

**ARTICLE VI
CONDITIONAL USES**

Sec. 601 CONDITIONAL USES AND STRUCTURES.

Sec. 601:1 INTENT.

The intent of this section of the Ordinance is to recognize and provide for certain uses which may be allowable if they comply with standards which ensure their being harmonious with the general character of the district in which they may be located.

Sec. 601:2 GENERAL PROVISIONS.

1. Only uses which have been designated as Conditional Uses in each respective zoning district shall be considered for approval as Conditional Uses.
2. All uses of land or structures which are designated as Conditional Uses in this Ordinance shall require the granting of a Conditional Use Permit in accordance with the procedures of Subsection 601:3, this Ordinance, prior to the issuance of a building permit.
3. In addition to the site plan required pursuant to Section 601.3 (2), the Planning Commission or the Township Board may require that the applicant requesting authorization for a Conditional Use, furnish any engineering or architectural drawings, specifications, operating plans or any other reasonable data or information deemed necessary to completely clarify the proposed Conditional Use.
4. In any case where a Conditional Use has not been established within one year after the granting or approval of the Conditional Use Permit, then without further action by the Planning Commission or the Township Board, the Conditional Use Permit shall become null and void and the building permit shall be canceled. Upon the applicant's written request, supported by the sworn affidavit by the applicant that all circumstances are the same as when the Conditional Use Permit was granted, the Township Board shall, unless it finds significant reasons not to, extend such Conditional Use Permit for two (2) additional terms of one (1) year each. Any such action by the Township Board shall not affect the applicant's obligation to secure a new building permit at the end of each one (1) year period.
5. The Conditional Use Permit as described in this Ordinance shall be a form prepared by the Township and shall not be effective until executed by the requesting party and the designated approving body of the Township.
6. Violation of this section or of any other portions of this Ordinance shall result in the automatic cancellation of the building permit. Reinstatement shall be made by the Building Inspector when the violation has been corrected.

Sec. 601:3 ADMINISTRATION AND PROCEDURE.

1. Initiation of request for Conditional Use - Any person owning or having an interest in property in Pere Marquette Charter Township may initiate a request to operate or maintain a Conditional Use by submitting an application for a Conditional Use Permit.

2. Application for Conditional Use Permit - An application for a Conditional Use Permit shall be filed with the Zoning Administrator on a prescribed form. The application shall be accompanied by a site plan in accordance with the provision of Section 701 and other data as may be furnished by the applicant.
3. Review of application by Zoning Administrator - The Zoning Administrator shall review the application and supporting documents and indicate, by endorsement, that the application and site plan has been properly executed. The application and site plan shall then be forwarded to the Planning Commission for review and hearing.
4. Review and hearing by Planning Commission - Upon receipt of the Conditional Use Application and Site Plan in proper form, the Planning Commission shall review the application and site plan to ensure that all conditions of this Section have been complied with. The Planning Commission shall hold at least one public hearing on an application for a Conditional Use Permit. Notice of the public hearing shall be given as provided in Section 1106. *(Amended Ord 118, eff 5/22/07)*
5. Recommendation by Planning Commission - For each application for a Conditional Use Permit, the Planning Commission shall recommend to the Township Board, approval, conditional approval, or denial of the Conditional Use Permit. Such communications shall state reasons and conditions of recommendations.

The Planning Commission may recommend and the Township Board may impose conditions which are deemed necessary for the protection of the neighborhood and the general welfare of the public.

6. Review and decision by Township Board - Upon receipt of the application and supporting data and the recommendation with supporting data from the Planning Commission, the Township Board shall review said application. The Township Board shall approve, conditionally approve, or deny the request for the Conditional Use Permit. Approval of a request for a Conditional Use Permit shall not be granted if the Township Board finds that such Conditional Use would fail to comply with any of the requirements of this Ordinance.
7. Effect of approval of request for Conditional Use Permit - The Conditional Use Permit shall become effective upon the approval of the Township Board and the execution of the Conditional Use Permit documents by the applicant. Approval of the request for the Conditional Use Permit shall authorize the Building Inspector to issue the building permit.
8. Effect of denial of request for Conditional Use Permit - In the event that a request for a Conditional Use Permit is denied wholly or in part by the Township Board, an application for a permit for the same Conditional Use shall not be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Planning Commission and the Township Board.

Sec. 601:4 STANDARDS FOR CONDITIONAL USES AND STRUCTURES.

Any request for a Conditional Use Permit must satisfy the following general standards as well as the specific standards for each use listed. Requests that are in compliance with the general and specific standards, the conditions imposed, and other ordinance requirements, shall be approved.

Sec. 601:5 GENERAL STANDARDS.

1. The proposed use will comply with all Conditional regulations as well as complying with all appropriate regulations applicable to the district.
2. The proposed use is in harmony with the purpose and intent of this Ordinance.
3. The proposed use will not adversely affect the health, safety and welfare of the public and residents of the area and will not be detrimental to the use or development of adjacent properties or of the general neighborhood.
4. The proposed use will comply with all applicable laws, ordinances, and regulations of the Township, local, State and Federal governments.
5. The proposed use shall be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity and that such use will not change the essential character of the area in which it is proposed.
6. The proposed use shall be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities (where available).
7. The proposed use will not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or toxic material.

Sec. 601:6 SPECIFIC STANDARDS.

The following Conditional Uses have particular characteristics for which specific standards have been formulated. These standards as well as the General Standards and dimensional standards of Section 320, must be complied with before approval may be granted.

Sec. 601:6 1. Antennas; Commercial TV, Radio Tower; Public or Private Utility, Microwave Towers; Private Communication Towers (see also Sec. 501:8 pursuant to satellite dish antennas). For wind energy turbines and related anemometers, refer to Article VI-B. (Amended Ord. 123, eff 12/21/09)

1. Antennas and towers shall not be erected in any zoning district in violation of the following restrictions:
 - a. No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, in or upon any required setback area for the district in which the antenna or tower is to be located.
 - b. No tower shall be in excess of height equal to the distance from the base of antenna and tower to the nearest overhead electrical power line which serves more than one (1) dwelling or business, less five (5) feet.

- c. Metal towers shall be constructed of, or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.
- 2. No part of any antenna or tower, nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend under, across or over any part of the public right-of-way, public street, highway, sidewalk, bike path, property line, utility easement or vehicular travel easement.
- 3. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the Township building code.
- 4. Antennas and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- 5. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above ground at all points, unless buried underground.

Sec. 601:6 1A. Wireless Communications Towers.

Wireless Communications Towers shall be approved, sited, constructed, maintained and removed in accordance with Article VI-A, Wireless Communications Towers. (*Amended Ord. 98, eff. 12/9/99*)

Sec. 601:6 2. Building Materials and Supplies, wholesale and retail.

- 1. Buildings or outdoor display or storage areas which abut a residential district shall be screened by a fence, berm or vegetative buffer as directed or approved by the Planning Commission, not less than five (5) feet in height.
- 2. Display of products shall not be permitted in any required front or side yard.
- 3. There shall be no outside storage of loose material capable of being removed off premises by natural forces.
- 4. All operations involving the manufacturing, assembly, or alteration of product shall be conducted completely within enclosed buildings.
- 5. In addition to the principle building, all storage and accessory buildings, and storage areas shall be accessible by fire fighting equipment.

Sec. 601:6 3. Churches, Synagogues, Temples, and Other Similar Facilities To Be Used For Public Worship.

- 1. Buildings which abut a residential lot or parcel shall be screened by a dense, evergreen, vegetative buffer not less than five (5) feet in height.
- 2. Buildings shall not be used for commercial purposes unless such use is of a temporary nature and authorized by the Planning Commission. Pursuant to such authorization the Commission must determine that such use will not be detrimental to adjacent land uses or neighborhoods.

Sec. 601:6 4. Clubs and Lodges.

1. Clubs or lodges shall refer to building or other facilities used for the meetings of a group of people organized for a common purpose such as a fraternal organization or a society.
2. All activities shall be conducted within completely enclosed buildings, provided however, outdoor recreational activities may be allowed as an accessory use to the principal use.

Sec. 601:6 5. Convenience Stores.

1. The store shall be located on a paved county highway or state trunkline.
2. There shall be no outdoor display of products.
3. Buildings which abut a residential lot or parcel shall be screened by a dense, evergreen, vegetative buffer of not less than five (5) feet in height.
4. Curb cuts along the paved county highway or state trunkline shall not exceed two (2).

Sec. 601:6 6. Governmental Buildings.

1. Buildings which abut a residential lot or parcel shall be screened by a dense, evergreen, vegetative buffer not less than five (5) feet in height.
2. Buildings shall not be used for commercial rental or entertainment purposes unless such use is of a temporary nature and authorized by the Planning Commission. Pursuant to such authorization the Commission must determine that said use will not be detrimental to adjacent land uses or neighborhoods.

Sec. 601:6 7. Heliports.

It is the purpose of this section to provide specific standards pursuant to locating heliports. These standards are to be considered in conjunction with the general standards required for the review and approval of all conditional uses. These standards are in addition to those required by the Federal Aviation Administration (FAA) and other Federal or State agencies having regulatory authority over the placement and/or design of heliports. Should these standards conflict with those of the FAA or other regulatory agency, the more restrictive shall apply as permitted by State or Federal statute.

1. The landing pad and associated parking shall be constructed of a bituminous asphalt, or concrete surface properly drained to avoid surface runoff to adjoining properties.
2. The landing pad shall be maintained free of dust, rock particles, or other debris in order to avoid the off-site fugitive emission of said materials while the pad is in use.
3. A landscape buffer shall be placed between the landing pad and any adjoining parcel having a residential zoning classification. The buffer design shall be based on the following factors:
 - a. Proximity (nearness) of the heliport to adjoining residential uses or districts.
 - b. Anticipated impact of the heliport pursuant to frequency of landings and noise during use.

- c. Visual relationship of the heliport, and its use, to the adjoining residential uses or districts.
- d. Potential economic impact of the heliport, and its use, on adjacent residential uses or properties.

