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**30.00 Purpose**

**Section 30.00 – Purpose**

The purpose of this Article is to describe the procedures and standards with regards to the following administrative functions:

- Special Land Use
- Site Plan Review
- Variances
- Appeals
- Zoning Ordinance Amendments
- Building Permits
- Certificates of Occupancy
- Fees
- Violation and Penalties
- Nonconformities
- Performance Guarantee
- Records
- Planned Unit Development

**Section 30.01 – Site Plan Review Procedures and Standards**

- A. Intent. These site plan review procedures and standards are instituted to provide an opportunity for consultation and cooperation between the applicant and the Planning Commission so as to achieve maximum utilization of land with minimum adverse effects on adjoining property. Furthermore, it is the intent of these procedures and standards to allow for review of site plans by the Planning Commission, to provide a consistent and uniform method of review, and to ensure full compliance with the standards contained herein and other applicable local ordinances and State and Federal laws.
- B. Applicability. Submission of a site plan shall be required in conjunction with any of the following (*amended 06.15.15*):
  - 1. Any use or development for which submission of a site plan is required by provisions of this Ordinance.
  - 2. An application for a building permit, except for a detached single-family house and/or buildings or uses accessory thereto.
  - 3. Any addition to an existing principal or accessory building wherein the proposed addition constitutes an increase of ten percent (10%) or more as compared to the existing building or use. This shall exclude single family homes and accessory buildings. The following uses or site alterations listed in Table 30.01B shall require a site plan submittal:

**TABLE 30.01B**

<b>PROJECTS REQUIRING A SITE PLAN</b>
<ul style="list-style-type: none"> <li>• New buildings or principal uses except as otherwise excluded</li> </ul>
<ul style="list-style-type: none"> <li>• Wireless Communication Facilities</li> </ul>
<ul style="list-style-type: none"> <li>• Public utility or essential service buildings</li> </ul>
<ul style="list-style-type: none"> <li>• Non-residential uses permitted in single-family districts such as churches, private schools and public facilities</li> </ul>
<ul style="list-style-type: none"> <li>• New parking lots or changes to existing parking lots which involve an area which is six thousand (6,000) sq. ft. or 10% or more of the existing parking lot</li> </ul>
<ul style="list-style-type: none"> <li>• Major landscape changes</li> </ul>
<ul style="list-style-type: none"> <li>• Major changes to driveways or internal roadways</li> </ul>
<ul style="list-style-type: none"> <li>• Extensive grading, filling or excavation (unless otherwise regulated under Ordinance 99, Earth Balancing and Excavating)</li> </ul>

30.01 Site Plan Review Procedures, Standards & Condominium Requirements

• Buildings containing two (2) or more dwelling units
• Planned Unit Developments (Subject to Section 30.03)
• Any principal use involving outdoor sales, or outdoor displays greater than 1,000 sq. ft.
• Any condominium development (Subject to 30.01G)

If the Building Department determines that a site plan is required, an applicant may request that this determination be referred to the Planning Commission for their review. The Planning Commission may consider a request for an administrative review and determine that an administrative review in accordance with Section 30.01D is acceptable and that it meets the criteria for minor modifications as identified in Section 30.01D.

C. Procedures and Requirements. The site plan must be submitted in compliance with the following procedures and requirements:

1. **Applicant.** The owner of an interest in land for which site design approval is sought, or the designated agent of the owner, shall file the application for site plan review with the Township. *(amended 05.18.09)*
2. **Issuance of Building Permit.** A building permit shall not be issued until the submitted site plan is approved in accordance with the procedures and standards set forth herein.
3. **Application Forms and Documentation.** The application for site plan review shall be made on such forms as shall be prescribed by the Planning Commission. The application shall be accompanied by the necessary fees and documents as provided herein. *(amended 05.18.09)*
4. **Site Plan Review Fees.** Site plan review fees shall be established by resolution of the Township Board and set forth in the Township fee schedule.
5. **Pre-Application Conference or Planning Commission Review.** In order to facilitate processing of a site plan in a timely manner, the applicant is encouraged to request a pre-application site plan conference. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. No formal action shall be taken on a site plan at a pre-application conference. There shall be no fee for a pre-application conference. An applicant shall also have the option of a brief review by the Planning Commission, subject to the availability of time on the agenda as determined by the Chairperson of the Planning Commission. *(amended 05.18.09)*
6. **Submission to Township.** The application materials for site plan review shall be submitted to the Township in accordance with the application data requirements set forth in Section 30.01 (E). Application materials must be submitted at least three (3) weeks prior to the next available Planning Commission meeting. In addition, the following requirements shall be met *(amended 06.15.00, 05.18.09)*:
  - a. Nineteen (19) copies of the site plan shall be submitted to the Clerk with the original copy of the application, to provide for review by the Fire Department, Water and Sewer Department, Building Department, Planner, Engineer, and Planning Commission.
  - b. The applicant shall deliver one copy of the application plus two (2) copies of the site plan to each of the following agencies:
    - 1) the Road Commission for Oakland County and/or Michigan Department of Transportation,
    - 2) the Oakland County Water Resource Commissioner’s Office,
    - 3) the Oakland County Health Department,
    - 4) all applicable utility companies, including the Detroit Edison Company.

