayes Township Planning Commission.
7. Accessory uses customarily incidental to the preceding permitted uses including, but not limited to off-street parking (Section 5.17) and loading spaces (Section 5.18) and signs (Section 5.16).

### **B. The following regulations shall be followed when developing an industrial use allowed within this zone district.**

1. A fence of wire mesh or other suitable material not less than five (5) feet in height shall be constructed and maintained around any area where authorized operations are conducted and around any areas where such activity has been completed, and in which there exists structures, shafts, wells, holes, excavations, or any active materials that may constitute a hazard.
2. The outer boundaries of any such area shall be posted with signs not more than five hundred (500) feet apart, stating in letters not less than four (4) inches in height "KEEP OUT-DANGER".
3. No cut or excavation in connection with any mining or quarrying operation shall be made closer than fifty (50) feet to the nearest highway nor closer than fifty (50) feet to the nearest property line.
4. Any industry shall be so conducted as to provide reasonable precautions for the protection of public health and safety.
5. Industries shall be conducted in such a manner so as not to be obnoxious by reason of odors, fumes, dust, smoke, noise, sight, or vibration.
6. Telecommunication towers and facilities and alternative tower structures, provided that an application is submitted for a special Use Permit and approved in accordance with the procedures, provisions, and standards of Article VI of this Ordinance.

C. Development Regulation

1. A development plan, in accordance with Article V, Section 5.11 of this Ordinance, shall be submitted for uses in this zone district.

## **SECTION 4.11 - "CR", CONSERVATION RESERVE**

### **A. Uses Allowed:**

1. Parks, forests, open space and recreation areas.
2. Docks, launch ramps and associated parking areas.
3. Uses similar to the preceding which tend to preserve in substance the scenic character of the area, such as a nature Conservancy.
4. Cemeteries

This Section amended by the Hayes Township Board at their regular meeting 6/10/96 and shall become effective upon publication (6/18/96).

## **SECTION 4.12 - "A-1", AGRICULTURAL**

### **A. Uses Allowed by Right:**

1. Any use permitted in the "R-1" Zone District.
2. Farms for both general and specialized farming, including logging, sawmills, woodcutting, roadside stands for the sale of products of which at least fifty (50) percent are produced on the premises, together with farm dwellings and buildings and other installations useful to such farm operations.
3. Accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off-street parking (Section 5.17) and loading spaces (Section 5.18) and signs (Section 5.16).

### **B. Uses Allowed by Special Use Permit: Special uses that may be authorized in this zone district include the following uses, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Section 5.11 and Article VI of this Ordinance:**

1. Golf Courses, Country Clubs, and publicly owned recreation facilities.
2. Non-intensive, non-profit recreation facilities such as snowmobile trails, archery, rifle, skeet or gun ranges, and hunting and fishing preserves or clubs, provided that commercial activities are not permitted.
3. Sewage treatment facilities, and sanitary landfills, provided that all applicable state and federal regulations are complied with.
4. Camps, clubs, and campgrounds that are operated by a non-profit organization, provided no commercial activity shall be conducted on the premises and parking facilities shall be no closer than twenty (20) feet from any property line.
5. Housing for transient labor, provided that such housing shall not be occupied for more than one hundred eighty (180) days of any calendar year; such use shall comply with all applicable regulations of the State of Michigan and Charlevoix County District Health Department Unit No. 3.
6. Private landing strips and their associated facilities.
7. Dog kennels, provided that kennels shall not be located closer than two hundred (200) feet from any property line of the property upon which such kennels are situated, nor closer than two hundred and fifty (250) feet from any residential structure, other than the residence of the owner of the kennels.
8. Extraction of Sand, Gravel, and earthen materials as regulated by the provisions of Section 4.15.
9. Bed and Breakfast establishments.

10. Home Business Group as regulated by the provisions of Section 4.14.
11. A Single Family Dwelling may be converted to a two (2) Family Dwelling if in addition to complying with the regulations of Article VI of this Ordinance the proposed dwelling satisfies the conditions and standards specified in Subsection B (12) [a - b] of this Section.
12. A second single family dwelling may be placed on a lot occupied by an existing single family dwelling if, in addition to complying with the requirements of Article VI of this Ordinance, the proposed second dwelling satisfies the following conditions and standards:
  - a. The lot shall not be less than ten acres in size.
  - b. The second dwelling shall be owned by the person(s) or legal entity who owns the lot and the existing dwelling. One (1) dwelling unit must be occupied by an owner.
  - c. The person(s) or legal entity owning such lot shall record a deed restriction with the Charlevoix County Register of Deeds notifying heirs, successors and assigns that the lot may be divided only if such division results in the creation of lots that comply with all provisions of the Hayes Township Zoning Ordinance, as amended, and the Hayes Township Parcel Division Ordinance, as amended. Such deed restriction shall be in a form and content satisfactory to the township attorney, and shall be submitted at the time the application for the special use permit is made.
  - d. The second dwelling shall not be located between the setback established by the existing dwelling at any public or private road right-of-way. In cases where an existing dwelling is closer to such right-of-way, then the second dwelling shall comply with zoning district setback regulations.
  - e. The second dwelling shall comply with the standards applicable to the dwellings contained in Section 5.21 of this Ordinance.
13. Telecommunication towers and facilities and alternative tower structures.

## **SECTION 4.12A - "FF", FARM FOREST**

### **A. Uses Allowed:**

1. Single family dwelling and structures consistent with farm operations or lines for utility transmission or distribution purposes.
2. Farms devoted to the production of plants and animals useful to man, including forages and sod crops; grains and feed crops; dairy and dairy products; livestock, including breeding and grazing; fruits; vegetables, and Christmas trees.
3. Marshes/Wetlands
4. Forest and woodlands
5. Substantially undeveloped/unimproved land.
6. Mining extraction incidental to the permitted use.
7. Telecommunication towers and facilities and alternative tower structures, provided that an application is submitted for a Special Use Permit and approved in accordance with the procedures, provisions and standards of Article VI of this Ordinance.
8. Home Business Group provided that an application is submitted for a Special Use Permit and approved in accordance with the procedures, provisions and standards of Section 4.14 of this Ordinance

### **B. The above uses can apply for the Land Conservation/Open Space Act.**

## **SECTION 4.12B - "RR-1", RURAL RESIDENTIAL**

### **A. Uses Allowed:**

1. Any Use permitted in the "R-1" Zone District.
2. Farms for both general and specialized farming, including logging and wood cutting, roadside stands for sale of products of which at least fifty (50) percent are produced on the premises, together with farm dwellings and buildings and other installations useful to such farm operations, except that no sawmills shall be allowed.

### **B. Special uses that may be authorized in the Zone District include the following uses, provided that an application is submitted for a special use permit and approved in accordance with the procedures, provisions and standards of Section 5.11 and Article VI of this Ordinance.**

1. Camps, Clubs, Campgrounds, operated by non-profit organizations provided no commercial activity shall be conducted on the premises and parking facilities shall be no closer than twenty (20) feet to any property line.
2. Bed and Breakfast.
3. Home Business Group as regulated by Section 4.14 of this Zoning Ordinance.
4. P.U.D.

## SECTION 4.13 - ZONE DISTRICT REGULATIONS

### A. Floor Space Requirements:

No dwelling shall hereafter be erected, altered or enlarged unless the following floor space requirement, as measured from the interior of the dwelling, is provided and maintained.

<u>ZONE DISTRICT</u>	<u>FLOOR SPACE</u>
R-1	900 sf
R-2	900 sf
R-3	900 sf
R-4	(See Section 4.04(D))
R-5	900 sf
A-1	600 sf
FF	600 sf
RR-1	900 sf

Computation of square footage shall include floor space only.

### B. Lot Area Regulations

No building or structure shall hereafter be erected, altered or enlarged on any lot unless the following yard and lot area requirements are provided and maintained:

<u>Zone District</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>	<u>Lot Area</u>
R-1	25 feet	15 feet	25 feet	2 Acres
R-2	25 feet	15 feet	25 feet	3/4 Acres
R-3	25 feet	15 feet	25 feet	20,000 SF/UNIT
R-4	40 feet	30 feet	30 feet	See Sec. 4.04(C)
R-5	20 feet	10 feet	20 feet	5,000 SF
C-1	35 feet	15 feet	35 feet	1 Acre
C-2	35 feet	15 feet	35 feet	2 Acre
C-3	35 feet	25 feet	50 feet	2 Acre
I-1	35 feet	25 feet	50 feet	2 Acre
I-2	50 feet	50 feet	50 feet	5 Acre
CR	None	None	None	None
A-1	25 feet	50 feet	50 feet	10 Acre
FF	25 feet	50 feet	50 feet	40 Acre
RR-1	25 feet	25 feet	25 feet	5 Acre

The side yard setback in the A-1 and RR-1 Zone District shall be 15 feet, and the rear yard setback in the A-1 Zone District shall be 25 feet, for any structure erected, altered or enlarged for residential use only.

See Section 5.13 of this Ordinance for setback and other regulations for lake front property.

C. Lot Width Requirements

The minimum width of a parcel of land in any zone district shall comply with the following schedule.

<u>Zone District</u>	<u>Lot Width</u>
R-1	200 Feet
R-2	120 Feet
R-3	100 Feet
R-4	200 Feet
R-5	50 Feet
C-1	100 Feet
C-2	100 Feet
C-3	200 Feet
I-1	200 Feet
I-2	330 Feet
CR	None
A-1	330 Feet
FF	330 Feet
RR-1	330 Feet

- D. Home Satellite Receivers setback shall be equal to or greater than the height of the receiver at its tallest point or meet the zone district setback, whichever is greater.
- E. The use of windmills shall be allowed in all districts. The setback for windmills shall be at least one horizontal foot for every vertical foot of height.
- F. Height restrictions in this Section do not apply to telecommunication towers and facilities and alternative tower structures located in accordance with this Ordinance.

## SECTION 4.14 - HOME BUSINESS GROUP

- A. Home Businesses are traditional in Hayes Township. With the increasing sophistication and availability of microcomputers and telecommunications, work done in the home will become a significant and growing part of the economy.

It is the intent of this Section to accommodate both the old and new styles of Home Businesses, which are clearly subordinate and incidental by their very nature to the use of a single family dwelling unit for residential purposes, and which are clearly compatible with the character of a residential neighborhood.

The existence of a home occupation business shall not be considered an adequate reason for rezoning either the property on which it is located or neighboring properties to Commercial or Industrial Districts.

Home Business's shall be allowed as a "Special Use" in the R-1, R-2, R-3, R-4, RR-1, RR-2, FF, and A-1 Zone Districts.

### B. GENERAL CONDITIONS FOR THE HOME BUSINESS GROUP:

1. The following conditions shall apply to Home Occupations and Cottage Industries in the Home Business Group:
  - a. Any structural additions to the home for purposes of operating a Home Business shall be of an architectural style that is compatible with the architecture of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the occupation is discontinued.
  - b. The activity shall not detract from the residential character of the neighborhood. The business conducted therein is clearly incidental and subordinate to the principal use of the premises for residential purposes.
  - c. No goods shall be sold from the premises which are not strictly incidental to the principal home business conducted therein.
  - d. There shall be no parking permitted within any setback areas.
  - e. No process, chemicals, or materials shall be used which are contrary to an applicable State or Federal laws.
  - f. No occupations shall be conducted upon or from the premises which would constitute a nuisance to adjoining residents. Hours of operation shall be set by the Planning Commission at the time of review. Traffic and delivery of goods created by the Home Business shall not exceed that normally crated by residential uses. Furthermore, all vehicles, machinery, mechanical devices or equipment shall not generate operational nuisances in direct conflict with homes in the neighborhood.
  - g. There shall be no materials outside the home, garage, or accessory building used for a Home Business.
  - h. The activity will be served adequately by essential public services or facilities.
  - i. The activity will not create additional public costs and will not be detrimental to the economic welfare of the Township.

- j. There shall be no exterior evidence, other than an unlighted sign, not to exceed ten (10) square feet in size.
  - k. The use shall be consistent with the intent and purpose of this Ordinance and will not be injurious to the surrounding neighborhood.
2. An application for a Zoning Permit shall be submitted to the Zoning Administrator and shall contain a minimum of the following:
- a. Floor plan of area being used within the residence for a Home Occupation.
  - b. Existing and proposed structures.
  - c. Location, shape, area and dimension of the lot, lots or acreage to be used.
  - d. Present Zone District of the subject property and adjacent properties.
  - e. Location and total number of curb cuts, driveways, off street parking spaces and loading spaces.
  - f. Required setbacks of the Zoning Districts.
  - g. Location, size, height and orientation of all signs.
  - h. Description of Occupation.

**C. CONDITIONS FOR TERMINATION OF PERMITS**

1. Permits shall be terminated by order of the Zoning Administrator as provided in Section 8.07 of the Zoning Ordinance, and if it is determined that the Home Business:
- a. Lacks an occupied residence on the property.
  - b. Conflicts with the residential character of the neighborhood or surrounding area because of the type of use or hours of operation and/or number of vehicles attracted to the site.
2. Permits shall only be approved on the basis of individual merit and the special conditions stated in the permit. If the property is sold, leased, or rented to a party other than the applicant, the permit shall be reviewed for compliance with the original permit by the Zoning Administrator. If any changes are foreseen, the request will be reheard by the Planning Commission.
3. Change of use shall require a new application.

**SECTION 4.14 A - HOME OCCUPATION**

- A. All Home Occupations shall comply with the following conditions and Section 4.14 in its entirety.
- 1. Home Occupations shall be operated in their entirety within the dwelling and not within any garage, attached or unattached, or accessory building located upon the premises. A residential type garage may be used, however, for incidental storage.
  - 2. Home Occupations shall be conducted by the person or persons occupying the

premises as their principal residence a major portion thereof each month; provided, however, that the Planning Commission shall have the authority to permit additional assistants who do not reside within said dwelling during periods of peak business activity. In no event, however, shall such additional assistants exceed two (2) in number.

## **SECTION 4.14 B - COTTAGE INDUSTRY**

- A. Cottage Industry is described as an occupation which uses an accessory building. Cottage Industry is that occupation which is clearly secondary and incidental to the primary use of single family premises and is compatible with the character of a residential neighborhood.
- B. **CONDITIONS FOR COTTAGE INDUSTRY**
1. The Planning Commission will, upon written application, permit the construction and/or use of a separate structure for Cottage Industry provided all applications meet the "general conditions" in Section 4.14 (B).
  2. Any accessory building shall be located on the property in such a manner as to avoid the appearance of a Commercial or Industrial use.
  3. The use shall be conducted by the person or persons occupying the premises as their principal residence a major portion of each month; provided, however, the Planning Commission shall have the authority to permit additional assistants who do not so reside within said premises during periods of peak business activity. In no event shall such additional assistants exceed three (3) in number.
  4. A "not to exceed" number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the approval process for each permit. This number shall be based on the number of employees and square feet of gross floor area per Section 5.17 of the Zoning Ordinance.
  5. The Planning Commission may, as a condition of the permit approval, limit the business operating hours.
  6. The use shall occupy no more than twenty-five percent (25%) of the total area of a dwelling or shall occupy no more than twenty four hundred (2400) square feet of an accessory building.
- C. **PERMIT PROCESS**
1. No building shall be erected or structurally altered, or used, nor shall any grading take place on any lot or parcel prior to the Planning Commission's approval of a development plan for Cottage Industry. An application for a permit shall be submitted to the Zoning Administrator on a form supplied for such purposes. Applications shall be accompanied by such supporting materials, as listed in Section 4.14 (B-2) in order to adequately inform the Planning Commission of all matters necessary or pertinent to a decision. The Planning Commission may require additional supporting materials if it shall deem such to be necessary or pertinent to aid in its determination.
  2. An application shall be processed in the following manner:

- a. The Zoning Administrator shall forward the application and supporting data to the Township Planning Commission.
- b. Upon receipt of such application, accompanied by sufficient supporting materials as determined by the Zoning Administrator, the matter shall be set for hearing before the Planning Commission.
- c. The Planning Commission shall review the proposed development plan as presented in the application and in terms of the specifications established in the Ordinance.
- d. The Planning Commission, after public hearing procedures, may issue a Cottage Industry permit. A copy of the decision with any conditions, and reasons for approval or rejection shall be sent promptly to the Zoning Administrator, to the applicant, and retained in the files of the Planning Commission.