It shall be the intent of the landscape buffer to mitigate potential negative impacts associated with the above factors. The landscape buffer may consist of evergreen or deciduous trees and vegetation, landscaped berms, architectural features/fencing, or combinations thereof. Pursuant to design of the buffer, the applicant shall assume that the potential for negative impacts increases as the distance between the pad and adjacent residential uses or districts decreases.

It shall be the responsibility of the applicant to provide a landscape buffer design for review and approval by the Planning Commission. The design, if required by this Subsection c, shall be incorporated as part of the site plan required for submission to the Planning Commission. The landscape design shall indicate the location, type, and size of all landscape features.

- 4. The heliport shall be designed to accommodate necessary emergency vehicles, including fire fighting equipment.
- 5. Fuel storage areas shall not be permitted within three-hundred (300) feet of any residential uses or districts. All fuel storage facilities shall meet State and Federal standards. Above ground storage facilities shall be screened from view by adjacent properties. The design of the screen shall be compatible with the character of the surrounding area and may include either an architectural feature or landscaping, or combination of both.
- 6. Facilities for the maintenance and repair of aircraft shall be restricted to the Industrial and Airport Districts.
- 7. The landing pad shall be a minimum of two-hundred (200) feet from residential uses or districts and a minimum of one-hundred (100) feet from nonresidential districts.
- 8. The landing pad may incorporate an affixed (i.e., painted) sign or notation for use by pilots in locating said pad from the air. A windsock or similar feature shall also be permitted. Ground or pole type signage shall be limited to one (1) sign not to exceed five (5) square feet.
- 9. The pad may be artificially lighted. Said lights shall be designed and placed to prevent off-site glare to surrounding properties.
- 10. The applicant shall submit evidence that all Federal and State requirements have been met pursuant to placement and design of the heliport.
- 11. The Township, after consultation with local safety officials including but not limited to the Township Fire Chief, Mason County Sheriff, and/or the Mason County Emergency Services/Preparedness Director, may impose additional conditions in order to ensure the public health, safety, and welfare.

Sec. 601:6 8. Hydroelectric Pumped Storage Facilities.

1. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes and Federal Energy Regulatory Commission rules. If any requirements of this subsection are less than those in applicable State statutes or F.E.R.C. rules, the more restrictive requirements shall prevail.
2. No fixed machinery shall be erected or maintained within fifty (50) feet of any property or street line. No cut or excavation shall be made closer than fifty (50) feet to any street right-of-way line, utility easement, or property line in order to insure sublater support to surrounding property.
3. Where it is determined by the Planning Commission to be a public hazard, all uses shall be enclosed by a fence six (6) feet or more in height for the entire periphery of the property or portion thereof. Fences shall be adequate to prevent trespassing and shall be placed no closer than fifty (50) feet from the top or bottom of any slope.
4. No building shall be erected on the premises except as may be permitted by this Ordinance or except as temporary shelter for machinery and field office subject to approval by the Planning Commission.
5. The Planning Commission shall establish routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. That portion of access road within the area of operation shall be provided with a dustless surface.
6. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, and individual or to the community in general.
7. As a condition to the issuance of a conditional use permit, the Township Board may require the posting of a performance bond issued by a corporate surety or commercial insurance carrier in such amounts that will insure the applicant's timely compliance with all conditions of the permit.

Sec. 601:6 9. Kennels.

1. Buildings wherein dogs are kept, dog runs and/or exercise or training areas shall not be located nearer than one-hundred (100) feet to any adjacent occupied dwelling or building used by the public, and shall not be located in any required setback area.
2. All other principal use activities shall be conducted entirely within an enclosed building.
3. Kennel buildings which abut a residential lot or parcel shall be screened by a fence, berm or vegetative buffer as directed or approved by the Planning Commission, not less than five (5) feet in height.

Sec. 601:6 10. Manufacturing and Processing Facilities.

1. Buildable areas which abut a residential lot or parcel shall be screened by a fence, berm or vegetative buffer as directed or approved by the Planning Commission, not less than five (5) feet in height.

2. Display and/or storage of equipment or other material shall not be permitted in any required front or side yard setback.
3. Inoperable machinery or equipment or parts thereof shall be contained entirely within an enclosed building or screened area.
4. There shall be no outside storage of loose material capable of being removed off premises by natural forces.
5. There shall be no storage of material in such a fashion as to provide the potential for ground water contamination.

Sec. 601:6 11. Mineral extraction and processing/removal and/or addition of topsoil, sand, gravel or other such material. (Amended Ord 101, eff 11/27/01)

1. No topsoil, sand, gravel, or other such materials involving a surface area over one acre or within 500 feet of a body of water, shall be removed from or added to any property in the Township unless authorized by the Planning Commission or its designee. In considering such authorization, the Planning Commission or its designee shall require evidence that a Soil Erosion Permit has been issued by the Mason County Drain Commission and shall consider the following standards and criteria:
 - a. The size of the property from which such topsoil, sand, gravel or other such materials are to be removed and/or added in relation to the area affected;
 - b. The amount of topsoil, sand, gravel, or other such material which is to be removed and/or added;
 - c. The purpose of such removal and/or addition;
 - d. The effect of such removal and/or addition on adjoining property;
 - e. The effect of such removal and/or addition in terms of causing a safety hazard, creation of erosion problems, altering the ground water table and problems of this nature;
 - f. The potential for such removal and/or addition to cause the creation of sand blows, stagnant water pools, bogs, or any type of injurious area;
 - g. The effect of such removal and/or addition on the environment and the natural topography and potential destruction of a natural resource; and,
 - h. Potential traffic congestion and problems from trucks or other vehicles or means being utilized to haul and transport the materials removed and/or added.
2. Material may be removed if less than one (1) acre, and greater than five-hundred (500) feet from a body of water, without authorization from the Planning Commission, provided there is compliance with all other requirements of this Ordinance and provided it will not cause a sand blow, stagnant water pools, bogs, other possible future injury to adjoining properties or any other type or kind of injurious circumstance.
3. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any requirements of this subsection are less than those in applicable State statutes, the State requirements shall prevail.

4. No fixed machinery shall be erected or maintained within fifty (50) feet of any property or street line. No cut or excavation shall be made closer than fifty (50) feet to any street right-of-way line, utility easement, or property line in order to insure sublateral support to surrounding property.
5. Where it is determined by the Planning Commission to be a public hazard, all uses shall be enclosed by a fence six (6) feet or more in height for the entire periphery of the property or portion thereof. Fences shall be adequate to prevent trespassing and shall be placed no closer than fifty (50) feet from the top or bottom of any slope.
6. No building shall be erected on the premises except as may be permitted by this Ordinance or except as temporary shelter for machinery and field office subject to approval by the Planning Commission.
7. The Planning Commission shall establish routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. That portion of access road within the area of operation shall be provided with a dustless surface.
8. All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, and individual or to the community in general.
9. The permit shall contain a time limit to be set by the Planning Commission, not-to-exceed twenty-four (24) months, and shall be renewed upon determination that the site plan and reclamation plan are being complied with.
10. The permit shall require the removal of all installations, plants, buildings, foundations, stockpiles and equipment upon the cessation of mining or extraction operations or the expiration or revocation of a permit, within twelve (12) months.
11. The applicant shall provide a closure plan detailing the reclamation of the site after removal of the material. The plan shall indicate final grades and elevations, reclamation activities and future site use.
12. As a condition to the issuance of a conditional use permit, the Township Board may require the posting of a performance bond issued by a corporate surety or commercial insurance carrier in such amounts that will insure the applicant's timely compliance with all conditions of the permit.

Sec. 601:6 12. Mobile home parks.

1. Each mobile home located on the park premises shall be placed on a designated site within the park and shall be ready for occupancy within five (5) days of placement.
2. There shall be a maximum density of six (6) mobile homes per gross acre of the mobile home park.
3. There shall be a minimum side to side spacing of thirty (30) feet and a minimum end to end spacing of fifteen (15) feet between mobile homes.
4. The mobile home park walk system shall include thirty (30) inch wide concrete walks from the entrance of each dwelling unit to the service facilities of the park.

5. One parking space for each mobile home or office plus additional parking spaces equal to fifty (50) percent of the number of mobile home spaces to provide for guest parking shall be required for each mobile home park as off-street parking. All parking areas shall be paved.
6. There shall be a roadway system within the mobile home park which shall be hard-surfaced and well-drained. The pavement shall have a minimum width of twenty (20) feet and shall provide unrestricted access to a major road or highway from the mobile home park.
7. Each mobile home site shall be provided with a concrete pad no less than ten (10) feet wide, forty-five (45) feet long and four (4) inches thick upon which the mobile home shall be placed.
8. There shall be developed recreational space at a ratio of at least ten (10) percent of the gross area of the mobile home park. The recreational space may be located in more than one area provided no one space is less than one (1) acre.
9. All wires, cables, conduits, lines or pipes used for providing utility services to mobile homes or other authorized structures in the mobile home park shall be located underground within the park. A centrally located TV tower antenna or satellite dish shall be installed in the park with necessary cable connections to provide service to each site. In the event cable television service is available, such service may be substituted for said antenna or dish.
10. Fences on individual home sites shall be uniform in height and shall not exceed thirty (30) inches and shall be constructed in such a manner as to provide service access to all sides of each mobile home.
11. Signs in accordance with applicable regulations (see Article IX).
12. A building for retail sales of groceries and sundries may be permitted provided such building is located within the central area of the park and is not adjacent to a public street, and provided further that there shall be no signs of any type advertising such business, any article being sold within or any other item. Such business is intended to serve only the occupants of the park.
13. All units in the mobile home park shall be served by public water and sewer systems as these systems become available.
14. The grounds of the mobile home park shall be graded to drain properly to prevent standing water. Ground surfaces other than parking, walking or roadways shall be landscaped. As part of the site plan, a landscape plan shall be provided.
15. There shall be a greenbelt planting strip with a width of not less than twenty (20) feet along the property lines and may be within the fifty (50) foot yard required. Such greenbelt shall contain at least one (1) straight or staggered row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart and which grow to a minimum height of twelve (12) feet and at least three (3) rows of deciduous or evergreen shrubs spaced not more than eight (8) feet apart and which grow to a minimum height of five (5) feet. Trees shall be a minimum caliper of one (1) inch and shrubs shall have a minimum height of two (2) feet.
16. All requirements, as regulated by Michigan State Act No. 243, P.A. 1959, as amended "Mobile Home Park Act", shall be complied with.