Proof of submission of the application and site plan to each agency shall be provided to the Township at the time of application.

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30.01 Site Plan Review Procedures, Standards & Condominium Requirements

7. **Planning Commission Consideration.** *(amended 05.06.99, 05.18.09)* After all application materials have been received and review fees paid, the application shall be reviewed in accordance with the following procedures:
  - a. The application shall be placed on the agenda of the next available Planning Commission meeting, unless otherwise exempted under the provisions set forth in Section 30.01 (D). The Planning Commission staff shall also coordinate the need for, and if applicable schedule a site walk with the Site Walk Committee of the Planning Commission.
  - b. A site plan shall be reviewed in relation to applicable standards and regulations, and to identify revisions necessary to bring the site plan into compliance. If the Planning Commission determines that revisions are necessary to bring the site plan into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised site plan. Following submission of a revised plan, the site plan shall be placed on the agenda of the next available meeting of the Planning Commission for further study. *(amended 01.16.86)*
  - c. If, following review of the site plan at a regular meeting, the Planning Commission determines that the site plan is substantially in compliance with applicable standards and regulations, the Planning Commission may take formal action on the plan.
8. **Applicant Representation.** The applicant or a designated representative must be present at all scheduled review meetings or consideration of the plan may be tabled due to lack of representation.
9. **Planning Commission Determination.** The Planning Commission shall review the application for site plan review, together with the reports and recommendations from the Enforcement Officer, Water and Sewer Department, Township Planner, Township Engineer, Township Fire Chief, the Road Commission for Oakland County, the Oakland County Health Department, the Oakland County Water Resource Commissioner's Office, appropriate utility companies, and the Michigan Department of Transportation, where applicable. The Planning Commission shall then make a final determination based solely on the requirements and standards of this Ordinance. The Planning Commission is authorized to grant approval, or disapproval as follows *(amended 08.06.07, 05.18.09)*:
  - a. **Approval.** Upon determination of the Planning Commission that a site plan is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, approval shall be granted. Approval shall be indicated on the site plan, and one copy shall be provided to the applicant.
  - b. **Denial of Approval.** Upon determination of the Planning Commission that a site plan does not comply with standards and regulations set forth in this Ordinance (e.g., requires a variance from the Zoning Board of Appeals), or requires extensive revision in order to comply with said standards and regulations, site plan approval shall be denied. In this case, "Denied" shall be written on the site plan and the reasons for denial shall be indicated, and one copy shall be provided to the applicant.
10. **Recording of Planning Commission Action.** Each action taken with reference to a site plan review shall be duly recorded in the minutes of the Planning Commission. The grounds for the action taken upon each site plan shall also be recorded in the minutes. After all steps in the site plan review process have been completed, three (3) copies of the site plan shall be marked by the Planning Commission staff for the following distribution *(amended 05.18.09)*:
  - a. One (1) copy shall be returned to the applicant, along with a written transmittal of the grounds for action and/or conditions of approval.
  - b. One (1) copy shall be forwarded to the Township Building Department.
  - c. One (1) copy shall be retained in the Planning Commission files.
11. **Completion of Site Design.** Upon final approval of the site plan by the Planning Commission, a building permit may be obtained, subject to review and approval of the engineering plans by the Building Department.