**D. EXTENSIONS, REVISIONS AND INSPECTIONS**

1. The Planning Commission may, upon application of the owner, grant extensions of the time for compliance with the conditions of the permit without an additional public hearing.
2. Any revisions or alterations from the original approved permit and conditions thereof, other than extensions of time for compliance, shall require a new public hearing and Public Notice thereof as provided for in the original permit.

This amendment was adopted at the Regular Board Meeting March 13, 1995 and shall be effective upon publication (3/20/95).

## **SECTION 4.15 - RESOURCE MINING, EXTRACTION OR FILL**

### **INTENT:**

The location of mining and extractive operations are dependent in large part, upon the sites which contain natural deposits of material having economic value, particularly to the construction industry. Sites nearest to the built-up areas are generally more viable economically, but they could be more sensitive environmentally, because of their close proximity to homes and smaller building sites. The treatment of extractive operations as a special use (conditional) is necessary to build in the flexibility needed to permit these activities where the resources are found, and at the same time, to afford protection to adjoining properties. Public agencies, government units, and private operations are subject to these regulations.

### **SITE PLAN REQUIREMENTS**

Site plans for Special Use Permits shall be submitted in accordance with the site plan requirements of Section 6.02, and in addition shall show:

1. Proposed location, area, boundaries and depth of excavation or fill.
2. Pertinent time schedules for starting and concluding dates of the proposed operation per permit.
3. Location of spoils dumps, sediment basins, earth stockpiles, machinery, or fuel or hazardous waste, material storage buildings, or tanks.
4. Roads to be used by any hauling equipment and all planned ingress/egress points to the excavated area, stockpiled resources, and on-site equipment.
5. A statement on general surface and ground water conditions, including source flow, size and location of watershed and wetlands, and any possible impact on permanent bodies of water, water levels and wells in the area. If the operation plans to enter the aquifer a hydro-geological report shall be required.
6. A statement outlining the type of material to be extracted or deposited, the type of mining operation and processing equipment to be used and measures to control noise, air and water pollution, run-off/erosion and any steps to relieve any adverse effects to adjoining properties and the environment. An Emergency Plan for any accidental chemical, or other industrial spill, shall also be included.
7. Plans and statements outlining all work to be done on the reclamation, assuring that steps are taken to blend the site into the surrounding landscape or neighborhood as applicable.
8. The Planning Commission may accept the documents required for permits under Act 451, of 1994, being Sections 9101 to 9123, of the Soil Erosion and Sedimentation Control of the Natural Resource and Environmental Protection Act, provided, the terms, standards, and review requirements of the Zoning Ordinance are complied with. There shall be compliance with all applicable federal or state regulations. If a federal or state permit is required, then the Special Use Permit shall not be issued or shall not become effective until the federal or state permit has been issued.
9. Permits shall contain the full extent of the operation as specified in each Permit, and any deviation or enlargement of the scope of operation shall require a separate permit.
10. The map scale of the site plan shall be sufficient to show the site operating details as required by each Permit. The site plan and special use application shall be reviewed and decided pursuant to Section 6.03 and 6.04. The Special Use Permit shall be issued

unless the Planning Commission finds after applying the criteria of Section 6.03 that serious consequences are likely to result to the health, safety and welfare of the township, its citizens or the environment from the issuance of the Special Use Permit.

#### SITE PLAN REVIEW LEVELS REQUIRED

The site plan review procedures required for an extraction/fill site will vary with the scope, extent and complexity of the proposed operation. The following site plan review levels shall apply:

LEVEL 1. No Site Plan Review or Permit shall be required if:

- a. The intended fill/extraction is for earth materials to be used on the same parcel, by tax description.
- b. The operation involves minor or incidental earth work in connection with a building construction or agriculture project, i.e. berm, regraded slopes, retention ponds, and/or similar work.

LEVEL 2. Site Plan approval by the Planning Commission shall be required if:

- a. Intended or projected extraction/fill sites and any sites other than those included in Level 1.
- b. Operations expected to include long term access to stockpiled resources.
- c. On-site processing machinery, batch plant and other equipment that will be used.

#### PERFORMANCE STANDARDS

The following shall apply to all proposed extraction, mining, fill operations:

1. All excavations or extractive work shall maintain a minimum perimeter setback of fifty (50) feet from road right-of-way and all property lines. The minimum perimeter setback may be increased up to 100 feet to compensate for (a) that portion of any boundary contiguous to lands zoned "residential" and/or occupied for residential purposes, or (b) the maximum recorded (IGLD) high water level of Lake Charlevoix and Lake Michigan or (c) any lake, stream, or creek within the Township. Controlled work in the fifty (50) or one hundred (100) feet setback area may be permitted if spoils, over burden, or other earth fill material replaces the resources removed, or if contouring or landscaping is an improvement to this process, as the work progresses (in cases of a pit).
2. The working face of an excavation shall maintain slope angles sufficient to prevent erosion or earth disturbances of any kind to adjoining properties.
3. Upon completion of the mining operation, or each phase of the project, the entire project shall be restored consistent with the original vegetation and top soil cover and in accordance with Farm Services Agency of U.S.D.A. recommendations. Sufficient native topsoil must be kept on the site as a ready resource to be used in reclamation work unless a guaranteed replacement plan is approved.
4. Any open mining face which is higher than three feet (3') shall have fencing placed on the top of the same in such manner as to guard against persons from falling over the working face. Such fencing shall be at least four feet (4') high, and shall consist of at least a woven wire farm fence. In addition berm, walls, and visual screening devices may be required, if necessary, to protect adjoining properties and/or persons in the vicinity of

- the site. Factors of safety and aesthetics shall be addressed.
5. The operation of mechanical equipment of any kind shall be limited by the day and/or the hour if the site is in a location that directly impacts homes, by creating an operating nuisance.
  6. All structures, equipment, and machinery of any kind shall be considered temporary and shall be removed from the site upon completion of the terms of the Special Use Permit. This item shall not apply to industrially zoned sites.
  7. Air pollution, noise, vibration, and safety factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.
  8. If necessary to protect the area, access routes serving the site may be limited as stated on the permit or as illustrated on the site plan, it being the intent to minimize the exposure of residential streets to earth moving vehicles.
  9. The location of earth stockpiles, machinery, equipment, and any buildings or fuel or hazardous material storage or containment structure, shall be approved by Permit but only in terms to protect adjoining properties, and obtain the optimum use of the site. Topography, vegetation, screening devices, refueling tanks or vehicles and physical isolation from residential properties shall be considered in locating site facilities and earth stockpiles.

#### SITE RECLAMATION

The final grading and land reclamation plan for each permitted excavation shall be in general accordance with the character of uses and natural features on adjoining lands to the extent practical. Excavations shall be finished with evenly contoured grades to blend in with the adjoining terrain. In Residential Districts, the final grade of an excavation may be required to be brought to a level to permit future residential development.

1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practical following the mining or excavation of an area. Where possible, such rehabilitation and reclamation shall be accomplished concurrently with the mining or excavation operations. An alternate reclamation plan may be filed for cases where continuous reclamation is not practiced or feasible, and a surety bond is provided therewith. A time table for the reclamation and rehabilitation of mined areas shall be agreed upon at the time of a permit being issued.
2. Excavations which encounter groundwater or trap surface water, shall be treated in one or more of the following, as applicable to a particular situation:
  - a. Stagnant water conditions shall not be permitted to continue and back filling with approved materials may be required.
  - b. Where water is to remain, either by planned re-use or because no other option exists, the depth shall be sufficient to avoid stagnation, and the shoreline and bottom-land grade shall be uniform at one foot vertical to four feet horizontal (1:4) to a minimum distance of twenty (20) feet from the shoreline. The water depth shall be posted.
  - c. Depending on the nearness of residential neighborhoods, and access by children, the created water body may be required to erect a safety fence four feet high consisting of at least a woven wire farm fence, posted for no trespassing, or similar safety precautions deemed appropriate for the site.
3. The final banks of all excavations shall be sloped at a grade which is not steeper than one (1) foot vertical to three (3) feet horizontal (1:3) from the top to the pit bottom, or

otherwise be established to blend in with the adjacent terrain and/or stabilize at the soils natural angle of repose.

4. The original topsoil from the site shall be retained and replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are desired.
5. Vegetation shall be required to be restored by seeding of grasses or sodding and/or the planting of trees and shrubs.
6. Upon cessation of mining operations, and within a reasonable period of time not to exceed twelve (12) months thereafter, all plant structures, buildings, and equipment shall be removed, except for that necessary to manage on-site stockpiled materials. On site stockpiled materials shall be removed within twenty four (24) months of the cessation of the mining operations. This does not preclude a re-start at another time upon permit renewal.

Specific site reclamation requirements may vary somewhat depending on the location of the site in terms of its exposure to view, physical isolation, influence on residential areas, sensitivity to the natural environment and/or re-use potential (or plan). The Planning Commission shall rule on such variations with reasons stated.

#### PERFORMANCE GUARANTEES

In those instances where a resource excavation/fill operation entails extensive reclamation work and/or safety precautions, financial guarantees or assurances as prescribed in Section 6.04 of the Zoning Ordinance may be required as a condition to issuing a Special Use Permit under the terms of this Ordinance.

The Planning Commission may substitute a staged or phased excavation program wherein performance on reclamation shall be substantially completed prior to undertaking the next phase. Adopted at Hayes Township Board 6/10/96 and shall be effective upon publication (6/18/96).

## **SECTION 4.16, - TELECOMMUNICATION TOWER OR ALTERNATIVE TOWER STRUCTURE**

### **A. PURPOSE**

The purpose of this Section is to establish general guidelines for the location of wireless telecommunication towers, alternative tower structures and antennas. The Township recognizes that it is in the public interest to permit the location of wireless telecommunication towers, alternative tower structures and antennas within the Township. The Township also recognizes the need to protect the scenic beauty of Hayes Township from unnecessary and unreasonable visual interference, and that wireless telecommunication towers, alternative tower structures and antennas may have negative aesthetic impacts upon adjoining and neighboring uses. As such, this Section seeks to:

1. Protect residential areas from potential adverse impact of towers and antennas;
2. Encourage the location of towers in nonresidential areas;
3. Minimize the total number of towers throughout the community;
4. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
5. Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
6. Enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
7. Consider the public health and safety issues of telecommunication towers and alternative tower structures; and
8. Avoid potential damage to adjacent property from tower failure.

### **B. ADDITIONAL STANDARDS APPLICABLE TO PARTICULAR USES.** In addition to the standards set forth in a particular zone and the standards set forth in Section 6.03 of this Ordinance, the uses below must meet the following additional standards:

1. Telecommunication tower or alternative tower structure.
  - a. Application Requirements. The following information shall be provided in support of an application to construct a wireless telecommunication tower:
    - i. Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunication tower is designed to collapse, and that the proposed tower, as built, will withstand, at a minimum, winds of 70 miles per hour with one half inch of radial ice on the tower.
    - ii. A map depicting the existing and known proposed location of wireless telecommunications facilities, including wireless telecommunication antenna attached to alternative tower structures, within Hayes Township as well as within the proposed service area radius.
    - iii. The name, address, and telephone number of the person to contact regarding site maintenance or other notification purposes. This information shall be periodically updated by the tower owner.

- iv. A statement which indicates the applicant=s intent to allow the collocation of other antenna, provided that the cost of modifying the existing tower is borne by the co-locating entity and reasonable compensation is paid by the co-locating entity.
- 2. Evidentiary Requirements. The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures can accommodate the applicant=s proposed antenna. An applicant shall submit information requested by the Hayes Township Planning Commission related to the availability of suitable existing towers, other alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternate tower structure or alternative technology can accommodate the applicant=s proposed antenna shall consist of all of the following:
  - a. No existing tower or alternative tower structure is located within the geographic area which meets applicant=s engineering requirements.
  - b. Existing towers or alternative tower structures are not of sufficient height to meet applicant=s engineering requirements.
  - c. Existing towers or alternative tower structures do not have sufficient structural strength to support applicant=s proposed antenna and related equipment.
  - d. The applicants proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternative tower structures, or the antenna on the existing towers or alternative tower structures would cause interference with the applicants proposed antenna.
  - e. The fees, costs or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - g. The applicant demonstrates that an alternative technology that does not require the use of towers or alternative tower structures, such as cable microcell network using multiple low-powered transmitters or receivers attached to a wireline system is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- 3. Setbacks. The following setback requirement shall apply to all towers for which a special use permit is required:
  - a. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
  - b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- 4. Security Fencing. Towers and attendant accessory structures shall be enclosed

by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device.

5. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required:
  - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screen the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4') wide outside the perimeter of the compound.
  - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
  
6. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations re changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
  
7. Aesthetics. Towers and antennas shall meet the following requirements:
  - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - d. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.

- e. The tower is of monopole or lattice design.
8. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
  9. Compliance with Codes. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
  10. Interference with Residential Reception. Transmission shall not interfere with television and radio reception to neighboring residential areas.
  11. Signs. No signs other than signs required pursuant to federal, state, or local law or ordinance shall be allowed on an antenna or tower. A sign will be placed on the fence indicating the ownership of the tower and a telephone number of who to contact in case of an emergency. The name and telephone number must be 50 point print.
  12. Spacing. A tower shall not be located within two hundred feet (200') or three hundred percent (300%) of the height of the tower, whichever is greater, of an existing single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the base of the single family or multiple family dwelling unit, church, school or other structure normally used and actually used for the congregation of persons.
  13. Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.
  14. Limitation on Tower Height. No tower shall be constructed which is greater than 199.5 feet in height as measured from the point where the tower meets the earth to the highest point of the tower structure, including antenna. The restrictions in the building height definition of Section 2.02 do not apply to these towers.

## **SECTION 4.17 - OUTDOOR LIGHTING**

- A. For all new construction and replacement of lighting fixtures the following provisions shall be complied with:
1. All outdoor lighting shall be shielded, shaded, designed and/or directed away from all adjacent districts and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Lighting fixtures are to be of the full cutoff design with horizontally flush mounted lens, or a fixture with a refractor/reflector which provides diffusion and light control, directing light on-site only, and no more than 20 feet in height. Lamps used in outdoor lighting must be of the coated type (no clear lamps).
  2. The Planning commission may permit taller, or require shorter fixtures, only when the Planning Commission determines that unique conditions exist and where a waiver would:
    - a. Reduce the number or size of light fixtures;
    - b. Not adversely impact neighboring properties; and
    - c. Permit fixtures in proportion to height and bulk of nearby building and other fixtures.
  3. Current standards of the Illuminating Engineering Society (IES) will be used as a guideline for all site lighting decisions of the Planning Commission.