17. All conditions of this subsection shall be complied with prior to occupancy of any mobile home within the mobile home park.
18. The Planning Commission may impose any other regulations which it deems necessary to protect the safety, health and general welfare of the people of the Township and shall have the authority to make any change or alterations in such plan and modify any requirements and regulations herein prescribed, provided they are in the best public interest and such that the property may be developed in a reasonable manner; but in so doing, complying with other applicable provisions of the Ordinance.

Sec. 601:6 13. Motels, Hotels.

1. Any motel or hotel establishment, including parking areas shall be screened on all sides which abut a residential lot or parcel. Said screen may be a fence or wall or planted materials which shall obscure vision and provide a separation between the two uses. Said screen shall be a minimum of five (5) feet in height.
2. The motel or hotel facility shall be designed to be compatible with the architectural and environmental character of the district. Accordingly, the applicant shall provide, as part of the site plan review process, building elevations and landscape detail.

Sec. 601:6 14. Ponds.

1. The Planning Commission shall consider the following:
 - a. The nature, design, and size of the pond will not negatively impact the drainage, groundwater supply and quality, direction of groundwater flow, nor increase the erosion of adjoining property.
 - b. The purpose(s) for which the pond is being constructed is clearly incidental to the principal use(s) of the zoning district in which said pond is to be located.
 - c. The character, nature and size of the pond.
 - d. The pond will not create a health hazard as a result of stagnation or pollution.
 - e. The effect of the pond on adjoining properties in surrounding neighborhoods.
2. That if the Planning Commission shall determine, as part of its proceedings for the authorization of a pond pursuant to subsection (a) above, that the protection and safety of the general public requires the pond to be enclosed, then the pond shall be enclosed by fence or wall, which shall be subject to and meet the same standards and requirements as are provided in Section 501:11 with respect to fences or walls enclosing swimming pools.
3. Existing ponds may be maintained without the necessity of a conditional use permit. "Maintained" is defined to mean all acts necessary for the upkeep and care of the pond, provided that the surface area of the pond is not enlarged. In the event that the surface area of the pond is enlarged, a conditional use permit is required pursuant to the provision of this Ordinance.

4. In considering such authorization as based on the above standards, the Planning Commission may impose the following conditions:
 - a. Certification from a qualified individual or agency, such as a Michigan Registered Professional Civil Engineer or United States Department of Agriculture-Soil Conservation Service, that the pond has been designed pursuant to approved engineering standards. Said certification may also be required pursuant to construction of the pond.
 - b. An increase in required minimum setback.

Sec. 601:6 15. Processing and Packaging Facilities, Fruit and Vegetable.

1. There shall be no storage of products or materials in the front yard.
2. Buildings or storage areas which abut a residential lot or parcel shall be screened by a dense, evergreen, vegetative buffer not less than five (5) feet in height.

Sec. 601:6 16. Professional Services Facilities.

1. Any professional services establishment, including parking areas shall be screened on all sides which abut a residential lot or parcel. Said screen may be a fence or wall or planted materials which shall obscure vision and provide a separation between the two uses. Said screen shall be a minimum of five (5) feet in height.
2. The professional services facility shall be designed to be compatible with the architectural and environmental character of the district. Accordingly, the applicant shall provide, as part of the site plan review process, building elevations and landscape detail.
3. Uses shall be oriented to businesses employing no more than two (2) principals with minimal support staff.

Sec. 601:6 17. Planned Unit Development (PUD)/Condominium Development. *(Amended Ord. 79, eff 2/26/96 and Ord. 101, eff 11/27/01)*

1. Purpose and Intent. The purpose of the Conditional Use is to provide a degree of flexibility for development of parcels of land that are not ideal for residential, commercial or industrial developments under the regulations governing permitted uses and structures in the underlying zoning districts due to land conditions, topography or economic conditions within the Township. Promotion and use of this Conditional Use is intended to encourage a more innovative approach to residential, commercial or industrial development through the planned reduction or grouping of lots and/or buildings and structures while maintaining the overall density regulations of a zoning district. Proper application of this Conditional Use is intended to ensure architecturally complementary design, compatible uses within the development, compatibility of the proposed use with adjoining and neighboring uses, and the retention of the natural and rural character of the Township through preservation of open spaces, woodlands, streams, ponds, water frontage, hills and similar natural assets and the efficient use of land.
2. Procedure. Authorization to establish a PUD or Condominium Development shall be obtained through the process for issuance of a Conditional Use Permit as provided in Section 601:3 of this Ordinance. In addition, the Township Board shall also conduct a public hearing prior to its decision, notice of which shall be given as provided in Section 1106. EXCEPTION: Site Condominium Projects shall be authorized and approved under the provisions of Section 601:6.27 of this Ordinance. *(Amended Ord 118, eff 5/22/07)*

3. In addition to all other requirements to which any Conditional Use must conform under this Ordinance, a PUD and a condominium development shall:
 - a. Meet minimally all standards in this Section and all Federal, State, County and Township laws and ordinances, except as otherwise expressly exempted.
 - b. For a PUD, shall have its ownership under one proprietor and shall be developed and administered as an integral unit. For the purposes of this Section, "proprietor" shall be defined as an individual, firm, association, partnership, corporation or combination of any of them that hold any ownership interest in the lands and premises being considered for conditional use approval.
 - c. For a condominium development, ownership of the lands and premises being considered for conditional use approval shall be as provided in the Condominium Act (MCL 559.101 et seq.). As part of the application for conditional use approval, the developer/owner shall submit a copy of the Master Deed, with all attachments.
 - (1) However, if at the time of the application the Master Deed has not been prepared in final form, then the developer/owner shall submit with the application a proposed or preliminary condominium development plan supplemented by other information or documents that the Planning Commission may require for its review of the conditional use request.
 - (2) Where a proposed preliminary condominium development plan is submitted, Planning Commission approval shall be conditioned upon such condominium development proceeding as designed and depicted in the proposed or preliminary development plan. After approval by the Planning Commission, any changes from the approved development plan, whether in the form of a revised preliminary development plan or the final development plan for the Master Deed, shall be promptly submitted to the Zoning Administrator. If the Zoning Administrator determines such changes are material, the revised condominium development plan shall be submitted to the Planning Commission for approval pursuant to this Section.
 - (3) In all cases, the Master Deed, together with all exhibits and attachments, shall be submitted to the Zoning Administrator at the time the Master Deed is recorded. Any subsequent modification or amendments to the Master Deed shall be provided to the Zoning Administrator and shall require Planning Commission approval if the Zoning Administrator determines the modifications or amendments to the Master Deed, including the exhibits and attachments, are a material change from the development plan previously approved by the Planning Commission.
4. Permitted Uses and Structures, Residential PUD and Residential Condominium Development. Within any residential PUD or residential condominium development, no structure shall be used, erected, expanded, converted or altered (on its exterior), in whole or in part, except for the following permitted uses and structures, unless otherwise provided in this Ordinance. All such structures and uses shall be consistent with and shall promote the purposes and intent of this Section and Ordinance.
 - a. Principal Uses and Structures.
 - (1) Single family dwellings.

- (2) Two-family dwellings.
- (3) Multiple family dwellings, including townhouses, apartment buildings, and buildings housing more than two condominium units. There shall not be more than twelve (12) dwelling units and/or condominium units per building.
- (4) Recreational areas for the private uses of PUD residents or condominium owners, including but not limited to, golf courses, tennis courts, playgrounds, swimming pools, skiing runs, and tobogganing hills.
- (5) Open spaces including, but not limited to: fields, wooded areas, streams, ponds, parks and scenic hills.

b. Accessory Uses and Structures.

- (1) Garages and carports.
- (2) Storage buildings, not to exceed four-hundred (400) square feet of floor area per building.
- (3) Clubhouses and structures incidental to permitted recreational uses, including eating and drinking establishments to a maximum usage of ten percent (10%) of the total site, and providing that the residential PUD or residential condominium development has a minimum site area of forty (40) acres. The uses provided in this paragraph shall be limited to PUDs and condominium developments in the A/R and R-2 districts.
- (4) Barns and related structures associated with recreational activities and/or maintenance activities, provided that any such structure shall be located no closer than one-hundred (100) feet from the perimeter boundary line of the PUD or the condominium development.

5. Permitted Uses and Structures, Commercial PUD and Commercial Condominium Development. Within any commercial PUD or commercial condominium development permitted as a conditional use in this Ordinance, no structure shall be used, erected, expanded, converted or altered (on its exterior), in whole or in part, except for the following permitted uses and structures, unless otherwise provided in this Ordinance. All such structures and uses shall be consistent with and shall promote the purposes and intent of this Section and Ordinance.

- a. Principal Uses and Structures shall be those permitted principal uses and structures that are permitted in the district where the commercial PUD or commercial condominium development is located, and any combination of such permitted uses and structures.
- b. Accessory uses and structures shall be those permitted accessory uses and structures that are permitted in the district where the commercial PUD or commercial condominium development is located.