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It shall be the responsibility of the applicant to obtain all other applicable Township, County, or State permits prior to issuance of a building permit. If construction has not commenced within one (1) year of approval, the site plan approval becomes null and void and a new application for site plan review shall be required. Construction must be completed within two (2) years of approval, unless a longer time period is requested by the applicant at the time of site plan review. The applicant may apply to the Planning Commission for a one (1) year extension of the site plan approval. Additional one (1) year extensions may also be granted at the discretion of the Planning Commission. *(amended 05.18.09)*

12. **Maintenance of Site.** It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site approval was based, or until a new site design approval has been obtained. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate to such a use violation.

D. **Administrative Review for Site Plans Involving Minor Modifications.** Administrative review, may be required instead of Planning Commission review for site plans that involve minor modifications. *(amended 06.15.15)*

1. **Minor Modifications.** For the purpose of this section, minor modifications shall include proposed alterations to a building or site that do not substantially affect the character or intensity of the use, vehicular or pedestrian traffic circulation, drainage patterns, the demand for public services, or the vulnerability to hazards. The following uses or site modifications listed in Table 30.01D may be considered for Administrative Review:

**TABLE 30.01D**

<b>PROJECTS ELIGIBLE FOR ADMINISTRATIVE SITE PLAN REVIEW</b>
• Changes to building height that do not add an additional floor.
• Minor additions or alterations to the landscape plan or landscape materials.
• Relocation of the trash receptacle, dumpster.
• Minor alterations to the internal parking layout of an off-street lot.
• An increase in total floor area up to ten percent (10%) of the existing total floor area.
• Fences located on non-residential properties subject to submittal of a boundary survey if required by the Building Department.
• Outdoor sales or outdoor displays less than 1,000 sq. ft.
• Alterations that would result in a decrease of total floor area.

The Building Official shall determine if the proposed modifications on a site plan are minor in accordance with these guidelines. If the modifications are not deemed minor by the Building Official, then review and approval by the Planning Commission shall be required. Planning Commission review shall be required for all site plans that involve a request for a variance, a special land use request, or a proposal that involves a discretionary decision. *(amended 05.18.09)*

2. **Application Requirements and Procedures.** The application requirements and procedures for administrative review of site plans shall be the same as for Planning Commission review, as outlined in this section. However, the Building Department may waive selected information requirements contained in this section depending upon the scope of the project and type of site improvements. For smaller scale projects and minor expansions or changes in use, less detailed information may be submitted than a full site plan. The level of information is intended to be proportionate to the extent of the change, yet insure adequate review for compliance with applicable standards.

3. **Submission to Review Agencies.** The Building Official may request that review agencies or professionals, including the Fire Department, Water and Sewer Department, Building Department, Planner, and Engineer, confine their review to the proposed alterations only, rather than review of the entire building or site layout. *(amended 05.18.09)*

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4. **Enforcement Officer Review.** The Building Official shall review each site plan that has been submitted for administrative review, together with any reports and recommendations submitted by review agencies or professionals. The Building Official shall then make a preliminary determination based solely on the requirements and standards in this Ordinance. *(amended 05.18.09)*
  5. **Planning Commission Determination.** If required, following receipt of the recommendations from the Building Official, the Planning Commission shall consider and act upon the site plan at their next available meeting. The Planning Commission shall then make a final determination based solely on the requirements and standards in this Ordinance. The Planning Commission is authorized to grant approval, or disapproval, in accordance with the standards set forth in Section 30.01 (C)(9). *(amended 05.06.99, 08.06.07, 05.18.09)*
  6. **Recording of Planning Commission Action.** Each action taken with reference to a site plan review shall be duly recorded, and copies of the site plan shall be distributed in accordance with the provisions set forth in Section 30.01 (C)(10).
  7. **Completion of Site Design.** After completion of administrative review and approval of the site plan, a building permit may be obtained, subject to review and approval of the engineering plans by the Township Engineer and review of the construction plans by the Building Department. All other requirements for completion of site design as set forth in Section 30.01 (C)(11) must be complied with.
- E. **Application Data Requirements.** The following data shall be included with, and as part of, the site plan submitted for review and approval:
1. **Application Form.** The application form shall contain the following information:
    - a. Applicant's name and address.
    - b. Name and address of property owner, if different from applicant.
    - c. Common description of property and complete legal description.
    - d. Dimensions of land and total acreage.
    - e. Existing zoning and zoning of all adjacent properties.
    - f. Proposed use of land and name of proposed development, if applicable.
    - g. Proposed buildings to be constructed.
    - h. Name and address of firm or individual who prepared site plan.
    - i. Proof of property ownership.
  2. **Detailed Information.** Site plans shall consist of an overall plan for the entire development drawn to a scale of one inch equals fifty feet (1 inch = 50 feet) for property of less than three (3) acres and one inch equal to one hundred feet (1 inch = 100 feet) for property of three (3) acres or more in size. Sheet size shall be 24 inches by 36 inches, unless approved otherwise by the Planning Commission. The following information shall be included on all site plans, where applicable: *(amended 09.17.01)*
    - a. General descriptive and identification data, including:
      - 1) Applicant's name, address, telephone number and name of township, city or village of residence.
      - 2) Title block.
      - 3) Scale.