## **Article V: General Provisions**

### **SECTION 5.01 - PURPOSE**

General regulations apply to all districts except as noted herein. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

### **SECTION 5.02 - APPLICATION OF REGULATION**

Zoning affects every structure and use and extends vertically except as hereinafter provided:

- A. No building or structure shall hereafter be erected, altered or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises are located.
- B. No building shall hereafter be erected or altered to exceed the height limitations, or occupy a greater percentage of lot area, or intrude upon the required front yard, rear yard, side yards or inner or outer courts, or accommodate or house a greater number of families, or provide less space per dwelling unit than is specified for the district in which such building is located.
- C. No lot area and no yard, court, parking areas or other required space shall be divided, altered, reduced or diminished to create an area or dimension less than the minimum required under this Ordinance, except where such reduction has been brought about by the expansion or acquisition of public right-of-ways for a street, road or highway. If a required area is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

### **SECTION 5.03 - LOT - BUILDING RELATIONSHIP**

- A. Hereafter, every building erected, altered or moved shall be located on a lot of record as defined herein, and except in the case of an approved multiple dwelling development, there shall be no more than one (1) dwelling unit and its permitted accessory structures located on each lot in any residential or agricultural district.
- B. In the Agricultural District (A-1), two (2) single family dwelling units may be placed on any parcel of land under single ownership, provided there are ten (10) acres of property, and further provided if subject to the requirements of Article VI and the conditions and standards of Section 4.12 (B) [11, 12 a-e] of this Ordinance.
- C. There shall be no accessory or storage building on a lot of record, or a combination of lots, less than one (1) acre in size unless such lot has an existing residence.

### **SECTION 5.04 - ACCESSORY BUILDING AS DWELLING IN "A-1" ZONE DISTRICT**

Except as provided by Section 4.12(B) no building on the same lot as a principal building shall be used as a dwelling in the A-1 Zoning District.

## **SECTION 5.05 - TEMPORARY BUILDINGS**

Temporary buildings for use incidental to construction work, and all debris, shall be removed within thirty (30) days after the completion or abandonment of the work. No structure shall be used for temporary dwelling purposes that do not comply with the requirements of the Ordinance or any applicable building codes. The Zoning Board of Appeals may allow variances on the size of temporary dwelling units.

## **SECTION 5.06 - PERMITTED USES**

The following uses are specifically permitted in any zone:

- A. Antennas co-located on existing telecommunication towers or alternative tower structures which have received a special use permit which included review of the standards set forth in Section 4.16 of this ordinance.
- B. Essential Services.
- C. Travel trailers or mobile homes used by essential services or governmental agencies to provide housing for no more than thirty (30) continuous days on properties owned by said essential service or governmental agency if such housing is necessary to provide services to the public, including but not limited to the generation of electricity. Any such travel trailer or mobile home so located for more than thirty (30) days requires a zoning permit which shall conform to the requirements as described in Section 5.10 of the Zoning Ordinance.

## **SECTION 5.07 - REQUIRED WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES**

Every building hereafter erected, altered or moved upon any premises and used in whole or part for dwellings (year-round or seasonal), recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system and with means for collecting and disposing of all human excreta and of all water-carried domestic, commercial, industrial and other wastes that may adversely affect health conditions. The written approval of such facilities by the District Department of Health shall be filed with an application for a zoning permit.

## **SECTION 5.08 - DUMPING RUBBISH AND WASTE MATTER**

It shall be unlawful throughout the township to store, collect or place discarded material, building materials, junk, or inoperable motor vehicles upon land owned or occupied by any individual, or company, or public place unless such land has been designated as a solid waste disposal site by the District Department of Health.

## **SECTION 5.09 - GRADES**

No premises shall be filled or graded so as to discharge surface runoff on abutting premises in such a manner that will cause inconvenience or damage to adjacent properties. When property is developed adjacent to existing properties previously developed, existing grades shall have priority.

## **SECTION 5.10 - MOBILE HOMES & RECREATIONAL VEHICLES**

- A. No person shall park, or cause to be parked, any mobile home on any street or other public place for storage or dwelling purposes.
- B. Mobile homes and recreational vehicles may be placed and occupied as temporary living quarters during construction of a dwelling, or during reconstruction of a dwelling following a fire, storm, or similar event that temporarily renders the dwelling dangerous and unsafe for occupancy, subject to the following conditions:
1. The Mobile home or recreational vehicle shall be placed or occupied under the provisions of this Section only after a Temporary Mobile Home or Recreational Vehicle Permit has been issued by the Zoning Administrator.
  2. Temporary permits as required by this Section shall not be issued by the Zoning Administrator unless and until a zoning permit and a building permit authorizing construction of the permanent dwelling, or repair or reconstruction of a damaged, dangerous and unsafe existing dwelling, has been secured by the lot owner or his or her agent from Hayes Township and the Charlevoix County Building Department.
  3. Temporary permits issued under the provision of this Section shall be valid for a period of one year from the date of issue by the Zoning Administrator. The Zoning Administrator is authorized to grant a six (6) month extension for just cause.
  4. Mobile Homes authorized under the provisions of this Section shall be vacated, disconnected from utility, water supply and sanitary sewer systems, and shall be removed from an authorized premises within thirty (30) days of the date on which the permit expires, or an occupancy permit is issued for the dwelling being constructed or repaired, whichever is sooner.
  5. Recreational vehicles shall be vacated and disconnected from utility, water supply and sanitary sewer systems within thirty (30) days of the date on which the permit expires, or an occupancy permit issued for the dwelling being constructed or repaired, whichever is sooner. However, the recreational vehicles need not be removed from the authorized premises.
  6. Mobile homes and recreational vehicles placed and occupied under the provisions of this section shall comply with applicable setback and lot coverage regulations of the zoning district in which the lot is located.
- C. In addition to using recreational vehicles as temporary living quarters pursuant to Subsection 5.10, B. above, recreational vehicles may be occupied as temporary living quarters on lots occupied by single family dwellings as provided in this subsection. However, this subsection shall not be construed to permit the temporary placement and occupancy of mobile homes outside of licensed mobile home parks except in compliance with Subsection 5.10, B. above.
1. Not more than two (2) recreational vehicles may be placed on any lot.

2. A recreational vehicle may be occupied as temporary living quarters for not more than ninety (90) days per calendar year.
3. All recreational vehicles placed and occupied under the provisions of this section shall be legally operable on the highways of the State of Michigan.
4. Recreational vehicles shall not be connected to utility, water supply and sanitary sewer systems upon premises except as provided for in Section 5.10, B, and 1 - 6.

## **SECTION 5.11 - SITE PLAN REVIEW REGULATIONS**

### **A. Purpose**

These regulations provide for a review and approval process intended to assure that land uses comply with zoning district regulations, other regulations and standards outlined in this ordinance, and applicable county, state, and federal statutes.

### **B. When Required**

The Planning Commission shall have the responsibility for Site Plan review and approval for the following developments and uses:

1. For all uses in all zoning districts except as indicated in Section C. Site plan review is required for changes of use of land and buildings, and for additions to or expansions of existing buildings.
2. For all special uses.  
Site plans shall be submitted with all applications for special use permits. Review of such site plans shall be concurrent with deliberations on applications for special uses.
3. For PUD's.  
A site plan shall be submitted at the time application is made for Planned Unit Development (PUD) approval. Review of such site plans shall be concurrent with deliberations on applications for PUDs.

### **C. When not required**

Site plan review and approval is not required for the following uses:

1. For single-family and two-family dwellings in the R-1, R-2, R-3, A-1, FF, and RR-1 Zone District.
2. For agricultural buildings associated with agricultural operations permitted by right in the A-1 Zone District.
3. For additions to or expansions of existing buildings permitted by right in the C-1, C-2, C-3, I-1, and I-2 Zone Districts provided such addition or expansion does not exceed 50 percent of the floor area of such building.
4. For home occupations and cottage industries that are regulated by the provisions of Section 4.14 (Home Business Group). Note that these exceptions do not negate the application of Section 4.14 to such uses. Site plans required by Section 4.14 may be prepared by applicants, or by qualified professionals.

D. Prohibitions on Excavation and Construction Activities Before Site Plan Approval is Granted

No grading, removal of vegetation, filling of land, nor construction of buildings, building foundations, driveways, roadways, walkways, parking areas, or other improvements of any kind is permitted until a site plan has been approved by the Planning Commission in accordance with the provisions of this Section of the Ordinance.

E. Optional Preapplication Conference

Applicants are encouraged to meet with the Planning Commission before submitting applications for site plan review to discuss the site plan review process, to present preliminary/conceptual site plans, and to give the Planning Commission an opportunity to provide comments regarding elements of the development or use illustrated on the site plan. This optional conference is intended to allow applicants to present concepts to the Planning Commission, and to enable the Planning Commission to inform applicants of township land development policies, development regulations, and other matters of concern.

Statements made during pre-application conferences are not legally binding to the applicant or Planning Commission.

Applicants must provide three (3) copies of a site plan to the Zoning Administrator not less than 15 days before the pre-application conference at which the applicant wishes the Planning Commission to provide comments regarding the development or use illustrated on the site plan.

F. Application and Review Process

Applications for site plan review shall be submitted to the Zoning Administrator not less than 15 days before the meeting at which the applicant wishes the Planning Commission to consider the application and schedule a hearing. Applications submitted less than 15 days before such meetings shall not be eligible for consideration until the Planning Commission's following monthly meeting.

Applications must be accompanied by the following materials and information:

1. A completed application form, application fee, and hazardous substances reporting form;
2. An escrow fee, if any, as established by the Planning Commission pursuant to Section 8.06 of this Ordinance; and
3. Ten copies of a site plan complying with the requirements of this Subsection. Site plans shall be accurate, reproducible drawings prepared by a qualified professional at an accurate, reasonable scale showing the property subject to the application, and adjoining land within 100 feet of the property subject to the application.  
Site plans or attachments shall illustrate the following existing and proposed features and information unless waived by the Planning Commission for good cause:
  - a. North arrow, scale, and date of original submittal and last revision;
  - b. A vicinity map;
  - c. A legal description of the property;

- d. The acreage of the property subject to the application.
- e. The zoning classifications of the subject parcel and adjoining parcels, including those parcels which are adjoining but are separated from the subject property by a road or right-of-way;
- f. The location of proposed and/or existing lot lines and dimensions of same;
- g. Building setbacks;
- h. Grading plan showing finished contours at a minimum interval of 2 feet, and correlated with existing contours so as to clearly indicate cut and fill required (all finished contour lines are to be connected to existing contour lines at or before the lot lines);
- i. A detailed description of the location of proposed retaining walls, dimension and materials of same, fill materials, typical vertical section, and plans for restoration of adjacent properties, where applicable;
- j. The location of existing and proposed type of groundcover, stands of vegetation, and individual trees six (6) inches and larger in diameter when measured four (4) feet from the ground;
- k. The location and elevations of existing water courses and water bodies, including county drains, man-made surface drainage ways, 100-year flood plains, and wetlands;
- l. The location of existing and proposed buildings, as well as the length, width, height, and area (in square feet) of each building;
- m. The location of all existing buildings or structures within 50 feet of the subject property;
- n. The proposed location of accessory structures, buildings, and uses, including, but not limited to, all flagpoles, light poles, storage sheds, transformers, air conditioners, generators, and similar equipment (details of the method of screening, where applicable, shall be included);
- o. The name, location, dimensions, and associated rights-of-way of all existing and proposed streets (public or private), and typical cross section of same (Cross section shall show surface base, and sub-base materials; location and typical details of curbs; location, dimensions, and details of all passing lanes and deceleration/acceleration tapers or lanes; and the location, width, surface elevations, radii, and grade of all access points to the site);
- p. All driveways located within 100 feet of the site;
- q. The location and design of parking areas, and number of parking spaces and unloading areas, including information on proposed curbing, barrier-free access, and dimensions of parking spaces, circulation aisles, and unloading spaces;
- r. The design and dimensions for all exterior lighting fixtures, and features relative to shielding spillover from such fixtures onto adjacent properties and roadways;
- s. The location and design of all sidewalks, walkways, bicycle paths, and areas for public use;
- t. The location, design, sizing, and easements related to all existing and proposed utility systems to be located on the site, including, but not limited to:
  - i. water lines and fire hydrants;
  - ii. storm water management systems (see also I (4) below);

- iii. sanitary sewer lines;
  - iv. septic systems, if applicable, and;
  - v. storm water retention and detention areas.
- u. The location, size, and specifications of all signs (freestanding and signs placed on or attached to buildings);
  - v. The location and specifications for all fences, walls, and other screening features with cross sections;
  - w. The location and specifications for perimeter and internal landscaping, and buffering. The proposed size of new landscaping materials at the time of planting must be indicated. The location, typical size or range of sizes of all vegetation to be retained on site must also be indicated;
  - x. The location, size, and specification for screening of all waste receptacles and outdoor storage areas and facilities;
  - y. The number of employees on largest shift (if shifts overlap, indicate the number of employees for the largest 2 shifts which overlap);
  - z. The location and size of interior and exterior areas and structures to be used for the storage, use, loading, unloading, recycling or disposal of hazardous substances;
  - aa. The location and proposed use of all above and below ground storage tanks; and
  - ab. The location of exterior drains, drywells, catch basins, retention and detention areas, sumps, swales, and other facilities designed to collect, store or transport storm water. Points of discharge must be clearly illustrated.
4. A completed application and site plan must include a copy of permits issued, or evidence that application for a permit has been made, from:
- a. The Charlevoix County Soil Erosion and Sedimentation Control.
  - b. The Charlevoix County Drain Commissioner.
  - c. The Charlevoix County Road Commission and, if appropriate, the Michigan Department of Transportation.
  - d. The Charlevoix County District Health Department.
  - e. The Michigan Department of Environmental Quality and/or Michigan Department of Natural Resources.

Final Site Plan Approval will not be given by the Planning Commission until all necessary federal, state, or local agencies have completed their permit process and a copy of the permit is provided to the Zoning Administrator.

Upon receipt of a completed application and site plan, the Zoning Administrator shall distribute a copy of the site plan to the Hayes Township Fire Committee for its review and written comments concerning fire safety issues. After receiving the Fire Committee's written comments, the Zoning Administrator shall forward the application, the site plan, and the Fire Committee's written comments to the Planning Commission for formal review.

#### G. Planning Commission Options for Action

- 1. At any point during its deliberations, the Planning Commission may request that applicants modify site plans, or that they present additional information deemed necessary before a decision is made. In such cases, the Planning Commission

may table deliberations until the amended site plan or additional information is provided by the applicant.

2. The Planning Commission shall approve, approve with conditions or modifications, or deny an application for site plan approval within a reasonable period of time following the Planning Commission's first consideration of same.
3. The Planning Commission's decision shall be in writing, shall be based on findings of fact relating to the standards as specified in Section 5.11 I of this Ordinance, and shall specify any conditions imposed with an approval.
4. If the Planning Commission finds that the site plan complies with the provisions of this Article, the application and site plan shall be approved, or approved with conditions. If it is found that the application and site plan do not comply with the provisions of this Article, then the application shall be denied.
5. The reasons and basis for decisions on site plans must be included in records of proceedings on the applications.

#### H. Conditional Approval

1. Reasonable conditions may be required with the approval of a site plan. Conditions may include those necessary to:
  - A. Insure that public services, such as police, fire, ambulance and similar services are capable of accommodating increased service or facility loads caused by the proposed land use or activity;
  - B. Protect the natural environment and conserve natural resources and energy;
  - C. Insure the use proposed on the site plan is compatible with adjacent uses of land. and;
  - D. Promote the use of land in a socially and economically desirable manner.
2. When required by the Planning Commission, such conditions shall:
  - A. Be designed to protect natural resources, the health, safety, welfare and social and economic well being of those who will use the land use or activity under consideration, as well as those of the residents and landowners immediately adjacent to the proposed land use, and the community as a whole.
  - B. Be related to the valid exercise of the police power.
  - C. Be necessary to meet the intent and purpose of the Hayes Township Master Plan and Hayes Township Zoning Ordinance, and;
  - D. Be necessary to ensure compliance with the standards for site plan approval as specified in Section 5.11, I of this Ordinance.

#### I. Standards for Site Plan Approval

The Planning Commission's decision to approve, approve with conditions, or deny a site plan shall be based on the following standards:

##### 1. Compliance With Zoning District Regulations

All buildings, structures, uses and improvements shall comply with land use, lot area, setback, parking, sign, landscaping, screening and other regulations and

standards established by zoning district regulations, and all other applicable regulations contained in this ordinance.