6. Permitted Uses and Structures, Industrial PUD and Industrial Condominium Developments. Within any industrial PUD and industrial condominium development permitted as a conditional use in this ordinance, no structure shall be used, erected, expanded, converted or altered (on its exterior), in whole or in part, except for the following permitted uses and structures, unless otherwise provided in this ordinance:

- a. Principal Uses and Structures shall be those permitted principal uses and structures that are permitted in the district where the industrial PUD or industrial condominium development is located, and any combination of such permitted uses and structures.
 - b. Accessory uses and structures shall be those permitted accessory uses and structures that are permitted in the district where the industrial PUD or industrial condominium development is located.
7. General Site Requirements. For any PUD or condominium development, the following site development requirements shall apply:
- a. Access Drive - There shall be hard-surfaced access drives which shall provide unrestricted access to a public road from the PUD or condominium development site. (*Amended Ord. 101, eff 11/27/01*)
 - b. Parking - There shall be hard-surfaced, well-drained, off-street parking areas within the PUD or condominium development at the following ratio:
 - (1) Residences - two (2) spaces per dwelling.
 - (2) Eating and drinking places whether in residential or commercial PUD or condominium development - one (1) space for each three (3) seats provided for patron use plus one (1) space for each employee.
 - (3) Mixed or combined uses on the same lot of a PUD - sum of requirements for the individual uses computed separately.
 - (4) Commercial and industrial condominium developments - sum of the requirements for the individual uses of each condominium unit computed separately under Article VIII of this Ordinance.
8. All buildings shall be a minimum of twenty-five (25) feet apart.
9. Density - Average density of uses shall not exceed that of the district in which the PUD or condominium development is to be located.
10. Open Space for Residential PUDs and Residential Condominium Developments - A minimum of thirty (30%) percent of the PUD or condominium development shall remain as open space for the common use of all PUD residents or condominium owners. Said open space may remain in a natural vegetative condition or may be developed with recreational facilities consistent with the natural character of the Township. Examples of said facilities include non-motorized bike paths, golf courses, hiking trails, marinas, and similar facilities.
11. The application for a Conditional Use Permit for the PUD or condominium development shall be accompanied by a site plan in accordance with the provisions of Section 601:2 and Article VII. The Planning Commission shall have the right to waive submission of a separate site plan or any information required for a site plan for a condominium development, if the Planning Commission determines that the Master Deed, including its subdivision/development plan, provided under Section 601:6.17.3c, is sufficient for its determination.

12. Revisions of Approved Planned Unit Development (PUD)/Condominium Developments. Any changes or deviation from an approved final site plan for a Planned Unit Development (PUD)/Condominium Development shall be submitted in writing to the Zoning Administrator. If the Zoning Administrator determines the change to be minor, the Zoning Administrator may approve the change in writing and shall place a copy of such approval together with the applicant's supporting documentation of the change or deviation in the file for the Planned Unit Development (PUD)/Condominium Development. Any proposed significant change to an approved final site plan shall be subject to the review of the Planning Commission and the review and approval of the Township Board as provided by this Section for the original review and approval of preliminary and final site plans for Planned Unit Development (PUD)/Condominium Developments. *(Amended Ord. 108 eff 11/25/03)*

13. Approval Effective for One (1) Year. The conditional use approval for a Planned Unit Development (PUD)/Condominium Development shall be effective for a period of one (1) year from the date of approval by the Township Board. All necessary permits for the project must be obtained and substantial construction of the site improvements must be commenced within such one (1) year period or the conditional use approval shall automatically expire. The one (1) year period may be extended by the Township Board in its discretion for a period of time as determined by the Township Board if the extension is applied for by the applicant within the one (1) year period. Where a Planned Unit Development (PUD)/Condominium Development is approved for construction in phases, the approval for each phase shall be subject to and limited by the provisions of this Section for purposes of the duration of conditional use approval of each phase. In any event, the construction of a Planned Unit Development (PUD)/Condominium Development or of a phase of such project, as the case may be, shall be completed within two (2) years from the date of the approval or the date of approval of any extension as provided in this Section. With regard to a Planned Unit Development (PUD)/Condominium Development, this Section shall control over the provisions of Section 601:2.4. *(Amended Ord. 108 eff 11/25/03)*

14. Area Requirements – Refer to Sec. 320 SCHEDULE OF DISTRICT REGULATIONS – II CONDITIONAL USES, Note 1 for minimum area requirements in non-sewered locations. *(Added Ord. 109 eff. 10/28/04)*

Sec. 601:6 18. Retail Sales of Agricultural Equipment, Supplies and Services.

1. Buildings or outdoor display areas which abut a residential lot or parcel shall be screened by a dense, evergreen, vegetative buffer not less than five (5) feet in height.
2. Display and/or storage of equipment or other material shall not be permitted in any required front or side yard setback.
3. Inoperable machinery or equipment or parts thereof shall be contained entirely within an enclosed building or screened area.
4. There shall be no outside storage of loose material capable of being removed off premises by natural forces.
5. There shall be no storage of material in such a fashion as to provide the potential for ground water contamination.

Sec. 601:6 19. Rooming houses.

1. Individual sleeping units/rooms shall not exceed four (4).

Sec. 601:6 20. Salvage Yards.

1. Salvage yards shall comply with the outdoor storage requirements of Section 501:7.

Sec. 601:6 21. Sanitary landfills.

1. A sanitary landfill as defined by Michigan State Act 641, P.A. 1978, as amended Solid Waste Management Act, shall be the only approved method of outdoor disposal of refuse.
2. There shall be no burning of refuse in a sanitary landfill.
3. A landfill shall not be construed to mean an open dump or a modified open dump.
4. All sanitary landfill operations shall take place no closer than three-hundred thirty (330) feet from any property line.
5. Any land to be used for a sanitary landfill shall be surrounded by a protective barrier to contain any blowing debris and to discourage entrance to the site except through a controlled gateway.
6. A landfill site shall be easily accessible in all weather conditions via an all season roadway having no weight restrictions.
7. The landfill shall not accept any hazardous wastes.

Sec. 601:6 22. Schools, public or private. (Refer to Sec. 601:5, General Standards only).

Sec. 601:6.23. Sexually Oriented Businesses and Related Activities. (Added Ord. 99, eff 12/9/99)

1. Preamble. There is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them; and, have serious harmful, negative and objectionable operational characteristics, particularly when they are located in close proximity to each other.

It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or Article I, Section 5 of the Michigan Constitution of 1963, but to enact content neutral regulations which address the adverse secondary effects of sexually oriented businesses in order to protect the health, safety and general welfare of the Township.

The Township recognizes that state and federal law prohibit the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities that may occur within the Township.

2. Intent and Purpose. It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote and ensure the health, safety, and general welfare of the citizens of the Township and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses within the Township. The provisions of this Ordinance do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, and Article I, Section 5 of the Michigan Constitution of 1963, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials.

3. Definitions. As used in this Section, the following terms shall have the indicated meanings:
- A. **ADULT BOOK OR VIDEO STORE** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, films, computer software or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein.
 - B. **ADULT ENTERTAINMENT ESTABLISHMENT:** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an admission fee and which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".
 - C. **ADULT MINI-THEATER:** A commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, digital video discs, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".
 - D. **ADULT MOTION PICTURE THEATER:** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, digital video discs, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," as defined herein.
 - E. **ADULT NOVELTY BUSINESS:** A business that has as a substantial or significant portion of its activity in the sale of devices which stimulate human genitals or devices designed for sexual stimulation.
 - F. **NUDITY or STATE OF NUDITY:** The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering or the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if complete and opaquely covered. For purposes of this Section, "Nudity" or a "State of Nudity", does not include:
 - 1. A woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;
 - 2. Material as defined in Section 2 of Michigan Act 343 of 1984, as amended, or any similar successor statute; or
 - 3. Sexually explicit visual material as defined in Section 3 of Michigan Act 33 of 1978, as amended, or any similar successor statute.
 - G. **PERMIT:** A Conditional Use Permit for the operation of a sexually oriented business and issued pursuant to this Article and this Section.
 - H. **PERMITTEE:** A person in whose name a permit to operate a sexually oriented business has been issued as well as the individual listed as an applicant on the application for a permit.
 - I. **PERSON:** An individual, proprietorship, partnership, limited liability company, corporation, association, or other legal entity.
 - J. **SEXUALLY ORIENTED BUSINESS:** An adult book or video store, adult motion picture theater, adult mini-theater, adult novelty business, or adult entertainment establishment.
 - K. **SPECIFIED ANATOMICAL AREA** includes:

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

L. SPECIFIED SEXUAL ACTIVITIES includes:

1. Acts of human masturbation, sexual intercourse, or sodomy;
2. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
3. Human genitals in a state of sexual stimulation or arousal.

M. TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities, partnership interests, membership interest or indicia of ownership rights which constitute a controlling interest in the business, whether by sale, exchange, or similar means;
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

4. Permit Required.

- A. It shall be unlawful for a person to operate a sexually oriented business without a valid Conditional Use Permit issued by the Township Zoning Administrator.
- B. An application for a permit must be made on a form provided by the Township. The application must be accompanied by a sketch or diagram showing the configuration of the business premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- C. An application for a permit shall be made and delivered to the Zoning Administrator by the intended operator of the sexually oriented business. The intended operator shall be required to give the following information on the application form:
 - 1.a. The name and street address (and mailing address, if different) and driver's license number of the intended operator if he/she has a driver's license.
 - b. The name and street address (and mailing address, if different) of the owner(s), if different than the intended operator.
 2. The name under which the sexually oriented business is to be operated and a general description of the services to be provided.
 3. The telephone number of the sexually oriented business or, if unavailable, the operator's telephone number.
 4. The address, tax parcel number, and legal description, of the tract of land on which the sexually oriented business is to be located.
- D. The fact that a person possesses other types of state or county permits and/or licenses does not exempt him from the requirement of obtaining a Conditional Use Permit from the Township under this Section.
- E. The application shall be accompanied by the following:
 1. Payment of the application fee in full;
 2. Proof of current fee ownership of the tract of land on which the sexually oriented business is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;

3. If the persons identified as the fee owner(s) of the tract of land in Item 2 above, are not also the owners of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other documents evidencing the legally enforceable right of the ownership or proposed owners of the premises to have or obtain the use and possession of the premises or portion thereof that is to be used for the purpose of the operation of the sexually oriented business.

F. The application shall contain a statement under oath that:

1. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
2. The applicant has read the provisions of this Section.