2. Layout and Organization

All buildings, uses and improvements illustrated on the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character and use of adjoining property, and the type and size of buildings.

The site shall be developed so as not to impede the normal and orderly development, improvement, or enjoyment of surrounding property for uses permitted in this ordinance. All buildings, structures, driveways, internal circulation routes, parking and storage areas shall be designed and located so as to minimize potential adverse effects and impacts on adjacent and nearby properties.

3. Preservation of Natural Features and Natural Landscape

Natural features and the natural landscape (woodlot's, wetlands, watercourses, ponds, farmland, scenic viewsheds, shorelines, vegetation etc.) shall be preserved and protected in viable units to the greatest extent possible. As many natural features of the landscape shall be incorporated into the design and layout of the site so as to buffer it from adjacent incompatible land uses, to preserve the character of the surrounding area and community as a whole, and to control soil erosion and storm water runoff.

4. Soil Erosion/Storm water Runoff and Drainage

Proposed developments and uses shall comply with all requirements and conditions established for the property by the Charlevoix County Soil Erosion and sedimentation Control Office.

Storm water runoff shall be managed so as not to affect neighboring properties, or overload watercourses in the area. Storm water management systems shall be designed in accordance with professionally accepted Best Management Practices principles, and shall provide on-site retention or detention facilities designed to hold runoff from a 25-year frequency storm event.

Discharge of storm water runoff from any site which may contain oil, grease, toxic chemicals, or other hazardous or polluting materials is prohibited.

5. Groundwater Protection

Site plans shall illustrate that uses requiring the storage, use or generation of hazardous substances shall be designed to prevent spills and discharges of such substances to the air, ground, groundwater, lakes, rivers, streams, and wetlands.

Secondary containment for all above ground storage areas shall be provided. Such secondary containment shall be sufficient to store the substances for the maximum anticipated period of time necessary for their removal.

General purpose floor drains shall not be permitted unless connected to an on-site closed holding tank (not a septic system), municipal sanitary sewer system, or regulated through a groundwater discharge permit issued by the State of Michigan.

County, state, and federal requirements for storage, spill prevention, and record keeping, emergency preparedness and response, transport and disposal of hazardous substances shall be met.

6. Screening and Buffering

Screening and buffering, in the form of native vegetative landscape planting, existing vegetation, screen fences, and the like, may be required at the discretion of the Planning Commission to assure compatibility between a site and adjoining land uses.

7. Emergency Vehicle Access

All buildings, groups of buildings, and uses shall be arranged to allow emergency vehicle access to all improved areas during all seasons of the year under all weather conditions.

8. Pedestrian and Vehicular Circulation

Coordination with Township and MDOT or County Road Commission representatives may be appropriate in cases where a large development is proposed which is expected to generate a significant amount of traffic. The township and MDOT or the County Road Commission shall coordinate a development plan review process with MDOT's driveway review and permitting process for review of the location, design and spacing of driveways.

Proposed driveway entrances and exits, parking areas, service drives and other internal circulation routes shall be located and arranged so as to assure the safety and convenience of pedestrian and vehicular traffic. If proposed by an applicant, or required as a condition of site plan approval, or as otherwise provided in this Ordinance, pedestrian and bicycle pathways shall be insulated as completely as reasonably possible from the vehicular circulation system.

9. Compliance with Applicable County, State, and Federal Statutes

Site plans shall conform to all applicable requirements of state and federal statutes. Site plan approval and an occupancy permit shall be conditioned on the applicant receiving necessary state and federal permits applicable to wetlands, lakes, streams, floodplains, hazardous materials, groundwater discharges, storm water discharges, and the like.

J. Certification of Approved Site Plan

Three copies of an approved site plan shall be signed and dated by the applicant and Zoning Administrator. One copy shall be provided to the applicant, one shall be retained

by the Zoning Administrator as part of the Township's permanent zoning file, and one shall be made part of the Planning Commission's permanent record of proceedings on the site plan.

K. Completion Requirements

Construction of all buildings and improvements, including roadways, walkways, parking areas, landscaping, screening, and the like, shall be completed within 18 months of initiation of construction unless an extension has been granted by the Planning Commission as specified below.

L. Expiration of Approval

Unless a zoning permit has been issued within one calendar year (365 consecutive days) of the date of site plan approval, approval shall expire and be of no effect unless the applicant and Planning Commission have mutually agreed to a six month extension of approval. Upon a showing of good cause by the applicant, the Planning Commission may grant additional six (6) month extensions of the site plan approval.

M. Re-submittal Required In Event of Expiration

If an approved site plan has expired as set forth above, no zoning or building permits for the development or use of the subject property shall be issued until a new application for site plan review has been filed and approved by the Planning Commission as is required for any application for site plan review.

N. Inspection and Certification Requirements

In the event improvements associated with the site were designed by an architect or engineer, the applicant shall, following completion of construction, provide a statement, prepared by his or her engineer, certifying that all improvements have been constructed in compliance with approval as granted.

The Planning Commission may, as a condition of approval, assign such inspection duties to the township's own independent professional. In such cases, the cost for such inspections shall be paid by the applicant as part of the escrow fee established by the Planning Commission pursuant to Section 8.06 of this Ordinance.

O. Performance Guarantees

To ensure compliance with an approved site plan and any conditions imposed on that site plan, the Planning commission may require the developer and/or property owner to file with the township clerk at the time a zoning permit is issued a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Planning Commission and the township attorney. The amount of the performance guarantee shall be no more than to 1.25 times the estimated cost of constructing improvements associated with the project for which the site plan was approved as determined by the applicant and verified by the Planning Commission or its consultants. Whether a performance guarantee is required and the amount of any required performance guarantee shall be determined by the Planning Commission after considering the estimated cost of constructing the improvements associated with the

project for which the site plan was approved and the estimated time necessary to complete construction of those improvements.

If a performance guarantee is in the form of a cash deposit or certified check, the township clerk shall deposit those funds in an interest bearing account to the applicant. Upon the applicant's written request, which shall be not more than quarterly each year, the township clerk shall rebate to the applicant a portion of the cash deposit in reasonable proportion to the ratio of work completed on the required improvements. If the performance guarantee is in the form of an irrevocable bank letter of credit, then with the prior written consent of the Planning Commission that irrevocable bank letter of credit may be reduced in reasonable proportion to the ratio of work completed on the required improvements.

## **SECTION 5.12 - LANDSCAPING & VISUAL BUFFERS**

This Section is intended to assist development proposals in meeting desired landscaping objectives, and to set forth minimum, flexible standards for required landscape areas. The objectives and primary functions of landscaping are both utilitarian and aesthetic.

The objectives of this Section are as follows:

To screen lighted areas and unattractive features; to prevent glare from buildings, cars, and other sources; to reduce noise and stabilize soils; to define access and circulation; to control air pollution by the absorption of noxious gases and the release of oxygen; to decrease wind velocity and increase surface water retention; to enhance or focus attention toward a feature of a building or development sight; to provide visual buffers between incompatible land uses; to provide for the visual enhancement of building walls, parking areas and roads; and to provide for the addition of wildlife habitat and natural color to elements of the built environment which would otherwise not be provided.

### **A. Requirements**

1. The Township Planning Commission shall approve the landscaping, greenbelt, and visual buffer plan, for all "special uses" authorized in various zoning districts, if in addition to complying with Section 5.11 of this Ordinance the plan satisfies the conditions and standards in this Section. Existing trees and shrubs may be adequate as a buffer subject to approval by the planning commission or zoning administrator.
2. The Township Zoning Administrator shall approve the landscaping, greenbelt, and visual buffer plan, for all additions or expansions of existing buildings that do not exceed 50% of the floor area of uses allowed "by right" in the commercial and industrial zone districts, if the plan satisfies the conditions and standards in this Ordinance.
3. Every site subject to the requirements of this section upon which a building or structure will be placed shall be landscaped in accordance with a landscaping plan and specifications designed to accomplish the objectives of this section.
4. A landscaping plan shall be approved for all uses except agriculture, single and two family dwellings. In such cases, every site upon which a building or structure

will be placed shall be landscaped in accordance with a landscaping plan and specifications designed to accomplish the objectives of this Article.

5. Landscaping shall be installed within one year of completion of the building or structure.
6. All landscaping shall be hardy native plants. Withered and/or dead plants shall be replaced within a reasonable period of time, though in no case later than one (1) growing season.
7. Deciduous or evergreen trees shall be a minimum of five (5) feet in height, and shrubs shall be a minimum of two (2) feet in height, at the time of planting.
8. Plantings shall be grouped or clustered to provide maximum visual effect.
9. All parking, loading, storage, and outdoor service areas shall be screened by a landscaped buffer planted with native deciduous and evergreen trees and shrubs to create a vegetative screen which achieves total visual obstruction between adjoining property(s) used as residential.
10. This requirement may be modified by the planning commission or zoning administrator as it applies to buffers planted parallel to a front lot line or road right-of-way.
11. Fences may be substituted for buffers provided they meet:
  - a. Objectives of this Section.
  - b. Are of durable materials.
  - c. Approved by Planning Commission or Zoning Administrator.

## **SECTION 5.13 - LAKEFRONT ZONING**

Waterfront property owners have a special obligation to their communities to help preserve the quality of the water. The rationale for a shoreland protection strip has been documented in Lakeland reports from the University of Michigan Biological Station at Douglas Lake. These reports are available through the Cooperative Extension Service of Charlevoix County.

As these reports point out, the deep roots of a shoreland protection strip, which includes some trees as well as low shrubbery, hold the silt and sediments carried by rain and other runoff, prevent erosion, and draw nutrients, produced by septic seepage, out of the soil before it reaches the lakes, streams or creeks. They also point out that shoreland protection strips can provide aesthetically pleasing wind and sound breaks, create a habitat for birds and wildlife and make property more attractive. Without such protection unwanted algae begins to appear along the shore bottom leading to a gradual change in the ecology of the lakes, streams or creeks, even creating undesirable habitat for sports fish.

### **A. SETBACK REGULATIONS**

#### **1. STRUCTURE SETBACK**

No building or structure, except boardwalks, docks and launch ramps shall be erected closer than one hundred (100) feet from the shoreline at the maximum or maximum recorded (IGLD) high water level of any lake, stream or creek within the Township; except Susan Lake which shall have a minimum setback of eighty (80) feet. The maximum recorded water level, International Great Lakes Datum (IGLD) shall apply to Lake Michigan and Lake Charlevoix.

Any cluster of dwellings or multiple family dwellings, including condominiums, must be approved by the Planning Commission through a site plan review and the shoreline setbacks may be increased to compensate for the increased density and impact on the shorelines.

The lowest floor, or the basement floor, of any structure shall not be less than 590 feet above sea level, International Great Lakes Datum (IGLD). For lakes with no established high water mark a minimum elevation of 5 feet above the existing water level shall be required. Filling of land to meet these requirements is prohibited.

## 2 SHORELAND PROTECTION STRIP

A strip of land fifty (50) feet in depth from the maximum or maximum recorded (IGLD) high water mark bordering the body of water, placed so as to be parallel to the body of water shall remain in the natural state. If there is a dispute IGLD shall be determined by a registered land surveyor, paid for by the land owner. Under no circumstances shall fertilizer, pesticides, or herbicides be used in the Shoreland Protection Strip.

If native vegetation already exists along the shoreline, it shall not be altered or disturbed within the Shoreland Protection Strip as herein described. These plants are ideally suited for the conditions on the property. Pruning of trees, shrubs, or any other vegetation is prohibited except for parts of the trees, shrubs, or vegetation that are already dead. If dead trees, shrubs, or vegetation is pruned or trimmed the deep roots must remain.

## B. LIMITATION OF BOAT DOCKAGE

Not more than one (1) mooring, or one (1) slip, or one (1) dock space for each one hundred (100) Feet of lake frontage, as measured along the water's edge of the natural shoreline at the normal high water mark of the lake, may be provided for mooring or dockage of boats in any zoning district in the Township. "One (1) mooring," or "one (1) slip," or "one (1) dock space," as used herein, means space for a single boat which is powered by an engine, including a sailboat powered by an auxiliary engine. This Ordinance does not intend to limit, and there is no limit on the number of rowboats, dinghies, rubber boats, canoes or small sailboats which may be kept and used on lake or stream frontage provided that no such boat shall have engine power of any kind other than hand or foot power. In computing the number of Feet of natural shoreline, as above described, the measurement shall be along the water's edge of normal high water mark of the lake at the natural shoreline undisturbed by an excavation, channel, lagoon or canal. The measurement shall not be made along any man-made channel, lagoon or canal.

C. LIMITATION OF FUNNEL DEVELOPMENT

Not more than one (1) single family home or cottage or one (1) condominium unit or one (1) apartment unit shall use or be permitted to use each one hundred (100) Feet of lake or stream frontage as measured along the normal high water mark of the lake or stream. This restriction is intended to limit the number of users of the lake or stream Frontage to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational use of all waters and recreational lands within the Township. This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common Fee ownership, single Fee ownership or lease. This restriction shall not apply to a "Public Access Site" as hereafter described.

D. MARINE SEWAGE PUMP-OUT FACILITY

Any dock facility providing dockage for four (4) or more boats with marine sewage holding tanks on board shall provide a marine sewage pump-out facility which shall be capable of providing pump-out service to a Health Department approved sewage disposal facility.

E. MODIFICATION BY THE ZONING BOARD OF APPEALS.

The Zoning Board of Appeals may, upon petition and after notice, and hearing as provided in Article VII, vary or modify the strict application of this section (5.13 A-D) if it shall determine that undue hardship will otherwise result and the spirit and intent of this Ordinance will be preserved by such variance or modification. The Board of Appeals may, as a condition of such variance or modification, impose such conditions upon the use of the lands and lake front or stream front as it shall deem necessary to preserve the spirit and intent of this Ordinance.

F. PUBLIC ACCESS SITES

Land abutting a lake or stream, which land is under the possession and control of a governmental agency including Hayes Township, the County of Charlevoix, the Charlevoix County Road Commission, the State of Michigan, or other governmental agency, and which governmental agency allows public access across the site to the lake or stream abutting the site, is herein described as a "Public Access Site." Such Public Access Sites may be owned or leased by the public agency, or dedicated to the use of the public, but shall, in any case, be under the exclusive control of one or more public agencies which have the authority to impose regulations and restrictions upon the use of the site and upon access to the abutting lake or stream.

The restrictions of this Section 5.13(A-B) shall not apply to a "Public Access Site," as above described, provided that such sites are subject to governmental control enabling the controlling governmental agency to limit boat docking, moorage and boat launching, prohibit overnight mooring, camping, vehicle parking, and other controls upon use of the site.

The governmental agency shall have the authority to impose such controls and restrictions upon the use of Public Access Sites and the abutting waters as are deemed necessary to protect the lake or stream and adjoining properties from pollution, congestion, other damage, or unreasonable impositions upon the use and enjoyment of

others using the site, using other private property in the proximity of the site, or the waters which the site abuts.

If not otherwise prohibited by law, the Hayes Township board shall also have the authority to pass ordinances and adopt rules restricting the use of such Public Access Sites and the use of the abutting lake or stream in such manner as is deemed necessary in the future to protect the lake or stream, the users thereof, and properties in the proximity thereof from pollution, congestion, other damage or unreasonable imposition upon the use and enjoyment of others. Such ordinances may designate different rules, regulations and restrictions for each individual Public Access Site as shall be deemed appropriate for the protection of the particular site, the waters, or private property in the proximity of the particular site.

**G. SHORELAND PROTECTION STRIP REPLANTING AND RESTORING REQUIREMENT.**

If the vegetation and/or soil is altered or disturbed within the Shoreland Protection Strip the following conditions shall be met:

1. Any and all fill material placed within the Shoreland Protection Strip shall be removed. Organic Soil may be added as needed to provide for growth of new vegetation.
2. A strip of land fifty (50) feet wide from the maximum or maximum recorded (IGLD) high water shall be replanted. The replanted strip shall consist of native vegetation, trees no less than 5 feet in height, and shrubs, as best suited to soil conditions on the property, as recommended by the Cooperative Extension Service of Charlevoix County.

**H. Property owners may apply to the Zoning Administrator for permission to clear a section of the lake front for recreational purposes under the following conditions:**

1. The cleared area does not exceed 25% of the total frontage on the lake, and consists of no more than 50 linear feet and maximum depth of 50 ft. per parcel.
2. A shoreline protection strip or greenbelt of 50 feet in depth shall be maintained, or planted, if none exists, behind the area to be cleared.
3. In areas where steep grades are evident, access paths to the body of water shall meander or curve or be built in such a manner as to prevent erosion.

**SECTION 5.14 - RESTORATION OF UNSAFE BUILDINGS**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure defined unsafe by the Building Inspector, except as limited by Section 5.19 hereof.

## **SECTION 5.15 - CONTINUED CONFORMANCE WITH REGULATIONS**

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or property or use is located.

## **SECTION 5.16 - SIGNS**

### **A. PURPOSE**

1. To promote the safety, comfort and well-being of the users of the streets, roads, and highways in the township and to provide for the legitimate need for informational and directional signage;
2. To reduce distractions and obstructions from signs which would adversely affect traffic safety and to alleviate hazards caused by signs projecting over or encroaching upon public ways;
3. To discourage excessive visual competition in signage and ensure that signs aid orientation and adequately identify uses and activities to the public; and,
4. To preserve or enhance township character by new and replacement signage which is:
  - \* Creative and distinctive;
  - \* Compatible with the surroundings;
  - \* Appropriate to the type of activity to which it pertains; and,
  - \* Appropriately sized in its context, so as to be easily readable.

### **B. DEFINITIONS**

#### **1. GENERAL**

**SIGN:** Any display of lettering, logos, colors, lights or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which either conveys a message to the public or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, excluding window displays and merchandise.

#### **2. AREA OF SIGN:**

- (A) Shall be based upon the entire area of the sign, excluding up to a 4" frame or border. The area shall be calculated using the dimensions of the maximum sized rectangle, triangle, circle, semi-circle or any combination thereof that will enclose the extreme limits of the actual sign surface.
- (B) The area of supporting framework (for example brackets, posts, etc.) shall

not be included in the area if such framework is functionally proportional and incidental to the display.

- (C) For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any background of a different color than the natural color, or finish material of the building.
  - (D) For a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other geometric shape which encompasses all of the letters and symbols.
  - (E) When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two (2) feet from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.
  - (F) The total area of a three dimensional sign shall be determined by enclosing the largest cross-section of the sign in an easily recognizable geometric shape as described in (A) above and computing its area.
  - (G) In the two dimensions of a sign, one dimension can not be more than four times the other dimension.
- 3. HEIGHT OF SIGN: The height of any sign shall be measured from the average existing grade to the highest point of the sign.
  - 4. REQUIRED SETBACK: The distance from the right-of-way line of the roadway to the location of the sign.

### C. TYPES OF SIGNS

1. AWNING: A sign painted on or attached to the cover of a movable frame of a hinged, roll or folding type of awning. Such a sign must be painted on or be attached flat against the surface of the awning but shall not extend beyond the valance or be attached to the underside.

2. BILLBOARD: A free-standing sign located off premise no larger than thirty-two (32) sq. ft. in gross area.

3. FLASHING SIGN: A sign whose illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, direction, or animation.

4. GROUND POLE SIGN: A sign supported by one or more uprights, poles, braces, or some other structure, placed in the ground surface and not attached to any building.

5. ILLUMINATED SIGN: Any sign lit by electrical bulbs, fluorescent lights or neon tubes. Neon tubes used as abstract, graphic, decorative or architectural elements shall be

considered  
to constitute an illuminated sign.

6. MOVABLE SIGN: A sign having an area greater than twelve (12) sq. ft. and which can be readily moved or relocated, such as those on a chassis and wheels or supported by legs.

7. OFF-PREMISES SIGNS: Any sign which is not on the premise of the building, including a billboard.

8. ON-PREMISES SIGNS: Any sign that advertises, calls attention to or identifies the occupant of the premises on which the sign is maintained or the business transacted thereon or advertises the property itself or any part thereof as for sale or rent.

9. PORTABLE SIGNS: A free-standing sign of twelve (12) square feet or less in area that is not permanently anchored or secured to either a building or the ground but which is not on a chassis or wheels.

10. PROJECTING SIGN: A sign which is affixed to a building or other structure and which extends more than six (6) inches beyond the surface to which it is affixed, i.e., a wall-mounted sign perpendicular to the building surface. The supporting framework shall be in proportion to the size of such a sign.

11. ROOF SIGN: A sign which is located above, or projects above, the lowest point of the eaves or the top of the parapet wall of any building or which is painted on or fastened to a roof.

12. TEMPORARY SIGN: A sign which may be placed or erected for a specified limited period of time to identify a particular function, event, sale, or operation.

13. WALL SIGN: Any sign which is painted on, incorporated into or affixed parallel to the wall of a building, and which extends not more than six (6) inches from the surface of the building.

14. WINDOW SIGN: Any sign which is painted or mounted onto a windowpane or which is hung directly inside the window for the purpose of identifying the premises. Window signs shall not cover more than fifty percent (50%) of the window area in which they are displayed, but not to exceed the maximum size allowed in each district.

15. VEHICLE BUSINESS SIGN: Identification signs which are painted on or permanently attached to motor vehicles that are legally licensed and primarily used on the highways for transporting persons, goods or equipment.

#### D. SIGNS BY FUNCTION

1. BUSINESS IDENTIFICATION SIGN: An on premise sign which directs attention to a business or profession conducted, or to a product, service or activity sold or offered in Hayes Township.

2. COMMUNITY SPECIAL EVENT SIGNS: Signs which direct attention to a special event sponsored by a nonprofit association or corporation for a charitable, educational or public purpose.

**3. CONSTRUCTION IDENTIFICATION SIGN:** A sign which identifies the name of a site being developed and/or the name of the contractors, engineers and architect.

**4. FLAGS:** Flags, under this definition, include only those that are normally and usually flown from a flagpole and are restricted to flags bearing the official design of a nation, state, church, educational institution, municipality or non-commercial organization and those conveying a patriotic or holiday theme. The definition does not include flags used in any way with advertising of any kind. The official U.S. flag is exempted from size limitations.

**5. HELP WANTED SIGN:** A sign soliciting employees for the place of business where posted.

**6. LANDMARK SIGN:** A sign of artistic or historic merit, including centennial farm signs and historical plaques that are of significance to the township and the character of which warrants their preservation or restoration.

**7. MULTIPLE DIRECTORY/DIRECTIONAL SIGNS:** A group of signs clustered together or one sign on a single sign structure of the same building or building complex or, one or more resident(s) who live remotely on a private road or, in the case of businesses, one or more business(ES) that are located off the primary highways.

**8. NO TRESPASSING AND NO HUNTING SIGNS:** Signs used for the purpose of posting private property which are not closer together than ten (10) yards while still allowing at least one sign per parcel, do not exceed two (2) sq. ft. in area and do not possess any of the characteristics listed in Section 4.2 "Prohibited Signs" of this section.

**9. POLITICAL/ELECTION SIGNS:** A sign designed to influence the action of voters for the passage or defeat of a measure or the election of a candidate to a public office at a national, state or local election.

**10. PRIVATE SALE SIGNS:** Temporary signs used by individuals or families to advertise infrequent sale events, such as, garage and yard sales or the sale of a motor vehicle.

**11. PUBLIC/QUASI PUBLIC BUSINESS SIGNS:** A bulletin board or similar sign not exceeding twenty-four (24) sq. ft., in display area, in connection with any church, museum, library, school, or similar public or quasi public structure, provided that the top of such sign shall not be more than eight (8) ft. above ground level and provided that it does not possess any of the characteristics listed in section 1.2 "Prohibited Signs" of this section.

**12. PUBLIC SERVICE SIGNS:** A sign for the purpose of providing directions toward or indication of a public use not readily visible from the street (E.G. Rest rooms, telephone, Etc.). Such signs are for public safety and convenience and shall carry no advertising.

**13. REAL ESTATE SIGN:** A temporary sign which indicates the sale, rental or lease of real property.

14. RESIDENTIAL IDENTIFICATION SIGN: A sign displaying either the street number, the name of the occupant of the premises, the identification of an on-premise home occupation or any practical combination of the foregoing.

15. SEASONAL FARM PRODUCE SIGN: A sign directing the public to seasonal sales of farm produce, where the sale of produce is permitted by the Hayes Township Zoning Ordinance.

16. SUBDIVISION BUSINESS SIGN: A sign advertising a residential, commercial or industrial subdivision under development and the name of developer, contractor, realtor, engineers and architects.

17. PUBLIC/QUASI PUBLIC LAND SIGN: A sign used to identify private lands in Conservancy or lands dedicated for public use. Maximum area is 6 square feet.

E. ADMINISTRATION

1. PERMITS

The Hayes Township Board shall appoint the Zoning Administrator the duties of sign administrator. The sign administrator is authorized to issue permits, inspect signs and order the repair or removal of any sign and its supporting structure which is judged dangerous, is in disrepair and is erected or maintained contrary to this section.

2. Except where exempted specifically in this ordinance, no sign shall be erected, displayed, altered or enlarged until application has been filed and until a permit for such action has been issued. Application shall be on forms prescribed by the sign administrator. At a minimum, all applications shall include a scaled drawing specifying dimensions, materials, illumination, letter sizes, colors, support systems, and location on land or buildings, with all relevant measurements.

3. Permits shall be issued only if the sign administrator determines the sign complies or will comply with all applicable provisions of this ordinance, the state building code Article 29. Such application may be filed by the owner of the land or building or any person who has the authority to erect a sign on the premises.

4. The sign administrator shall act within thirty (30) days of receipt of such application, together with the required fee. The sign administrator's action or failure to act may be appealed to the Hayes Township Board.

F. FEES A schedule of fees for such permits may be established and amended from time to time by the township board.

G. ENFORCEMENT Any sign which is in violation of this ordinance, or is abandoned or discontinued, shall be corrected or removed, together with its attendant structure, by the person, firm or corporation responsible for the violation.

H. DEVIATIONS FOR SIGNS: Applications for deviations must be presented to the Hayes Township Zoning Board of Appeals and granted only by that board.

I. GENERAL

1. PERMITTED SIGNS

Only signs which refer to a permitted use or an approved conditional use as set forth in the Hayes Township Zoning Ordinance are permitted, provided such signs conform to the provisions of this section and Table H A Permitted Signs of this ordinance.

2. PROHIBITED SIGNS

(A) A sign not expressly permitted is prohibited.

(B) The following signs shall not be permitted, erected, or maintained in any district or anything in the ordinance to the contrary, notwithstanding:

a. Signs which incorporate in any manner any flashing or moving lights.

b. Banners, pennants, spinners and streamers, except in the cases of grand opening and anniversary celebrations.

c. Any sign which has any visible moving part, visible revolving parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic or mechanical means, including intermittent electrical pulsations, by action of normal wind current or by any other means.

d. Any sign or sign structure which:

- 1) Is structurally unsafe; or
- 2) Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, abandonment, or natural disasters; or
- 3) Is not kept in good repair; or
- 4) Is capable of causing electrical shocks to persons likely to come in contact with it.
- 5) Has peeling paint on any surface;
- 6) Has any parts broken or has missing letters.

e. Any sign which, by reason of its size, location, content, coloring or manner of illumination constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, obstructing or detracting from the visibility of any traffic sign or control device on public streets and roads. Signs which make use of the words such as "stop", "look", "danger" or any other word, phrase, symbol or character, in such a manner as to interfere with, mislead or confuse traffic.

f. Any sign which obstruct free ingress to or egress from a required door, window, fire escape or other required exit way.

- g. Any sign unlawfully installed, erected or maintained.
- h. Any sign now, or hereafter existing, that no longer advertises a bona-fide business conducted, a product sold or which does not represent or advertise a legally permitted activity.
- i. Movable signs.
- j. Real estate signs no longer valid due to sale, rental or lease of the property.
- k. Roof signs
- l. Any sign larger than thirty-two (32) sq. ft. in area.

J. EXEMPTED SIGNS

The following signs shall be exempt from the provisions of this ordinance:

- 1. A sign erected, or posted and maintained, for public safety and welfare or pursuant to any governmental function, law, ordinance or other regulation, including, house/street number posting as may be required.
- 2. No trespassing and no hunting signs.
- 3. The provisions and regulation of the ordinance shall not apply to the ordinary servicing or repainting of an existing sign message, cleaning of a sign nor the changing of advertising on a sign specifically designed for periodic change of message without change in structure, such as a bulletin board or similar type of sign.
- 4. Public/ Quasi Public Business Signs.

K. NON-CONFORMING SIGNS AND SIGN STRUCTURES

- 1. CONTINUANCE: A non-conforming sign lawfully existing at the time of adoption or subsequent amendment of this ordinance may continue, although such sign does not conform to the provisions of the ordinance.
- 2. MAINTENANCE:
  - (a) Other than sign maintenance, no non-conforming sign shall be reconstructed, remodeled, relocated or changed in size or content to show a new trade name, different word, letters or numbers, new design, different colors or different logo, unless such action will make the sign conforming in all respects.
  - (b) Nothing in this section shall be deemed to prevent keeping in good repair a non-conforming sign, including sign maintenance, repainting and replacement of broken or deteriorated parts of the sign itself. Supporting

structures for non-conforming signs shall not be replaced, unless such replacement will make the sign and sign structure conforming in all respects.

- (c) A non-conforming sign or sign structure which is destroyed or damaged by any casualty shall be restored, or removed within six (6) months after such destruction or damage only after the owner has shown that the damage did not exceed fifty percent (50%) of the appraised value of the sign. If such sign or sign structure is destroyed or damaged to an extent exceeding fifty percent (50%) , it shall be removed and shall not be reconstructed or replaced unless such action makes the sign and sign structure conforming in all respects.
- (d) A non-conforming sign or sign structure shall be removed within thirty (30) days if the building containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of the building's appraised value.

- 3. REPLACEMENT Any sign replacing a non-conforming sign shall conform with the provisions of this section and the non-conforming sign shall no longer be displayed.

#### L. MATERIALS AND MAINTENANCE

##### 1. MATERIALS

Materials for the construction of signs and sign structures shall be of the quality and grade as specified for structures in the state construction code.

##### 2. ILLUMINATION STANDARDS

- a. Signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without glare.
- b. Internal illumination must be:
  - Individual back-lit letters which are silhouetted against a softly illuminated wall;
  - Individual letters with translucent faces containing soft-lighting elements inside each letter; and
  - Metal-faced box signs with cut-out letters and soft-glow fluorescent tubes.

The display of internally-illuminated plastic signs with moveable letters shall be prohibited in all districts. Moveable rented signs of the nature existing on the effective date of this Ordinance shall be permanently removed within three (3) months of the date of this section.

- c. Gas-filled light tubes shall be allowed for indirect illumination and when placed in such a manner that the tubes are not exposed to view from any point along the public roadway or sidewalk.

- d. Signs shall not be illuminated directly or indirectly between the hours of 11 p.m. and 6 a.m. unless the premises are open during such hours.

3. COLORS

Signs shall not contain more than three colors, except in instances of an illustration. The use of dark backgrounds with light colored lettering is preferred. "Day-Glow" colors are prohibited.

4. PROHIBITED ATTACHMENTS

No temporary sign shall be attached to or mounted on a utility pole.

5. MAINTENANCE

A sign shall be maintained in a good state of repair and appearance. If the sign administrator determines that a sign is not secure, safe, in a good state of repair or that it is illegible from weathering, written notice of this fact shall be given to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within thirty (30) days of the written notice, the sign administrator may revoke the sign permit, thus placing the sign owner in violation of the sign ordinance and liable as specified in section G.