5. Issuance of Permit.

A. Upon receipt of an application and fee, the Zoning Administrator shall promptly review the application and supporting documents for completeness and proper execution. If found to be complete and properly executed, the Zoning Administrator shall forward the application and other documents to the Planning Commission for review and hearing under Section 601:3.4 and 5. The Planning Commission shall conduct the public hearing not more than forty-five (45) days from the date the Zoning Administrator receives the completed application. The review and decision of the Township Board on conditional use approval under Section 601:3.6 and any decision on approval of a site plan under Article VII shall occur no later than one hundred and twenty (120) days from the date the Zoning Administrator receives the completed application. The Township's Board shall grant conditional use approval if the application is in compliance with the requirements contained in Subsections 601:6.23.9, .10 and .11 and the following requirements are met:

1. The applicant is eighteen (18) years of age or older.
2. The applicant shall not be overdue or delinquent in payment of taxes, fines, or penalties assessed against or imposed upon applicant in relation to a sexually oriented business conducted in the Township.
3. The applicant has made full and accurate representations and has truthfully answered all questions and requests for information on the application form.
4. The applicant shall not have been denied a permit by the Township to operate a sexually oriented business within the preceding twelve (12) months, and has not had a license to operate a sexually oriented business in the Township revoked within the preceding twelve (12) months.
5. The premises to be used for the sexually oriented business has been approved by the health department for the use intended, if applicable.
6. The applicant has not been convicted within five (5) years immediately preceding the application date of any of the following criminal offenses in any jurisdiction:
Prostitution, procuring a prostitute, or solicitation of a prostitute; sale, distribution or display of obscene material; soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor; possession, sale or distribution of child pornography; public lewdness; indecent exposure; indecent conduct with a child; sexual assault or rape; incest; or sexual solicitation of a child.
The applicant shall certify, as a part of the application, that he/she/it has not been convicted of any one or more of the foregoing criminal offenses.

B. The Planning Commission may recommend and/or the Township Board may impose reasonable conditions in conjunction with the approval of a Conditional Use Permit for a Sexually Oriented Business. The conditions imposed shall be limited to conditions necessary to ensure that the sexually oriented business will not be unreasonably detrimental to the public health, safety, or general welfare of the Township; nor unreasonably injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; nor unreasonably impede the normal and orderly development and improvement of the surrounding property for uses permitted under the Zoning Ordinance.

- C. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
6. Inspection. An applicant or permittee shall allow the Township Zoning Administrator or representatives of the Township Code Enforcement Office to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.
 7. Action to Revoke Permit. The Zoning Administrator shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:
 - A. A permittee gave false or materially misleading information in the application process.
 - B. A permittee has been convicted of using and/or allowing the use of the controlled substances on or in the premises of the sexually oriented business.
 - C. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitating prostitution, on or in the premises of the sexually oriented business or elsewhere.
 - D. A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof on or in the premises of the sexually oriented business or elsewhere.
 - E. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the sexually oriented business.
 - F. There has been a transfer of ownership or control of the sexually oriented business without the prior approval, as required herein.
 8. Transfer of Permit. A permittee shall not transfer a Conditional Use Permit to another person, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. Transfers of the ownership, control and/or operation of a Sexually Oriented Business shall require the new person or entity to comply with the application and approval provisions of this Section.
 9. Location Restrictions.
 - A. A sexually oriented business may not be operated within one thousand (1,000) feet of:
 - A church, synagogue or regular place of religious worship;
 - A public or private school; or
 - Another sexually oriented business.
 - B. A sexually oriented business may not be operated within four hundred fifty (450) feet of:
 - A boundary of any residential zoned district or any residential structure;
 - A licensed day care center; or
 - A public park.
 - C. A sexually oriented business may not be operated within five hundred (500) feet of:
 - A campground or recreational vehicle park; or
 - An outdoor recreational park.
 - D. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.

- E. For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structure or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private school, or to the nearest boundary of an affected public park, residential district, or residential lot, licensed day-care center, camp ground/recreational vehicle park or an outdoor recreational park.
 - F. For purposes of Subsection D of this section, the distance between any two sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.
 - G. A sexually oriented business may only be operated in a commercial (C-2 and C-3) zoning district as designated in this Ordinance. *(Amended by Ord 121, eff 10/24/08)*
10. Regulations Pertaining to Adult Entertainment Establishments. A person who operates or causes to be operated an adult entertainment establishment shall comply with the following requirements:
- A. The application for a Conditional Use Permit shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. Unless it is for a new commercial structure to be built, professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.
 - B. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Administrator.
 - C. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - D. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
 - E. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection A of this section.
 - F. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.
 - G. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

- H. The premises shall meet all barrier free requirements and building code requirements imposed by the Pere Marquette Charter Township Building and Inspections Department.
 - I. Hours of operation shall be limited to 8:00 a.m. to 2:00 a.m.
 - J. When live performers are involved in the sexually oriented business, privacy dressing rooms are to be provided, and an aisle between the performance area and the dressing room shall be kept clear and unobstructed so the performers can pass through without contact with patrons.
 - K. Parking layouts shall not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
 - L. All off street parking areas shall be sufficient for all vehicles patronizing the establishment, shall be illuminated during all hours of operation with down shining lighting, and shall be open to view from the adjacent street.
 - M. Grounds maintenance shall include routine clearing of rubbish and trash from the grounds, and hauling away of same at least once-per week, as weather permits.
 - N. No person shall reside in or permit any person to reside in the premises of an adult sexually oriented business.
 - O. All performers shall be salaried by the operators/owners of the sexually oriented business.
 - P. No person shall become the lessee or sublessee of any property for the purpose of using said property for a sexually oriented business without the express written permission of the owner of the property.
 - Q. The maximum number of persons, including patrons, performers and operators, allowed in a structure at any one time shall be as established by the Township's current Building Code, however, the number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed one person for each fifteen (15) square feet of public net floor space, exclusive of restrooms, dance floor, administrative areas, hallways, etc.
11. Exterior Portions of Sexually Oriented Business.
- A. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
 - B. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.
 - C. Signs shall contain no photographs, silhouettes, drawings or pictorial representations of any kind, and may contain only the name of the enterprise.
12. Persons Younger Than Eighteen Prohibited From Entry; Attendant Required.
- A. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
 - B. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually

oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

1. A valid operator's, commercial operator's, or chauffeur's license; or
2. A valid personal identification certificate reflecting that such person is eighteen (18) years of age or older.

13. Exemption. The following are exempt from the provisions of this Section: the appearance of a person in a state of nudity in a modeling class, art class, dance class, theater class/production operated:

- A. By a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;
- B. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

14. Notices.

- A. Any notice required or permitted to be given by the Township or other agency under this Ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Township, or any notice of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Township shall cause it or a replica thereof to be posted at the principal entrance to the establishment.
- B. Any notice required or permitted to be given to the Township by any person under this Ordinance shall not be deemed given until and unless it is received in the principal office of the Township Planning Department.
- C. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Township, in writing, of any change of residence or mailing address.

15. Non-Conforming Uses. Any business lawfully operating on the effective date of this Ordinance that is in violation of the location or structural configuration requirements of this Ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. If two or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is non-conforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a church, synagogue, or regular place of religious worship, or public or private school, within one thousand (1,000) feet, or the location of a boundary of any residential zoned district or any residential structure, a licensed day care center or a public park, within four hundred fifty (450) feet or the location of a campground/recreational vehicle park or an outdoor recreational park within five hundred (500) feet. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

16. Injunction. A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by this Zoning Ordinance.

17. Variances and Limitation on Re-application. Relief from any dimensional requirement of this Ordinance may be granted by the Zoning Board of Appeals in accordance with Article XI. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

No application for a waiver of a spacing requirement or other Zoning Board of Appeals approval for a regulated use which has been denied wholly or in part, or granted with conditions shall be resubmitted for a period of one (1) year from the date of said order, except on the grounds of new evidence not previously available or proof of changed conditions.

18. Expansion and Discontinuance.

- A. Once established, a sexually oriented business may not be expanded in any manner without first applying for and receiving the approval of the Zoning Administrator.
- B. If the regulated use is voluntarily discontinued, the use may not be re-established without first applying for and receiving the approval of the Zoning Administrator. (Also see Article XI)
- C. Nothing herein shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure under the regulation of this Ordinance, which is damaged by fire collapse, explosion, or any other involuntary cause.

Sec. 601:6 24. State Licensed Residential Facility (Group Home). (Amended Ord 99 to renumber, eff 12/9/99)

- 1. Group homes shall meet the minimum dimensional regulations for single family dwellings as required pursuant to the district in which the facility is to be located.
- 2. Adequate driveway space and parking area must be available on-site to accommodate all vehicles of residents, employees, and visitors of the group home.
- 3. Group homes shall be architecturally/aesthetically compatible with surrounding homes and structures.

Sec. 601:6 25. Veterinary Clinics. (Amended Ord 99 to renumber, eff 12/9/99)

- 1. Buildings wherein animals are kept, dog runs and/or exercise areas shall not be located nearer than one-hundred (100) feet to any adjacent occupied dwelling or building used by the public, and shall not be located in any required yard setback area.
- 2. All other principal use activities shall be conducted entirely within an enclosed building.
- 3. Buildings which abut a residential lot or parcel shall be screened by a dense, evergreen, vegetative buffer not less than five (5) feet in height.

Sec. 601:6 26. Warehousing, Indoor Storage, and Self-Storage. (Amended Ord 93 eff 5/26/98) (Amended Ord. 99, to renumber, eff 12/9/99)

- 1. The Township may require perimeter security fencing and/or landscaping around the site. (Amended Ord 93 eff 5/26/98)

2. No toxic, hazardous, or flammable liquids or chemicals may be stored unless the applicant satisfactorily demonstrates that the health, safety, and welfare of adjacent property owners will not be impaired as a result of said storage.
3. Copies of any required state or federal environmental or safety permits associated with product storage shall be filed with the Township.