TABLE H. PERMITTED SIGNS

<b>Sign Function</b>	<b>Business Identification Sign</b>	<b>Community Special Sign</b>	<b>Construction Identification Sign</b>	<b>Public/Quasi Public Land Sign</b>	<b>Flags</b>	<b>Help Wanted Signs</b>	<b>Landmark Sign</b>	<b>Residential Multiple Directory/Directional Sign</b>	<b>Commercial Multiple Directory Sign</b>
<b>District</b>	All	All	All	All	All	All	All	All	All
<b>Type of Sign</b>	On Premise, free standing, wall, window, awning or projecting	Temporary, free standing, portable or wall	Temporary and on premise; Free standing or wall	Free standing	Free standing, wall, window, awning or projecting	Temporary on premise sign; free standing, wall or window	On Premise, free standing, or wall	Projecting or free standing	Projecting or free standing
<b>Maximum Area Square feet</b>	32	18	6	6	24* *Note U.S. exemption	2	See Height, Placement and Number of Signs	16	4' x 8' overall sign size. Individual signs are to be 1' x 4'
<b>Height, Placement and Number of Signs</b>	Maximum height 10' above ground at lowest level. Placement shall be at least 10' off road right-of-way. A parcel with frontage of 300' or more may have 2 signs not less than 175' apart.	Maximum Height 8'. Maximum of 4 signs, located off the right-of-way of roadway or street	Maximum height 5 feet. One sign, placed off the right-of-way of the roadway or street	One sign, placed off the right-of-way of roadway or street	To be displayed in accordance with recommended flag etiquette	Maximum Height 5'. One signs, located off the right-of-way of roadway or street	Signs that predate this Ordinance may be maintained at their existing size, height, and location. Signs erected after the effective date of this Ordinance shall be limited to one per parcel, not exceeding 5 feet in height or 6 square feet in area, and shall be located appropriately	Maximum Height 8'. One sign at each approved location	Maximum height 8'. One sign at each approved location
<b>Permit Conditions and Duration or Exemption</b>	Permit required as defined in Section E.1	May be placed 20 days prior to the special event and must be removed within 7 days after the event. No permit is required.	May not be placed until on-site work is started and must be removed within 7 days after project is completed. No permit is required.	A permit is required Life of permit	No permit is required	Signs may be posted only during the times employees are actively being sought. No permit is required.	Only signs which have been designated or approved as landmark signs by the Township Board may be maintained or erected. No permit is required.	Permit required for support and structure. Individual identification signs may be attached to support without permit	Permit required for support structure. Permit required for individual identification signs attached to support structure

(TABLE H.- Continued)

<b>Sign Function</b>	<b>Political Election Signs</b>	<b>Private Sale Sign</b>	<b>Public Service Sign</b>	<b>Real Estate Signs</b>	<b>Residential Identification Sign</b>	<b>Seasonal Farm Produce Sign</b>	<b>Subdivision Business Sign</b>	<b>Home Business Group</b>	<b>Billboard</b>
<b>District</b>	All	R-1, R-2, R-3, R-4, R-5, R-6, CR, A-1, FF, RR1,	All	All	R-1, R-2, R-3, R-4, R-5, R-6, CR, A-1, FF, RR-1	All	All	R-1, R-2, RR-1, and A-1	C-1, C-2, C-3, I-1, I-2
<b>Type of Sign</b>	Temporary: free standing, wall or window	Temporary and on premise: Free standing, portable, or window	Free standing, wall, projecting, or window	Temporary: Free standing or portable	On premise free standing or wall. Off the right-of-way of the highway or street, not higher than 5'. Shall not be located so as to obstruct the vision of drivers or constitute a traffic hazard. Not more than 2 signs per parcel	Temporary: Free standing or portable	Temporary and on premises: Free standing	Unlighted wall or yard	Free Standing
<b>Maximum Area Square feet</b>	6	6	2	6	2	6	16	10	32
<b>Height, Placement and Number of Signs</b>	Off the right-of-way of roadway or street, not higher than 5'. Shall not be located so as to obstruct the vision of drivers or constitute a traffic hazard. Not more than 2 signs per parcel.	Off the right-of-way of the highway or street, not higher than 5'. Shall not be located so as to obstruct the vision of drivers or to constitute a traffic hazard. Not more than 3 signs.	Maximum height 5'. Not more than 2 signs for any given public service use. Shall not be located so as to constitute a hazard to pedestrian or vehicular traffic..	Off the right-of-way of the roadway, not higher than 5'. Not more than 2 signs, which must be spaced at least 500 feet apart	One sign. At least 5' off the right-of-way of roadway. Ground pole versions shall not exceed 2' high x 8' in height x 2' wide	Off the right-of-way of roadway or street, not higher than 5'. Shall not be located so as to obstruct the vision of drivers or constitute a traffic hazard. Not more than 3 signs per parcel.	Not less than 5' off the road right-of-way nor higher than 5'. One sign att each platted street road entrance	Off the right-of-way of the roadway, not higher than 5'. Shall not be located as to obstruct the vision of drivers or to constitute a traffic hazard. One sign per each approved location	Off the right-of-way of the roadway, not higher than 8'. Shall not be located as to obstruct the vision of drivers or to constitute a traffic hazard. One sign per 2600 linear feet of roadway including both sides of the road. On vacant property only
<b>Permit Conditions and Duration or Exemption</b>	Signs may be posted 30 days prior to the primary election and shall be removed within 10 days after the general election. No permit is required	Seven days for garage or yard sales. Thirty days for motor vehicles, limited to one vehicle per lot or parcel. No permit is required.	No permit is required	Until and 30 days after the sale or lease of the property. No permit is required	No permit is required	Period of seasonal sale. No permit is required	Permit not to be issued prior to final site plan approval and is valid until 75% of subdivision lots are issued certificates of occupancy.	A permit is required. Life of Permit	A permit is required. lfe of Permit

## SECTION 5.17 - VEHICULAR PARKING SPACE AND ACCESS THERETO

- A. For each dwelling, business, commercial, industrial, or similar building hereafter erected or altered, and located on a public highway in the township, and including building or structures used principally as a place of public assembly, there shall be provided and maintained suitable off-street parking in accordance with the following schedule:

### Use Requirements

Residential:	Two (2) spaces per dwelling unit.
Churches:	One (1) space per 48 linear inches of pew
Nursery School:	One (1) space per 300 square foot of floor space
Shopping Center:	One (1) space per 200 square foot of gross leasable floor area (GLA)
Furniture Store:	One (1) space per 800 square foot of usable floor area
Other Retail:	One (1) space per 200 square foot of usable floor area
Office Use:	One (1) space per 200 square foot of usable floor area
Industrial Use:	Five (5) spaces and one (1) space for each 1.5 employees on largest shift
Restaurants:	One (1) space per 60 square foot of patron service area
Fast-Food Establishments	One (1) space per 3 patron seats or 1 space for each 30 square foot of patron service, whichever is greater

In case of a use not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the most similar use listed.

- B. Parking areas shall be located beside or behind buildings hereafter erected on all future business, commercial, or industrial property/uses. Parking areas shall be enhanced with landscaping.
- C. The spacing of access for driveways is an important element in the design and operation of roadways. Access point location and spacing directly affect the safety and functional integrity of roadways. As new development occurs, a number of factors shall be considered to determine the potential impact new driveways will have on the safe and efficient movement of traffic along the roads within the township. Safety considerations are:
1. The type of use(s) provided access by a driveway.
  2. The number of vehicles using a driveway
  3. The location and design of a driveway
  4. The presence or absence of deceleration or left turn bypass lanes.
  5. The density of development along the roadway
- D. The Planning Commission shall limit the number of driveways for each large-scale residential, commercial, and industrial developed parcel by requiring all new parcels, with less than a distance of 455 feet centerline-to-centerline between driveways along the same side of a road, to share a driveway with adjacent property owners, or require access by way of another roadway.

Coordination with Township and MDOT or County Road Commission representatives

may be appropriate in cases where a large development is proposed which is expected to generate a significant amount of traffic. The township and MDOT or the County Road Commission shall coordinate a development plan review process with MDOT's driveway review and permitting process for review of the location, design and spacing of driveways.

A copy of a driveway permit from the County Road Commission shall be provided prior to the issuance of a Zoning Permit.

#### **SECTION 5.18 - LOADING SPACE REQUIREMENTS**

- A. In advance of construction of any building, or addition to an existing building, hereafter erected in all commercial, industrial, and non-single-family residential uses, requiring the receipt or distribution of materials or merchandise, the township shall determine the loading/unloading space requirements include at least the elements listed below:
1. Each off-street loading/unloading space shall not be less than 12 feet in width nor less than 55 feet in length.
  2. Where mixed uses exist on a single site, the total requirement of all such uses shall be the basis for determining the minimum number of loading/unloading spaces provided.
  3. Off-street loading/unloading space requirements for all land uses, except residential uses, shall be one (1) space for the first 5,000 square feet of gross floor area plus one space for each additional 25,000 square feet of gross floor area.
  4. All off-street loading facilities that make it possible to back directly into a public road are prohibited. Also, loading spaces shall be situated so as not to interrupt a continuous flow of automobile traffic on-site.
  5. Required loading spaces shall not be included in the count of required off-street parking spaces.
  6. Wherever a loading/unloading space(s) faces any residential, office, or public use zoning district, said space shall be screened as regulated by Section 5.12 of this Ordinance.

#### **SECTION 5.19 - NON-CONFORMING BUILDINGS/USES/LOTS OF RECORD**

- A. Any lawful non-conforming building or use existing at the time of the enactment of this Ordinance may be continued at the discretion of the owner.
- B. A nonconforming building may be maintained, repaired, altered or improved throughout its normal life provided there is no extension or enlargement of the building. Upon the removal or destruction of such a building any replacement building shall be conforming.
- C. If there is an intent to abandon a nonconforming use or a nonconforming building and the abandonment continues for a period of twelve (12) months, then any future use or building shall conform to the provisions of this Ordinance.
- D. If a nonconforming building is damaged or destroyed to the extent that the use of the building cannot be continued and the repair or replacement of the building is not begun within twelve (12) months of the date the damage or destruction occurred, then such

failure to repair or replace the nonconforming building shall be considered evidence of an intent by the owner to abandon the nonconforming building.

- E. Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure under construction at the time of the enactment of this Ordinance, provided the construction is completed within twelve (12) months of such enactment.
- F. Any national emergency that imposes limitations on construction and repairs shall automatically extend any time limitations from the time of the termination of the emergency.
- G. Nothing contained in this Ordinance shall be construed to approve, authorize, or condone any use that is otherwise unlawful, or constitutes a hazard or a nuisance.
- H. In any zoning district in which single family dwellings are permitted, notwithstanding other limitations imposed by other provisions of this Section, a single family dwelling with a customary accessory building may be erected on any single lot of record, subject to the following condition:
  - 1. If two or more lots or combination of lots in single ownership are of record at the time of passage of this ordinance, or at anytime thereafter, such lots and portions of lots shall be combined so as to meet the requirements for lot width and area in the zoning district in which such lots or portions of such lots are located.

## **SECTION 5.20 - WETLANDS ZONING ORDINANCE**

Wetland property within Hayes Township that is contiguous to waters of the state i.e. Great Lakes, rivers, streams, lakes and ponds, and connecting waters of the Great Lakes, or otherwise regulated by state law cannot be drained, filled, dredged or destroyed without a permit from the Michigan Dept. of Natural Resources under the Goemaere-Anderson Wetland Protection Act, 1979 PA 203, and, if required, the United States Army Corps of Engineers under Section 10 of the Federal River and Harbor Act of 1899. (Agriculture and some mining activities are partially exempted.)

The Michigan Wetland Protection Act (Act 203) defines a Wetland as "land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support Wetland vegetation or aquatic life and is commonly referred to as a bog, swamp or marsh", and the land is contiguous to Lake Michigan, or any inland lake, river, stream or pond; or is greater than 5 acres in size (may apply only to certain counties); or the Michigan Department of Natural Resources has determined that protection is essential.

Major Wetland areas are designated on the Hayes Township comprehensive and long range plan or map. These areas are not exclusive and there could be other areas designated Wetlands by the DNR. Although not official designations by the Michigan Department of Natural Resources, the areas indicated are likely to show the physical and biological characteristics of wetlands. The zoning administrator will notify each Wetland owner that applies for a zoning permit of the need to contact the Michigan Dept. of Natural Resources concerning a Wetland determination and, where necessary, the need to obtain a permit prior to the commencement of the proposed construction activity.

Zoning Administrator may require a DNR Wetlands permit prior to issuing a zoning permit.

## **SECTION 5.21 - STANDARDS APPLICABLE TO DWELLINGS**

- A. Except as permitted by other provisions of this Ordinance, all dwellings shall comply with the zoning district in which they are located.
- B. All dwellings shall be placed on and anchored to a foundation in a manner that complies with the provisions of the County Building Code. In the event the dwelling is a mobile home, it shall be installed and anchored pursuant to the manufacturer's setup instructions and applicable Michigan Mobile Home Commission Act requirements or regulations (P.A. 96 of 1987, as amended).
- C. All dwellings shall comply with applicable Township zoning regulations.

## Article VI: Special Use Permit and Planned Unit Development

### SECTION 6.01 PURPOSE

It is the purpose of this Article to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics), which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the Township.

### SECTION 6.02 USES SUBJECT TO SPECIAL USE PERMIT

Uses requiring special use permit shall be subject to the general provisions and supplemental site development standards of this Ordinance, the provisions of the Zoning District where located in addition to applicable provisions of this Article to prevent conflict with or impairment of the other uses or uses permitted by right of the district. Each use shall be considered an individual case.

A. Application

Application shall be submitted through the office of the Zoning Administrator, to the Planning Commission, on a special form provided for that purpose, and shall include the following:

1. Site plan prepared under the requirements of **Section 5.11 – Site Plan Review Regulations**.
2. Name and address of applicant and owner of the premises.
3. Anticipated description of proposed use, including parking facilities, if required, and any exceptional traffic situations.
4. A statement by applicant appraising the effect on the neighborhood.
5. The application shall be accompanied by the fee established by the Township Board of Trustees.
6. A detailed written statement, with supporting evidence, demonstrating how the proposed special land use will comply with the applicable general provisions, supplemental site development standards, and the standards for special use permit of this Ordinance.

B. Zoning Administrator's Review

1. The Zoning Administrator shall review the application and information submitted under **Section 6.02.A** above to determine if all required information was supplied. If the Zoning Administrator determines that all required information was not supplied, he or she shall send written notification to the Applicant of the deficiencies. The application for the

special use permit cannot proceed until all required information has been supplied.

2. Once all required information is submitted, the Zoning Administrator shall forward the application to the Planning Commission for its review under the procedures of this Article.

C. Notice Requirements for Planning Commission Public Hearings

The notices for all public hearings before the Planning Commission concerning requests for special use permits and planned unit developments shall comply with all of the following:

1. The content of the notice shall include all of the following information:
  - a. A description of the nature of the proposed special use or planned unit development request.
  - b. A description of the property on which the proposed special use or planned unit development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
  - c. The time, date, and place the proposed special use or planned unit development request will be considered.
  - d. The address where written comments will be received concerning the proposed special use or planned unit development request and the deadline by which such comments must be received.
2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
3. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing.
4. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the proposed special use or planned unit development will be located and to the occupants of all structures within 300 feet of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
5. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public

hearing by passing a motion specifying the time, date, and place of the continued public hearing.

D. Standards for granting Special Use Permit

The Planning Commission shall approve, or approve with conditions an application for a special land use permit only upon finding that the proposed special land use complies with the following standards:

1. Allowed Special Land Use  
The property subject to the application is located in a Zoning District in which the proposed special land use is allowed.
2. Compatibility with Adjacent Land Uses
  - a. The proposed use subject to a special use permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
  - b. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public road or seen from any adjacent land owned by another person.
  - c. If deemed necessary by the Planning Commission, the hours of operation that the special use is allowed to operate, be open or otherwise occur, shall be imposed as a condition of approval to ensure compatibility with the surrounding land uses.
3. Public Services
  - a. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
  - b. The proposed special land uses will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
4. Economic Well-Being of the Community  
The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.
5. Compatibility with Natural Environment  
The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Township or the natural environment as a whole.
6. Compliance with Specific Standards  
The proposed special land use complies with all applicable specific standards required under this Ordinance.

E. Conditional Approvals

The Planning Commission may impose reasonable conditions with the approval of a special use permit, pursuant to **Section 8.03** of this Ordinance.

F. Performance Guarantee Required

The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a special use permit, pursuant to **Section 8.06** of this Ordinance.

G. Amendment of Approved Special Use Permits

Amendment of an approved special use permit shall be permitted only under the following circumstances:

1. The owner of property for which a special use permit has been approved shall notify the Zoning Administrator of any desired change to the approved special use. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - a. Reduction of the size of any building and/or sign.
  - b. Movement of building and/or signs by no more than ten (10) feet.
  - c. Landscaping approved in the special use that is replaced by similar landscaping to an equal or greater extent.
  - d. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
  - e. Internal re-arrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
  - f. Changes related to item a. through e. above, required or requested by Hayes Township, Charlevoix County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.
  - g. All amendments to a special land use approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
2. An amendment to an approved special use permit that cannot be processed by the Zoning Administrator under subsection G.1 above shall be processed in the same manner as the original special land use application.

H. Expiration of Special Use Permit

1. An approved special use permit shall expire one (1) year following approval by the Planning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration, or the property owner applies to the Planning Commission for an extension prior to the

expiration of the special use permit. The Planning Commission shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the special use permit approval have not changed since the approval.

2. If the special use permit expires pursuant to subsection H.1 above, no work pursuant to the special use permit may be undertaken until a new special use permit is obtained from the Planning Commission following the procedures for a new special use permit.

I. Reapplication

No application for a special use permit which has been denied, wholly or in part, by the Planning Commission shall be re-submitted for a period of one (1) year from the date of such denial, unless a rehearing is granted pursuant to this Ordinance.

J. Jurisdiction of the Zoning Board of Appeals

The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the granting of special use permits.

K. Inspection

The Zoning Administrator shall have the right to inspect any special use permit use, to ensure continued compliance with the conditions of the special use permit.

### **SECTION 6.03 PLANNED UNIT DEVELOPMENT (PUD)**

A. Intent and Purpose

As used in this section, "planned unit development" (or PUD) means cluster zoning, planned development, community unit plan, planned residential development, and other planned development. The purposes of a PUD are:

1. To accomplish the objectives of the Zoning Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.
2. To permit flexibility in the regulation of land development.
3. To encourage innovation in land use in variety and design, layout, and type of structures constructed.
4. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
5. To encourage usable open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Township.

6. To encourage the clustering of development to result in the preservation of larger areas of open space.

B. Use and Area Regulations

1. *Planned Unit Development Eligibility Requirements.* To be eligible for a planned unit development, a parcel shall meet all of the following:
  - a. The parcel shall be ten (10) contiguous acres or more in area. Provided, however, if the proposed PUD will contain a mixture of residential and non-residential uses, the parcel shall be twenty (20) acres or more in area. For purposes of this subsection, recreational amenities, such as health clubs and facilities providing swimming pools or tennis courts, and commercial activities customarily incidental to a residential use shall not be considered non-residential uses.
  - b. The parcel on which the proposed PUD will be located shall be served by public water and sanitary sewer facilities, if available.
  - c. The parcel on which the proposed PUD will be located shall be under single ownership, or the PUD application shall be filed jointly by all property owners.
  - d. The proposed uses within the PUD shall be consistent with the Hayes Township Master Plan for the subject parcel.
2. *Permitted Uses.* Planned unit developments shall be permitted in any Zoning District according to the following:
  - a. **Farm Forest (CR, A-1, FF) and Residential (R-1, R-2, R-3, R-4, R-5, RR-1) Districts** - Except as noted, PUD uses shall be limited to the range of uses provided for within the underlying Zoning District classification. Such uses may be placed either singularly or in combination. Institutional and commercial uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding neighborhood may also be permitted, provided the total area devoted to institutional and commercial uses shall not exceed twenty (20%) percent of the PUD development area (i.e. the gross land areas less the protected open space).
  - b. **Commercial & Business (C-1, C-2, C-3) District** - Except as noted, PUD uses may include any of the range of uses provided for within the underlying Zoning District classification. Such uses may be placed either singularly or in combination. Residential uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding neighborhood may also be permitted provided the total area devoted to residential uses shall not exceed forty (40%) percent of the PUD development area (i.e. the gross land areas less the protected open space).

- c. **Industrial (I-1, I-2) District** - Except as noted, PUD uses shall be limited to the range of uses provided for within the underlying Zoning District classification. Such uses may be placed either singularly or in combination. Commercial uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding area may also be permitted provided the total area devoted to commercial uses shall not exceed twenty (20%) percent of the PUD development area (i.e. the gross land areas less the protected open space).

In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.

- 3. *Area Regulations.* Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a state agency, a PUD shall meet the following area regulations.
  - a. *Perimeter Setbacks.* The setback maintained along the perimeter of the PUD shall equal or exceed the required setback of the underlying Zoning District, provided:
    - 1) Any portion of a commercial or industrial use shall maintain a perimeter setback of not less than fifty (50) feet from any adjoining or abutting property which is developed residential or is located in a zoning district that permits residential development.
    - 2) With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped.
  - b. *Density and Bonus Units:* A PUD project shall be permitted an initial number of units equal to the number of lots possible based on the applicable zoning district and the gross property acreage. For each ten (10) acres of contiguous protected open space within the PUD, excluding state regulated wetlands, other areas characterized with hydric soils and areas with slopes of greater than 25 percent, the PUD project shall be eligible for one (1) additional bonus unit.
  - c. *Open Space.* A PUD project shall have open space totalling no less than fifty (50%) percent of the entire project area. The PUD project required open space is encouraged to be contiguous, and the open space shall have a minimum width of 100 feet and is subject to approval by the Planning Commission. This required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD, and shall remain perpetually in an undeveloped state. Dedicated open space does not include parking lots, roads, and public rights-of-way, but may include flood plain areas and wetlands up to a

maximum of twenty-five (25%) percent of the required open space and landscape area devoted to perimeter setbacks.

The required open space shall be protected by the developer in a conservation easement, or other legal means acceptable to the township. Said conveyance placed on the property shall specify that the open space is an integral component in the overall development for the use and enjoyment of the public or the residents within the Planned Unit Development.

Such conveyance shall:

- 1) Provide for the privately owned open-space to be maintained and the provisions of the conservation easement or deed restriction to be enforced by the private property owners.
  - 2) Provide maintenance standards and a maintenance schedule.
  - 3) Grant the Township the right, but not the obligation, to enforce the provisions of the conservation easement or other legal means, if in the Township's opinion such provisions are not adequately enforced by the property owners.
  - 4) Be held by two entities, one being the Hayes Township and the other the landowner's association, land conservancy or other entity found acceptable to the Hayes Township Planning Commission.
- d. *Height Regulations.* The height of all buildings and structures within a PUD project shall not exceed the height limit of the underlying Zoning District.
- e. *Other Dimensional Regulations.* To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, reduce the other dimensional regulations, as required by the underlying Zoning District, including but not limited to minimum lot size, density, and setbacks within the PUD project, upon a finding that the proposed dimensional regulations will not be detrimental to the public health, safety, or welfare of future occupants of the PUD, the surrounding neighborhood, or the Township as a whole.

Any reductions by the Planning Commission shall be limited as follows:

- 1) Underlying Zoning District Setback requirements shall not be reduced by more than fifty (50%) percent. Perimeter setbacks as specifically required by the PUD regulations may not be reduced.
- 2) Required parking shall not be reduced by more than sixty (60%) percent of the parking normally required of the proposed use. In no case shall a single-family home,

mobile or modular home, or other such detached single-family dwelling have less than two (2) on-site (off-street) parking spaces. In reducing the required parking, the Planning Commission may require the reservation of a portion of the PUD site for future parking.

Prior to approving a reduction in dimensional regulations, the Planning Commission may require the applicant to demonstrate through bonafide documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and infrastructure impact studies, that the reduction will not result in significant impacts to the PUD project and PUD occupants, the surrounding area, and the Township as a whole.

4. *Pre-application Conference.*

a. A pre-application conference shall be held with the Planning Commission or its representative, unless waived by the applicant, for the purpose of determining the eligibility of the proposed PUD application and to review the procedures and standards for PUD approval. The goals of the pre-application conference are to acquaint the Planning Commission, or its representative, with the applicant's proposed development, assist the applicant in understanding new or additional information which the Planning Commission will need to effectively consider the application, confirm that the application and all supporting documentation is ready for a public hearing, and to acquaint the applicant with the Planning Commission's initial, but unofficial reaction to the application. In no case shall any representations made by the Planning Commission, or its representative, at the pre-application conference be construed as an endorsement or approval of the PUD.

b. A request for a pre-application conference shall be made to the Zoning Administrator who shall schedule a date and time for the pre-application conference. As part of the pre-application conference, the applicant shall submit five (5) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

5. *PUD Application Requirements.* An applicant seeking approval of a PUD shall submit a complete application to the Zoning Administrator. The Zoning Administrator shall then forward the application to the Planning Commission for its review under the procedures of this section. The application shall include all of the following:

- a. A completed application form, supplied by the Zoning Administrator.
- b. Payment of a fee as established by resolution of the Township

- Board.
- c. A narrative statement describing:
    - 1) The objectives of the proposed PUD and how they relate to the intent of the Zoning Ordinance as described in subsection 1), above.
    - 2) The relationship of the proposed PUD to the Hayes Township Master Plan.
    - 3) Phases of development, if any, and the approximate time frame for the start and completion of construction of each phase.
    - 4) Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.
    - 5) Anticipated dates for the start and completion of the PUD construction.
    - 6) The location, type, and size of areas to be dedicated for common open space.
6. The PUD application shall include all information required by **Sections 5.11** and **Section 6.02**, and the following:
- a. Required setbacks of the Zoning Districts.
  - b. The area (and square footage) percentage of subject property to be covered by buildings.
  - c. Percentage of the total site devoted to open space and the proposed uses of that open space.
  - d. Such other information regarding the development area that may be required to determine conformance with this Ordinance.
7. *Public Hearing on PUD Request; Notice.*  
See **Section 6.02.C**.
8. *Planning Commission Review of PUD.* Following the public hearing the Planning Commission shall review the PUD application and shall approve, deny, or approve with conditions the PUD application based on the standards for PUD approval contained in subsection 9. below. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on each standard.
9. *Standards for PUD Approval; Conditions; Waiver of PUD Standards.*
- a. *General Standards.* The Planning Commission shall approve, or approve with conditions, a PUD application if the Planning Commission finds that the proposed PUD meets the standards of **Section 5.11** and **Section 6.02.D** and all of the following:
    - 1) The planned unit development shall be consistent with the Hayes Township Master Plan.
    - 2) The planned unit development shall be designed,

constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will be consistent with outdoor pedestrian movement. Vegetation proposed by the developer or required by the Planning Commission shall be maintained in a healthy living condition and such vegetation if dead shall be replaced.

- 3) The planned unit development shall not change the essential character of the surrounding area, unless such change is consistent with the Township's current master plan.
- 4) The planned unit development shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.
- 5) The planned unit development shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems intersecting or abutting such development.
- 6) The planned unit development shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely interfere with the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles to or within the development and adequate space for turning around at street ends shall be provided.
- 7) The planned unit development shall not result in any greater storm water runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion, and vegetation which no longer provides erosion control shall be replaced.
- 8) The design of the planned unit development shall exhibit a reasonably harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade

materials so as to create an adverse effect on the stability and value of the surrounding area.

- 9) The planned unit development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, and drainage or erosion control.
  - 10) The planned unit development shall provide for underground installation of all utilities.
- b. *Conditions.* The Planning Commission may impose reasonable conditions with the approval of a final site plan, pursuant to **Section 8.03** of this Ordinance.
  - c. *Waiver of PUD Standards.* The Planning Commission may waive any of the standards for a PUD contained in subsection 9. above where all of the following findings are documented along with the rationale for the decision:
    - 1) No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
    - 2) The spirit and intent of the PUD provisions will still be achieved.
    - 3) No nuisance will be created.
10. *Planned Unit Development Permit.* Following final approval of a PUD application, a permit shall be obtained from the Zoning Administrator. The issuance of this permit, however, shall not relieve the applicant from complying with applicable county, state, and federal permit requirements. The failure of the applicant to obtain any required county, state, or federal permit shall render the PUD permit issued under this subsection void.
  11. *Continuing Adherence to Approved PUD Application.* Any property owner who fails to develop and maintain an approved PUD according to the approved PUD application and conditions, if any, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.
  12. *Recording of Action.* The applicant shall record an affidavit acceptable to the Township with the Charlevoix County Register of Deeds that contains the full legal description of the project site, specifies the date of final Township approval, specifies the description or identification number which the Township has assigned to the PUD project, and declares that all improvements will be carried out in accordance with the approved PUD application. If the Planning Commission approves an amendment to the PUD, the applicant shall record an amended affidavit acceptable to the Township that contains all of the information described above, describes the amendment, specifies the date the Planning Commission approved

the amendment, and declares that the improvements will be carried out in accordance with the approved PUD, as amended. Finally, all deed restrictions and easements shall be duly filed with the Charlevoix County Register of Deeds and copies of recorded documents filed with the Zoning Administrator.

13. *Amendment of an Approved Planned Unit Development.* Amendments to an approved PUD shall be permitted only under the following circumstances:
  - a. The owner of property for which a PUD has been approved shall notify the Zoning Administrator of any desired change to the approved PUD. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
    - 1) Reduction of the size of any building and/or sign.
    - 2) Movement of buildings and/or signs by no more than ten (10) feet.
    - 3) Landscaping approved in the PUD plan that is replaced by similar landscaping to an equal or greater extent.
    - 4) Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
    - 5) Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
    - 6) Changes related to items (a) through (e) above, required or requested by Hayes Township, Charlevoix County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval.
  - b. All amendments to a PUD approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised development plan showing the approved amendment. The revised development plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
  - c. An amendment to an approved PUD that cannot be processed by the Zoning Administrator under subsection 1) above shall be processed in the same manner as the original PUD application.
14. *Expiration of Approved PUD; Extension.*
  - a. An approved PUD shall expire one (1) year following final

approval by the Planning Commission, unless substantial construction has begun on the PUD project prior to that time or the property owner applies to the Planning Commission for an extension prior to the expiration of the PUD. The Planning Commission may grant one (1) extension of an approved PUD for an additional one (1) year period if it finds:

- 1) The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
  - 2) The PUD requirements and standards that are reasonably related to the development have not changed.
- b. If the PUD approval expires pursuant to subsection 1) above, no work pursuant to the PUD plan may be undertaken on the project until a new PUD approval is obtained from the Planning Commission following the procedures for a new PUD application. In addition, if the PUD approval expires, the property shall again be subject to the zoning classification of the property which existed prior to the PUD approval as if no PUD approval had ever been granted.

15. *Performance Guarantee.*

The Planning Commission may require the applicant to obtain and maintain a performance guarantee in connection with the PUD project, pursuant to **Section 8.06** of this Ordinance.

## Article VII: Zoning Board of Appeals

### SECTION 7.01 ZONING BOARD OF APPEALS CREATION AND MEMBERSHIP

The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act 110, of Public Acts of 2006, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. This Board shall consist of five (5) regular members, appointed by the Township Board.