Sec. 601:6.27 Site Condominium Projects. *(Added by Ord. amendment 102 eff 4/5/02) (Amended Ord. 108, eff 11/25/03)*

1. Purpose and Intent. The Condominium Act, among other matters, permits the development of a parcel of land for a single-family residential development in the form of a Site Condominium Project as an alternative to a development under the Land Division Act. The purpose and intent of this Section is to provide appropriate regulations and procedures for approval under which a Site Condominium Project for detached single-family residential dwellings in the A/R, R-1, and R-2 Zoning Districts, and two-family and multi-family residential dwellings in the R-2 Zoning District may be developed in appropriate Zoning Districts in a manner which is consistent with the health, safety and welfare of the Township and its residents.
2. Administration and Procedure.
 - a. A Site Condominium Project must obtain authorization through the process for issuance of a Conditional Use Permit as provided in Section 601:3 of this Ordinance.
 - b. In addition to all other requirements to which any Conditional Use must conform under this Ordinance, a Site Condominium Project shall meet minimally all standards in this Section and all applicable Federal, State, County and Township laws, ordinances and regulations.
 - c. Application for review and approval of a Site Condominium Project shall be initiated by filing with the Zoning Administrator a completed application form, payment of the application fee as set by the Township Board and submission of nine (9) copies of the preliminary Site Condominium Project Plan which complies with Subsection 5 of this Section. *(Amended Ord. 108, eff 11/25/03)*
 - d. The Zoning Administrator shall review the application and the preliminary Site Condominium Project Plan to determine their completeness and to provide any appropriate comments to the Planning Commission. If the preliminary Site Condominium Project Plan and/or the application are not complete, such documents shall be returned to the applicant with a written explanation of any deficiencies. A corrected application and/or preliminary Site Condominium Project Plan may be filed without payment of a new application fee if submitted within six (6) months of the date of the return of the documents to the applicant. If complete, the Zoning Administrator shall forward to the Planning Commission, the application and the copies of the preliminary Site Condominium Project Plan, together with any comments.
 - e. The Planning Commission shall conduct its review and a public hearing and take action in accordance with Section 601:3.4-5 of this Section.
 - f. After the Planning Commission has completed its review and recommendations, the applicant shall submit nine (9) copies of a final Site Condominium Project Plan which complies with the requirements of this Subsection 2.f. and Subsection 5. Such final Site

Condominium Project Plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final Site Condominium Project Plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission. Changes made to the plan other than those necessary to incorporate the recommendations of the Planning Commission shall be reviewed by the Planning Commission as provided by this Section prior to approval of the plan by the Township Board. *(Amended Ord. 108, eff 11/25/03)*

- g. The Township Board shall review and decide the application for Conditional Use approval of a Site Condominium Project Plan in accordance with the provisions of Section 601:3.6-7. In addition, as a condition of approval:

- (1) The Township Board shall require that the plan be submitted to the Mason County Health Department, Mason County Road Commission, Mason County Drain Commission, Michigan Department of Natural Resources, Michigan Department of Public Health, and other appropriate state and county review and enforcement agencies for their successors, to the extent that any such agency has direct authority or other oversight over any aspect of the proposed Site Condominium Project.

- (2) The Township Board may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Board covering the estimated cost of improvements associated with the Site Condominium Project for which approval is sought be deposited with the Township as provided by the Zoning Act. *(Amended Ord. 118, eff 5/22/07)*

3. Permitted Uses and Structures.

- a. Single-family detached dwellings in the A/R, R-1 and R-2 Zoning Districts.
- b. Two-family and multi-family residential dwellings in the R-2 District.
- c. Accessory Structures for a single-family dwelling may include one attached or detached garage. Accessory Structures for a single family dwelling may also include one (1) utility building not to exceed two-hundred (200) square feet and not to exceed 12 feet in height. *(Amended Ord. 108, eff 11/25/03)*

4. Standards and Requirements for Review. An application and the submitted plans for Conditional Use approval of a Site Condominium Project shall be reviewed in accordance with the standards for site plan review under this Ordinance and the following standards and requirements:

- a. In its review of a Site Condominium Project Plan, the Planning Commission may consult with the Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, Township Planner, or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, and compliance of the proposed project with all requirements of the Condominium Act or other applicable laws, ordinances, or regulations.

- b. The building site for each Site Condominium Unit shall comply with all applicable regulations of Section 320 of this Ordinance, including, without limitation, minimum lot area, minimum lot width, required front, side, and rear yards, and maximum building height. For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front, side, and rear yards shall be determined by measuring the distance from the equivalent front, side, or rear yard boundaries of the building site to the closest respective front, side, or rear boundary of the building envelope. With regard to building height, the condominium documents shall expressly provide that no building shall exceed the maximum building height permitted by the applicable zoning district regulations.
- c. If a Site Condominium Project is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the Mason County Road Commission and shall be appropriately dedicated to the public. All private streets in a Site Condominium Project shall be developed to the minimum design, construction, inspection, approval, and maintenance requirements and any other applicable standards of this Ordinance and other ordinances relating to private roads. In addition to any such requirements, a private road in a Site Condominium Project shall meet the minimum standards for local roads, including width of road right of way, as established from time to time by the Mason County Road Commission. Approval of a Site Condominium Project containing private roads does not assure that such roads will be acceptable for subsequent dedication to the public and acceptance by the Mason County Road Commission, whose rules and regulations shall govern. (*Amended Ord. 108, eff 11/25/03*)
- d. (1) A Site Condominium Project, proposed to be located in the Township areas north of the Pere Marquette River, shall be connected to the Township's public water system and public sanitary sewer system, if available. For purposes of this Section, the Township's public water and/or public sanitary sewer system shall be deemed to be available if a water main or a sanitary sewer line to which connection can be made (in light of capacity, engineering, and other requirements) is located within two thousand seven hundred feet (2,700') of the Site Condominium Project's nearest entrance.
- (2) For a Site Condominium Project proposed to be located in an area of the Township south of the Pere Marquette River, the Township's public water and public sanitary sewer systems are not available. However, at such time as the Township's water system or sanitary sewer system may be extended by the Township to areas south of the Pere Marquette River, proposed projects shall comply with d.(1) above.
- (3) In the event that the Township extends its water system and/or its sewer system so that it becomes available, as determined under Section d.(1), to any existing Site Condominium Project, then such project shall be required to connect to such available system as is otherwise provided by applicable law, ordinance or regulation. However, no connection to the Township water system and/or sewer system is required so long as the private water and/or sewer system continues to receive approval permits from the Mason County Health Department and Michigan Department of Environmental Quality.
- (4) If the Township's water system and/or the sanitary sewer system is not available to provide service to an Site Condominium Project, the project shall be served by privately owned water and septic/sewage systems (for individual lots or for a community system) that

have received all necessary approvals and permits by the State, the Mason County Health Department and/or the Township in accordance with applicable standards and rules. See Sec. 320 SCHEDULE OF DISTRICT REGULATIONS – II CONDITIONAL USES, Note 1 for minimum area requirements for non-sewered locations. (*Amended Ord. 108, eff 11/25/03 and Ord. 109, eff 10/28/04*)

- e. A minimum of thirty (30%) percent of the site Condominium Project shall remain as open space for the common use of all site condominium owners. Said open space may remain in a natural vegetative condition or may be developed with recreational facilities consistent with the natural character of the Township. Examples of said facilities include non-motorized bike paths, golf courses, hiking trails, marinas, and similar facilities. Roads shall not be considered open space for the purposes of this Ordinance.
- f. A street light shall be installed at each intersection where the streets developed as part of the Site Condominium Project intersect with a previously established public road or street.

5. Contents of Site Condominium Project Plan. Any Site Condominium Project Plan shall include all the information and documents required by Section 66 of the Condominium Act, by this Subsection and by the Planning Commission as determined necessary for review of a preliminary Site Condominium Project Plan or by the Township Board as determined necessary for review of a final Site Condominium Project Plan. In addition, a Site Condominium Project Plan shall include the following:

- a. The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed. Any provisions for time-share units, time-share estates, time-share licenses, leasehold condominiums, or other restrictions or regulations concerning co-ownership, leasing or temporary occupancy of condominium units that shall be included in the master deed.
- b. A storm drainage and storm water management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
- c. A utility plan showing all water and sewer lines and easements granted to the appropriate municipality for installation, repair, and maintenance of all utilities.
- d. A narrative describing the overall objectives of the proposed Site Condominium Project.
- e. A narrative describing the proposed method of providing potable water supply, waste disposal facilities, and public and private utilities.
- f. A street construction, paving and maintenance plan for all public and private streets within the proposed condominium project.
- g. A schedule for the dates of the completion of the construction and/or installation of utilities and streets.

6. Construction in Compliance With Approved Final Site Condominium Project Plan. No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed Site Condominium Project except in compliance with a final Site Condominium Project Plan as approved by the Township Board, including any conditions of approval.

7. Commencement of Construction; Issuance of Permits. No construction, grading, tree removal, soil stripping, or other site improvements or changes shall be commenced by any person, and no building, construction, or grading permits shall be issued by the building inspector for a Site Condominium Project until:
 - a. A final Site Condominium Project Plan has been approved by the Township Board;
 - b. All conditions to commencement of construction imposed by the Township Board have been met; and
 - c. All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the Project.

8. Expandable or Convertible Condominium Projects. Approval of a final Site Condominium Project Plan shall not constitute approval of expandable or convertible portions of a Site Condominium Project unless the expandable or convertible areas were specifically reviewed and approved by the Township Board in compliance with the procedures, standards, and requirements of this Section.

9. Revisions of Approval Final Site Condominium Project Plan. Any changes or deviation from an approved final site plan for a Site Condominium Project shall be submitted in writing to the Zoning Administrator. If the Zoning Administrator determines the change to be minor, the Zoning Administrator may approve the change in writing and shall place a copy of such approval together with the applicant's supporting documentation of the change or deviation in the file for the Site Condominium Project. Any proposed significant change to an approved final site plan shall be subject to the review of the Planning Commission and the review and approval of the Township Board as provided by this Section for the original review and approval of preliminary and final site plans for Site Condominium Projects. *(Amended Ord. 108, eff 11/25/03)*

10. Incorporation of Approved Provisions in Master Deed. All provisions of a final Site Condominium Project Plan which are approved by the Township Board as provided by this Section shall be incorporated, as approved, in the master deed for the Site Condominium Project. A copy of the master deed as filed with the Mason County Register of Deeds for recording shall be provided to the Township within ten (10) days after filing the plan with the County.

11. Approval Effective for One (1) Year. The conditional use approval for a Site Condominium Project shall be effective for a period of one (1) year from the date of approval by the Township Board. All necessary permits for the project must be obtained and substantial construction of the site improvements must be commenced within such one (1) year period or the conditional use approval shall automatically expire. The one (1) year period may be extended by the Township Board in its discretion for a period of time as determined by the Township Board if the extension is applied for by the applicant within the one (1) year period. Where a Site Condominium Project is approved for construction in phases, the approval for each phase shall be subject to and limited by the provisions of this Section for purposes of the duration of conditional use approval of each phase. In any event, the construction of a Site Condominium Project or of a phase of such project, as the case may be, shall be completed within two (2) years from the date of the approval or the date of approval of any extension as provided in this Section. With regard to a Site Condominium Project, this Section shall control over the provisions of Section 601:2.4. *(Amended Ord. 108, eff 11/25/03)*

12. Exemption of Existing Projects. This Section shall not apply to a Site Condominium Project which is determined by the Township Board to have met the following conditions as of the effective date of this Section (an "existing project"):
 - a. A condominium master deed was recorded for the project with the Mason County Register of Deeds in accordance with the requirements of the Condominium Act and other applicable laws and ordinances; and

- b. The existing project fully complies with all other applicable requirements under Township Ordinances in effect on the date when the condominium master deed was recorded.

The exemption provided by this Section shall apply only to an existing project precisely as described in the condominium master deed recorded for the existing project on the effective date of this Section, and not to any subsequent expansion, conversion, or replatting of the existing project or subsequent modification or amendment to the master deed, all of which shall be fully subject to the review and approval requirements as provided by this Section.

Sec. 601:6 28 Concentrated Animal Feeding Operations (Amended Ord. 101 eff 11/27/01)

Site plan review applications for concentrated animal feeding operations shall include Site Selection and Odor Management Plans approved by the Michigan Department of Agriculture.

Sec. 601:6 29 Open Space Development Projects. (Amended Ord. 104, eff 11/1/02)

1. Purpose and Intent. This Section is intended to provide a property owner with the option to develop property zoned for residential development in a manner that allows no more than fifty percent (50%) of the property to be developed with the same number of single family dwelling units that could otherwise be developed on the entire property, provided that the remaining property (at least fifty percent (50%) of the property) is permanently preserved as open space in an undeveloped state, in accordance with the Zoning Act, as amended. These provisions are intended to result in land development substantially consistent with the underlying zoning, but to provide a degree of flexibility in design to meet the unique natural conditions of a particular site; to permit innovation in design to create a higher quality development than could otherwise be possible with the underlying zoning, and to preserve open space. (Amended Ord. 118, eff 5/22/07)
2. Open Space Development Project. Notwithstanding any provisions of this Ordinance to the contrary, a Master Parcel that meets the eligibility requirements of Subsection 601:6.29.3 may be developed as a conditional use, at the option of the property owner, on a maximum of fifty percent (50%) of the area of the Master Parcel with the same number of dwelling units that the Township determines could otherwise have been developed on the entire Master Parcel under existing Township Ordinances and Federal, State and County laws, rules and regulations, while perpetually preserving a minimum of fifty percent (50%) of the area of the Master Parcel as open space.
3. Eligibility Requirements. A property owner may exercise the open space preservation option only with respect to a Master Parcel that meets the following requirements.
 - a. The Master Parcel must be zoned for residential development. For purposes of this section, the phrase “zoned for residential development” shall mean property in any zoning district that permits single family dwellings.
 - b. The Master Parcel must be zoned at a density equivalent to:
 - (1) two (2) or fewer dwelling units per acre if the Master Parcel is not served by a public sewer, or
 - (2) three (3) or fewer dwelling units per acre if the Master Parcel is served by a public sewer.With regard to lands zoned under such requirements, see Sections 302 (A-1 District) and 303 (A/R District).
 - c. The development of the Master Parcel must not be dependent upon the extension of a public sewer or public water supply system, unless the development of the Master Parcel without the exercise of the option would be dependent upon the extension of a public sewer or public water supply system.

- d. The Master Parcel, in whole or in part, must not have previously been developed under the open space preservation option. Once a property owner has exercised the open space preservation option with respect to a Master Parcel, no portion of that Master Parcel shall be eligible for any further or future open space preservation options.

4. Administration and Procedure.

- a. The applicant must demonstrate that Master Parcel proposed for the Open Space Development Project contains unique site conditions, significant natural features, large open spaces, or active agricultural land, which would be otherwise developed, but will be preserved as a result of the Open Space Development Project.
- b. An Open Space Development Project must obtain authorization through the process for issuance of a Conditional Use Permit as provided in Section 601:3 of this Ordinance.
- c. In addition to all other requirements to which any Conditional Use must conform under this Ordinance, an Open Space Development Project shall meet minimally all standards in this Section and all applicable Federal, State, County and Township laws, ordinances and regulations.
- d. Application for review and approval of an Open Space Development Project shall be initiated by filing with the Zoning Administrator a completed application form, payment of the application fee as set by the Township Board, submission of nine (9) copies of the preliminary Site Plan that complies with Subsection 601:6.29.7 of this Section, and submission of nine (9) copies of a Parallel Plan that complies with Subsection 601:6.29.8 of this Section.
- e. The Zoning Administrator shall review the application, the preliminary Site Plan and the Parallel Plan to determine their completeness and to provide any appropriate comments to the Planning Commission. If the application, the preliminary Site Plan, and/or the Parallel Plan are not complete, such documents shall be returned to the applicant with a written explanation of any deficiencies. A corrected application, preliminary Site Plan, and/or Parallel Plan may be filed without payment of a new application fee if submitted within six (6) months from the date of the return of the documents to the applicant. If the Zoning Administrator determines the application is complete, the Zoning Administrator shall forward to the Planning Commission the application and the copies of the preliminary Site Plan, Parallel Plan, and supporting documents together with any comments.
- f. The Planning Commission shall conduct its review and public hearing and take action in accordance with Section 601:3.4-5 of this Ordinance.
- g. After the Planning Commission has completed its review and recommendations, the applicant shall submit nine (9) copies of a final Site Plan that complies with the requirements of this Subsection 601:6.29.4.f, Subsection 601:6.29.7 and Section 701:2. Such final Site Plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final Site Plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final Site Plan shall otherwise be identical to the preliminary Site Plan that was reviewed by the Planning Commission. Changes made to the final Site Plan other than those necessary to incorporate the recommendations of the Planning Commission shall be reviewed by the Planning Commission as provided by this Section prior to approval of the Township Board.
- h. The Township Board shall review and decide the application for Conditional Use approval of an Open Space Development Project Plan in accordance with the provisions of Section 601:3.6-7. In addition, as a condition of approval:

- (1) The Township Board shall require that the plan be submitted to the Mason County Health Department, Mason County Road Commission, Mason County Drain Commission, Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Public Health, and other appropriate state and county review and enforcement agencies or their successors, to the extent that any such agency has authority or other oversight over any aspect of the proposed Open Space Development Project.
- (2) The Township Board may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township Board covering the estimated cost of improvements associated with the project for which approval is sought be deposited with the Township as provided by the Zoning Act. (*Amended Ord. 118, eff 5/22/07*)

5. Permitted Uses and Structures.

- a. Single-family detached dwellings in the A-1 and A/R Zoning Districts.
- b. Accessory Structures for a single-family dwelling, including a garage and one (1) storage building not to exceed two hundred (200) square feet.
- c. Agricultural uses and structures incidental to agricultural uses.
- d. Private open space and recreational facilities for use by residents and property owners of the Open Space Development Project.

6. Standards and Requirements for Review. An application and the plans submitted for Conditional Use approval of an Open Space Development Project shall be reviewed in accordance with the standards for site plan review under this Ordinance and the following standards and requirements.

- a. In reviewing the Open Space Development Project, the Planning Commission may consult with the Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, Township Planner, Township Water and Sewer Department, or other appropriate persons regarding the adequacy of the proposed open space or common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layouts and design, or other aspects of the proposed project, and compliance of the proposed project with all requirements of all other applicable laws, ordinances or regulations.
- b. The building site for each single-family dwelling unit shall comply with all applicable regulations of Section 320 of this Ordinance, including, without limitation, minimum lot area, minimum lot width, required front, side, and rear yards, and maximum building height.
- c. If an Open Space Development Project is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the Mason County Road Commission and shall be appropriately dedicated to and accepted by the public. All private streets in an Open Space Development Project shall be developed to the minimum design, construction, inspection, approval, and maintenance requirements and any other applicable standards of this Ordinance and other ordinances relating to private roads. In addition to

any such requirements, a private road in an Open Space Development Project shall meet the minimum standards, including width of road right-of-way, for local roads as established from time to time by the Mason County Road Commission. Approval of an Open Space Development Project containing private roads does not assure that such roads will be acceptable for subsequent dedication to the public and acceptance by the Mason County Road Commission, whose rules and regulations shall govern.

- d. (1) An Open Space Development Project, proposed to be located in the Township areas north of the Pere Marquette River, shall be connected to the Township's public water system and public sanitary sewer system, if available. For purposes of this Section, the Township's public water and/or public sanitary sewer system shall be deemed to be available if a water main or a sanitary sewer line to which connection can be made (in light of capacity, engineering, and other requirements) is located within two thousand seven hundred feet (2,700') of the Open Space Development Project's nearest entrance.
 - (2) For an Open space Development Project proposed to be located in an area of the Township south of the Pere Marquette River, the Township's public water and public sanitary sewer systems are not available. However, at such time as the Township's water system or sanitary sewer system may be extended by the Township to areas south of the Pere Marquette River, proposed projects shall comply with d.(1) above.
 - (3) In the event that the Township extends its water system and/or its sewer system so that it becomes available, as determined under Section d.(1), to any existing Open Space Development Project, then such project shall be required to connect to such available system as is otherwise provided by applicable law, ordinance or regulation. However, no connection to the Township water system and/or sewer system is required so long as the private water and/or sewer system continues to receive approval permits from the Mason County Health Department and Michigan Department of Environmental Quality.
 - (4) If the Township's water system and/or the sanitary sewer system is not available to provide service to an Open Space Development Project, the project shall be served by privately owned water and septic/sewage systems (for individual lots or for a community system) that have received all necessary approvals and permits by the State, the Mason County Health Department and/or the Township in accordance with applicable standards and rules.
- e. A minimum of fifty (50%) percent of the Open Space Development Project shall remain as open space to perpetually remain in an undeveloped natural state. The open space portion must remain perpetually in an undeveloped state by means of a recorded conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, subject to the approval of the Township Board. This open space may be used to preserve natural resources, natural features, or scenic or wooded conditions, agricultural use, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public. Roads, easements for access and utility easements shall not be considered open space for the purpose of this Ordinance.