- A. The first member shall be a member of the Township Planning Commission for the terms of his/her office.
- B. The remaining members must be selected from the electors of the Township residing outside of incorporated cities and villages and shall be representative of the population distribution and of the various interests present in the Township. One (1) member may be a member of the Township Board.
- C. An elected officer of the Township shall not serve as chairman. An employee or contractor of the Township Board may not serve as a member or an employee of the Zoning Board of Appeals.
- D. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

### SECTION 7.02 MEETINGS

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine or specify in its rules of procedure. All hearings conducted by said ZBA shall be open to the public. The Zoning Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the Township Clerk, and shall be a public record. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation of this Ordinance.

The Zoning Board of Appeals shall not conduct business unless a majority of the Board of Appeals regular members are present.

### **SECTION 7.03 JURISDICTION**

- A. Except for Planning Commission decisions concerning special use permits and Planned Unit Developments, an appeal concerning the administration of the provisions of this Ordinance may be taken to the Zoning Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall be filed within thirty (30) days of the decision of the official or body from which the appellant seeks relief.
- B. The ZBA may hear appeals made by any person who alleges he or she has been aggrieved by a decision of the official or body, except for Zoning Administrator decisions regarding enforcement of this Ordinance.
- C. The ZBA may grant variances as provided for in **Section 7.07 Variances**.
- D. The ZBA may also interpret the location of Zoning District boundaries and may interpret the provisions of this Ordinance.
- E. An appeal may be made by any person, firm or corporation, or by any Officer, Department or Board of the Township. The appellant shall file with the Zoning Board of Appeals, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds for the appeal.
- F. The Zoning Administrator shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Reasons for the decision must be stated.
- G. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

### **SECTION 7.04 EXERCISING POWER**

In exercising the above powers, the Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the official or body from whom the appeal is taken.

### **SECTION 7.05 APPLICATION REQUIREMENTS**

The applicant shall submit seven (7) copies of a completed application, with associated fee, surveys, plans and data as required under **Section 5.11: Site Plan Review**, or other information deemed reasonably necessary for making any informed decision on his or her appeal, not less than thirty-one (31) days prior to the date of the hearing.

## **SECTION 7.06 NOTICE REQUIREMENTS FOR ZONING BOARD OF APPEALS PUBLIC HEARINGS**

The notices for all public hearings before the Zoning Board of Appeals concerning appeals, interpretations, and variances shall comply with all of the following applicable provisions:

- A. For an appeal or a request for an interpretation, the notice shall comply with all of the following:
  - 1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the appeal or interpretation request.
    - b. If the appeal or interpretation request involves a specific parcel, then the notice shall describe the property involved. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no such street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
    - c. The time, date, and place the appeal or interpretation request will be considered.
    - d. The address where the deadline when written comments will be received concerning the appeal or interpretation request.
  - 2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
  - 3. The notice shall be sent by first-class mail or personal delivery to the person filing the appeal or requesting the interpretation and, if the appeal or interpretation request involves a specific parcel, to the owners of the property involved not less than 15 days before the scheduled public hearing.
  - 4. If the appeal or interpretation request involves a specific parcel, then the notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property involved and to the occupants of all structures within 300 feet of the property involved not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant or tenant is not known, the term "occupant" may be used in making notification under this subsection.
- B. For a variance request, the notice shall comply with all of the following:
  - 1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the variance request.
    - b. A description of the property on which the requested variance will apply. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means

of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.

- c. The time, date, and place the variance request will be considered.
  - d. The address where and the deadline when written comments will be received concerning the variance request.
2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
  3. The notice shall be sent by first-class mail or personal delivery to the owners of the property seeking the variance not less than 15 days before the scheduled public hearing.
  4. Then notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the requested variance will apply and to the occupants of all structures within 300 feet of the property to which the requested variance will apply not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- C. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Zoning Board of Appeals may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

## **SECTION 7.07 VARIANCES**

The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:

- A. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
- B. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
- C. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
- D. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a

lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.

- E. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or Zoning District.

#### **SECTION 7.08 CONDITIONS OF APPROVAL**

The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in section 8.03 of this Ordinance.

#### **SECTION 7.09 EXPIRATION OF ZBA APPROVALS**

No order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and substantial construction has occurred.

#### **SECTION 7.10 REAPPLICATION**

No application for a variance, interpretation, or appeal which has been decided, in whole or in part, by the Zoning Board of Appeals shall be re-submitted for a period of one (1) year from the date of such decision, unless a rehearing is granted pursuant to section 8.04 of this Ordinance.

#### **SECTION 7.11 STAY**

An appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to Circuit Court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the Circuit Court.

## **Article VIII: Administration and Enforcement of Ordinance**

### **SECTION 8.01 ZONING ADMINISTRATOR**

The provisions of this Ordinance shall be administered and enforced by a Township Zoning Administrator, appointed by the Township Board of Trustees for such term and subject to such conditions and at such rate of compensation as said Board shall determine as reasonable.

The Zoning Administrator shall have the power to grant Zoning Permits and to make inspections of buildings or premises necessary to carry out the duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any Permits for the excavation or construction until such plans have been inspected in detail and found to conform to this Ordinance.

The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties of Zoning Administrator.

The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements that may occur upon the granting of said Permit.

### **SECTION 8.02 ZONING PERMIT**

- A. No building or structure subject to the provisions of this Ordinance shall hereafter be erected, structurally altered, reconstructed, used, or moved, nor shall any associated excavation or filling of land commence until a Zoning Permit application has been filed with the Township Zoning Administrator and a Zoning Permit has been issued by the Zoning Administrator, except as otherwise permitted for in this Ordinance. No Zoning Permit shall be required for any lawful use of any building or structure in existence as of the adoption date of this Ordinance. No Zoning permit shall be required for an accessory structure without a permanent foundation and which is less than two hundred (200) square feet in size. All structures shall comply with applicable district setback requirements regardless of whether a zoning permit is required.
- B. The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. Any application requiring approval from the Planning Commission must be submitted not less than thirty-one (31) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:
  1. A site plan, if required, or a sketch in duplicate, in a scale sufficient to clearly detail as determined by the Zoning Administrator, the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein; the size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered; the width and alignment of all abutting streets, highways, alleys, utility locations,

easements and public open spaces; the front yard dimensions of the nearest building on both sides of the proposed building or structure; the location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration; and the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration.

2. Properties under two (2) acres in size may be required to submit a legal survey, sealed by a professional surveyor (not a mortgage survey). The Zoning Administrator shall have the authority to require such a survey in the cases where there may be encroachment on the setbacks by the proposed structures or when the exact locations of lot lines are not known.
  3. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator of this Ordinance.
  4. Such other information as may be required to determine compliance with the Ordinance.
- C. A Zoning Permit may not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits issued by the Charlevoix County Building Department.
- D. The location of the property boundaries and all structures shall be staked on the ground for Zoning Administrator approval prior to the issuance of the Zoning Permit.
- E. Any Zoning Permit under which substantial construction has not started or if no substantial construction has been done in the furtherance of the zoning permit, the zoning permit shall expire after twelve (12) months from date of issuance.
- F. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, all other necessary permits have not been obtained or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.
- G. No Zoning Permit shall be valid until the required fees have been paid. Except for an accessory building or structure less than two hundred (200) square feet in size (which does not require a zoning permit pursuant to **Section 8.02.A** of this Ordinance), no separate fee shall be required for accessory buildings or structures when part of the application for the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Board of Trustees.

### **SECTION 8.03 CONDITIONS**

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under their jurisdiction. These conditions may include those 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. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, welfare, as well as the social and economic well being of those who will use the land under consideration, residents and landowners immediately adjacent to the proposed land use, and the community as a whole.
- B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- C. 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.

#### **SECTION 8.04 REHEARING PROCESS**

- A. Final Decisions: Except as provided in this section, a decision of the Planning Commission or Zoning Board of Appeals shall be final. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
  - 1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
  - 2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
  - 3. The Township Attorney, by written opinion, states that in the Attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.
- B. Rehearing Procedure: A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.
  - 1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
  - 2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
  - 3. Whenever the Planning Commission or Zoning Board of Appeals

considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicants' last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a meeting at which it considers whether to grant a rehearing.

4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all applicable notice requirements have been satisfied.

### **SECTION 8.05 FEES**

- A. To assist in defraying the costs of investigating, reviewing and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees, such as those fees related to the following:
  1. Zoning permits.
  2. Special land use permits.
  3. Ordinance interpretations by the Zoning Board of Appeals: appeals of administrative interpretation or request for interpretation. Appeals and requests for interpretation initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
  4. Classification of unlisted property uses.
  5. Requests to change a non-conforming use to another non-conforming use.
  6. Requests for variances from the Zoning Board of Appeals.
  7. Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
  8. Site plan reviews.
  9. Requests for a planned unit development (PUD).
  10. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

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

## **SECTION 8.06 PERFORMANCE GUARANTEE**

In connection with the construction of improvements through site plan approval, special land use approval, or a PUD project, the Planning Commission may require the applicant to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited

with the Township Clerk at or before the time the Township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third of the cash deposit after completion of one-third (monetary value), of the public and site improvements;
- B. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

## **SECTION 8.07 VIOLATIONS AND PENALTIES**

### **SECTION 8.07.1 NUISANCE PER SE**

Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

### **SECTION 8.07.2 INSPECTION**

The Zoning Administrator shall have the duty to investigate each alleged violation and shall also have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.

### **SECTION 8.07.3 PENALTIES**

- A. Any person, partnership, limited liability company, corporation, association or other entity who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every day that such violation continues may constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with provisions of this Ordinance or prohibit the Township from seeking additional and/or equitable relief from any court to ensure compliance with the provisions of this Ordinance.

- B. The Township Zoning Administrator is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court. The Township Board may also designate from time to time other officials to issue municipal infraction citations on behalf of the Township in connection with alleged violations of this Ordinance.
- C. In addition to or in lieu of enforcing this Ordinance, as a municipal civil infraction, the Township may initiate proceedings in any court of competent jurisdiction to abate, eliminate, or enjoin the nuisance per se or any other violation of this Ordinance.

#### **SECTION 8.07.4 STOP WORK ORDER**

If construction or land uses are being undertaken contrary to a zoning permit, the Michigan Zoning Enabling Act, or this Ordinance, the Zoning Administrator or Deputy of the Zoning Administrator or any other official authorized by the Township Board is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the Ordinance.

A person shall not continue, or cause or allow to be continued, construction or uses in a violation of a stop work order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the enforcing agency may apply to the circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal or civil prosecution for failure to obey the order.

#### **SECTION 8.08 CONFLICTING REGULATIONS**

In the interpretation of this Ordinance, this Ordinance shall control unless there exists a conflict with any other Township Ordinances, in which case the more stringent regulations will rule.

## Article IX: Adoption and Amendments

### SECTION 9.01 AMENDMENT TO THIS ORDINANCE

- A. The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.
1. The regulations and provisions stated in the text of this Ordinance and the boundaries of Zoning Districts shown on the Hayes Township Zoning Map may be amended, supplemented or changed by action of the Township Board following a recommendation from the Township Planning Commission.
  2. Proposals for amendments, supplements or changes may be initiated by the Township Board on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
  3. The procedure to be followed for initiating and processing an amendment shall be as follows:
    - a. Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee as prescribed by the Township Board. No part of such fee shall be returnable to a petitioner if the public hearing is held.
    - b. The Zoning Administrator shall notify, in writing, the Township Clerk and Chair of the Planning Commission at or before the time he or she transmits the amendment request to the Planning Commission.
    - c. The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.
    - d. Before ruling on any proposal the Planning Commission shall conduct at least one (1) public hearing, notice of which shall be provided as specified in **Section 9.02** of this Ordinance.
    - e. The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.
      - 1) Is the proposed rezoning consistent with the Hayes Township Master Plan?
      - 2) Is the proposed rezoning reasonably consistent with surrounding uses?
      - 3) Will there be an adverse physical impact on surrounding properties?
      - 4) Will there be an adverse effect on property values in the adjacent area?
      - 5) Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?

- 6) Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
  - 7) Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
  - 8) Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?
  - 9) Is the rezoning in conflict with the planned use for the property as reflected in the Land Use Plan?
  - 10) Is the site served by adequate public facilities or is the petitioner able to provide them?
  - 11) Are there sites nearby already properly zoned that can be used for the intended purposes?
  - 12) Are other local remedies available?
- f. Following the public hearing the Planning Commission shall submit the proposed amendment including any Zoning Map changes to the County Planning Commission. If the recommendation of the County Planning Commission has not been received within thirty (30) days after the receipt of the Ordinance by the County, it shall be conclusively presumed that the County has waived its right for review.
  - g. The Planning Commission shall submit a final report/recommendation to the Township Board along with a summary of the comments received at the public hearing.
  - h. The Township Board may hold additional public hearings, if they decide it is necessary. Notice of such hearing shall be provided in accordance with **Section 9.02** of this Ordinance.
  - i. Once adopted by the Township Board, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Any amendments to this Ordinance shall take effect eight (8) days after publication or at a later date as may be specified by the Township Board at the time of adoption.
  - j. No application for a rezoning which has been denied by the Township shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found valid upon inspection by the Township Planning Commission.

## **SECTION 9.02 PUBLIC HEARING NOTICE REQUIREMENTS FOR ZONING ORDINANCE AMENDMENTS**

The notices for all public hearings before the Planning Commission or Township Board concerning proposed Zoning Ordinance amendments (zoning text or map amendments) shall comply with the following applicable notice provisions:

- A. For a proposed amendment to the text of the Zoning Ordinance, the notice shall comply with all of the following:

1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the proposed Zoning Ordinance amendment.
    - b. The time, date, and place the proposed Zoning Ordinance will be considered.
    - c. The places and times at which the proposed Zoning Ordinance amendment may be examined.
    - d. The address where and the deadline when written comments will be received concerning the proposed Zoning Ordinance amendment.
  2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
  3. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
- B. For a proposed Zoning Ordinance amendment rezoning an individual property or 10 or fewer adjacent properties, the notice shall comply with all of the following:
1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the proposed Zoning Ordinance amendment.
    - b. A description of the property or properties proposed for rezoning. The notice shall include a listing of all existing street addresses within the property or properties. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property or properties. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property or properties.
    - c. The time, date, and place the proposed Zoning Ordinance amendment will be considered.
    - d. The places and times at which the proposed Zoning Ordinance amendment may be examined.
    - e. The address where and the deadline when written comments will be received concerning the proposed Zoning Ordinance amendment.
  2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
  3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing.
  4. The notice shall also be sent first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property

or properties proposed for rezoning and to the occupants of all structures within 300 feet of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

5. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
- C. For a proposed Zoning Ordinance amendment rezoning 11 or more adjacent properties, the notice shall comply with all of the following:
1. The content of the notice shall include all of the following information:
    - a. A description of the nature of the proposed Zoning Ordinance amendment.
    - b. The time, date, and place the proposed Zoning Ordinance will be considered.
    - c. The places and times at which the proposed Zoning Ordinance amendment may be examined.
    - d. The address where and the deadline when written comments can be sent concerning the proposed Zoning Ordinance amendment.
  2. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
  3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing.
  4. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
- D. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

### **SECTION 9.03 ENACTMENT AND EFFECTIVE DATE**

- A. This Ordinance was originally adopted on July 2, 1979 by the Hayes Township Board of Trustees.
- B. Following a public hearing before the Planning Commission, and adoption by the

Township Board (according the procedure specified in Section 9.01.C), amendments or revision to this Ordinance or Map of Zoning Districts shall become effective eight (8) days after publication, or a specified later date, of a notice of adoption of said amendments or revisions within fifteen (15) days of adoption in accordance with Michigan Zoning Enabling Act, Act 110 of Public Acts of 2006, as amended.