- f. A street light shall be installed at each intersection where the streets developed as part of an Open Space Development Project intersect with a previously established public road or private street.
 - g. An Open Space Development Project shall be designed to provide natural or landscaped screening, or a combination thereof, within the setback adjacent to any public road to provide a visual screening of the development from the public road(s). Such screening design shall be shown on the Open Space Development Project Site Plan.
 - (1) Natural screening may consist of one or more of: existing trees/forested areas, topography, or agricultural crop lands.
 - (2) Landscaped screening may consist of one or more of: earthen berms, evergreen plantings, and other landscaped features designed for screening.
7. Contents of Open Space Development Project Site Plan. Any Open Space Development Project shall include all the information and documents required by this Subsection and by the Planning Commission as determined to be necessary for review of a preliminary Site Plan or by the Township Board as determined to be necessary for review of a final Site Plan. In addition, an Open Space Development Project Plan shall include the following.
- a. The use restrictions and maintenance provisions pertaining to the open space portion of the Open Space Development Project.
 - b. A storm drainage and storm water management plan, including all lines, swales, drains, basin, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
 - c. A utility plan showing all water and sewer lines and easements granted to the appropriate municipality or public utility for installation, repair and maintenance of all utilities.
 - d. A narrative describing the overall objectives of the proposed Open Space Development Project.
 - e. A narrative describing the proposed method of providing potable water supply, waste disposal facilities, and public and private utilities.
 - f. A street construction, paving and maintenance plan for all public and private streets within the proposed Open Space Development Project.
 - g. A schedule for the dates of the completion of the construction and/or installation of utilities and streets.
 - h. Arrangement and area calculations for the open space, including a description of the character of the open space lands, such as upland, wetlands, flood plains, dunes, farmlands, woodlands, etc.

- i. Developers planning an Open Space Development Project in more than one phase shall submit a site plan with respect to each proposed phase, which shall stand alone in meeting all Township requirements. Identification of the areas included in each phase, the density, lot area, setbacks of proposed single-family dwelling units within each phase and for the total Open Space Development Project shall be submitted. The applicant shall submit each phase of the Open Space Development Project for the review and approval by the Planning Commission and Township Board.
 - j. Minimum lot size option: predicated on soil type(s). See Section 320 SCHEDULE OF DISTRICT REGULATIONS - II. CONDITIONAL USES for the minimum lot area and yard requirements.
8. Parallel Plan Required. The number of single-family detached dwelling units permitted shall be determined through preparation of a Parallel Plan.
- a. In addition to the documents required to be submitted in Subsection 601:6.29.4. above, the applicant shall submit a Parallel Plan for the proposed Open Space Development that is consistent with State, County and Township requirements and design criteria for a tentative preliminary plat, including, without limitation, the requirements of this Ordinance and the Township Subdivision Ordinance. The Parallel Plan shall meet all standards for lot size, lot width and setbacks as required by the underlying zoning district, shall include public roadway improvements, and shall contain an area which conceptually would provide sufficient area for storm water detention. The Parallel Plan shall contain enough detail to permit the Township to evaluate the buildable land and to determine the maximum “base density” of development. The Planning Commission may require additional detail or information as it may determine to be necessary to evaluate the feasibility of the Parallel Plan.
 - b. All lots shown on the Parallel Plan shall, for purposes of this Section, detail a building area of sufficient size and shape to accommodate the proposed main building within the setback requirements and other regulations, septic or well systems (where no public sanitary sewer or water system is to be used), and required driveways, streets and /or other means of permitted access.
 - c. The Township shall review the Parallel Plan and determine the number of lots that could be feasibly developed following the Parallel Plan. This number, as determined by the Township, shall be the base density, which shall be the maximum number of dwelling units allowable for the parcel to be developed unless the applicant qualifies for a density bonus.
9. Bonus Density Provisions. In order to preserve the maximum amount of open space, an Open Space Development Project may qualify for a density bonus, increasing the number of detached single family homes above the base density established for the zoning district as established in the Parallel Plan.
- a. Bonus allowances are cumulative, but in no case shall the density exceed thirty percent (30%) of the base density.

- b. The application of the bonus density allowance may reduce the minimum lot area for base density lots in Section 320 II, provided that in no event shall any lot be less than 12,000 square feet. The regulations for lot width, yard setbacks and maximum height shall not be affected by any bonus density allowance.
- c. The Open Space Development Project may qualify for density bonus in accordance with the following table.

Qualifying Factors	Density Bonus Percentage of Buildable Area
55-59% Open Space	10%
60-64% Open Space	20%
65% or greater Open Space	30%
Deeding of open space to home owners association when open space exceeds 50%	2 additional buildable sites

For example, if an Open Space Development preserves 60% of the Master Parcel as open space which is deeded to a homeowners association, then the development would have a bonus density equal to 20% of the base density and 2 additional buildings sites, such that if the base density was 100 sites, the development would be allowed a maximum of 122 building sites. If 65% of the Master Parcel is preserved as open space and the open space is deeded to the homeowners association, the bonus density would be 30% with no additional building sites allowed for such deeding of open space due to the 30% maximum limit, such that a 100 unit base density would permit 130 units with the bonus density allowance.

- 10. Construction in Compliance with Approved Final Site Plan. No excavation, construction, site improvements or other changes shall be made on the Master Parcel in connection with a proposed Open Space Development Project except in compliance with a final Site Plan as approved by the Township Board, including any conditions of approval. The Township Board may require additional financial security, in the form as provided in Section 4.h(2) as a condition to approving such request and may establish other reasonable conditions to such approval.
- 11. Commencement of Construction and Issuance of Permits. No construction, grading, tree removal, soil stripping, or other site improvements or changes shall be commenced by any person, and no permits for such work shall be issued by the building inspector for an Open Space Development Project until:
 - a. A final Open Space Development Site Plan has been approved by the Township Board;
 - b. All conditions to commencement of construction imposed by the Township Board have been met; and
 - c. All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the Project.

No building permit for any dwelling or other structures on building sites shall be issued until all site improvements, including without limitation, roads, utilities, drainage, and lighting are completed for the project, or for an approved phase of the project if the development is in phases. However, an applicant may request approval from the Township Board for the issuance of building permits prior to the completion of the site improvements. Such request may be made as part of the application for conditional use approval or may be made subsequent to the approval.

12. Revisions of Approved Open Space Development Projects. Any changes or deviation from an approved final Site Plan for an Open Space Development Project shall be submitted in writing to the Zoning Administrator. If the Zoning Administrator determines the change to be minor, the Zoning Administrator may approve the change in writing and shall place a copy of such approval together with the applicant's supporting documentation of the change or deviation in the file for the Open Space Development Project. Any proposed significant change to an approved final site plan shall be subject to the review of the Planning Commission and the review and approval of the Township Board as provided by this Section for the original review and approval of preliminary and final Site Plans for Open Space Development Projects.
13. Ownership of Open Space. Ownership of the open space area within an Open Space Development Project may remain with the original owner of the parcel, may be dedicated to the public or may be granted to a homeowner's association comprised of the project's lot owners, or to any other individual or group. The Township shall not be responsible for maintaining the designated open space, unless such open space areas are dedicated to the public and accepted by the Township.
14. Approval Effective for One (1) Year. The conditional use approval for an Open Space Development Project shall be effective for a period of one (1) year from the date of approval by the Township Board. All necessary permits for the project must be obtained and substantial construction of the site improvements must be commenced within such one (1) year period or the conditional use approval shall automatically expire. The one (1) year period may be extended by the Township Board in its discretion for a period of time as determined by the Township Board if the extension is applied for by the applicant within the one (1) year period. Where an Open Space Development Project is approved for construction in phases, the approval for each phase shall be subject to and limited by the provisions of this Section for purposes of the duration of conditional use approval of each phase. In any event, the construction of an Open Space Development Project or of a phase of such project, as the case may be, shall be completed within two (2) years from the date of the approval or the date of approval of any extension as provided in this Section. With regard to an Open Space Development Project, this Section shall control over the provisions of Section 601:2.4."

Sec. 601:6 30 Multi-Family Dwellings. (*Added Ord. 109, eff. 10/28/04*)

Multi-family dwellings shall be permitted in the Commercial (C-2) District provided that the following conditions are met:

1. Access shall be provided by either two, one-way drives of not less than fifteen (15) feet in width or one, two-way drive of not less than twenty (20) feet minimum width. Such drives shall be paved for such widths and shall provide separate, unrestricted access to a public road. Additional drive width shall be provided for utilities whenever feasible.
2. Refer to Sec. 320 SCHEDULE OF DISTRICT REGULATIONS – II CONDITIONAL USES, Note 1 for area requirements in non-sewered locations.

Sec. 601:6 31 Clinics. *See also Sec. 601:6.25 Veterinary Clinics (Added Ord 121, eff 10/24/08)*

1. Any establishment, including parking areas shall be screened on all sides which abut a residential lot or parcel. Said screen may be a fence or wall or planted materials which shall obscure vision and provide a separation between the two uses. Said screen shall be a minimum of five (5) feet in height.

Sec. 601:6 32 Theaters. *(Added Ord 121, eff 10/24/08)*

1. Any establishment, including parking areas shall be screened on all sides which abut a residential lot or parcel. Said screen may be a fence or wall or planted materials which shall obscure vision and provide a separation between the two uses. Said screen shall be a minimum of five (5) feet in height.

Sec. 601:6 33 Recreational activities, indoor and outdoor. *(Added Ord 121, eff 10/24/08)*

1. Any establishment, including parking areas shall be screened on all sides which abut a residential lot or parcel. Said screen may be a fence or wall or planted materials which shall obscure vision and provide a separation between the two uses. Said screen shall be a minimum of five (5) feet in height.