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- 4) Northpoint.
  - 5) Dates of submission and revisions (month, day, year).
  - 6) Location map drawn to a scale of one (1) inch equals two thousand (2,000) feet, with northpoint.
  - 7) Legal and common description of property.
  - 8) Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared plans.
  - 9) Written description of proposed land use.
  - 10) Zoning classification of petitioner's parcel and all abutting parcels.
  - 11) Proximity to section corner and major thoroughfares.
  - 12) Net acreage (minus rights-of-way) and total acreage.
- b. Site data, including: *(amended 11.14.85)*
- 1) Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within one hundred (100) feet of the site.
  - 2) On parcels of more than one (1) acre, topography on the site and within one hundred (100) feet of the site at two-foot (2 ft.) intervals, referenced to a U.S.G.S. benchmark.
  - 3) Proposed lot lines, lot dimensions, property lines, structures, parking areas, and other improvements on the site and within one hundred (100) feet of the site.
  - 4) Dimensions and centerlines of existing and proposed roads and road rights-of-way.
  - 5) Acceleration, deceleration, and passing lanes, where required.
  - 6) Proposed location of access drives and on-site driveways.
  - 7) Location of existing drainage courses, flood plains, lakes and streams, with elevations.
  - 8) Location of existing and proposed interior sidewalks and sidewalks in rights-of-way.
  - 9) Exterior lighting locations.
  - 10) Trash receptacle location and method of screening.
  - 11) Transformer pad location and method of screening.
  - 12) Front, side, and rear yard dimensions.
  - 13) Parking spaces, drives, and method of surfacing.
  - 14) Loading/unloading areas.
  - 15) Information needed to calculate required parking in accordance with Zoning Ordinance standards.
  - 16) The location of lawns and landscaped areas.
  - 17) Landscape plan, including location and type of shrubs, trees, and other live plant material.



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- 18) Location, sizes, and types of existing trees that are four (4) inches or greater in caliper, measured twelve (12) inches above grade, except that trees listed as Prohibited Plant Material need be shown only if they measure twelve (12) inches or greater in caliper. Only trees that measure twelve (12) inches or greater in caliper need be shown in wooded areas, clusters, or hedgerows, provided that the boundaries and predominant species of such area, are indicated.
  - 19) All existing and proposed easements.
  - 20) Designation of fire lanes.
- c. Building and structure details, including:
- 1) Location, height, and outside dimensions of all proposed buildings or structures, including all mechanical equipment placed on the roof. *(amended 08.06.07)*
  - 2) Building floor plans.
  - 3) Total floor area.
  - 4) Location, size, height, and lighting of all proposed signs.
  - 5) Obscuring walls or berm locations with cross sections, where required.
  - 6) Building elevations, drawn to a scale of one (1) inch equals four (4) feet, or to another scale approved by the Enforcement Officer and adequate to determine compliance with the requirements of this Ordinance.
  - 7) Sections, elevations/ color perspective drawings/photos or other visual aids showing architectural quality. Drawings shall also indicate final color schemes for exterior surfaces. *(added 01.02.07)*
  - 8) Information on building materials, and complimentary color schemes. This shall include presentation of material sample boards. Material sample boards shall be presented at the time of consideration by the Planning Commission. *(added 01.02.07)*
  - 9) Details of windows, recesses, roof over hangs, awnings, gables, soffitt, roof design and roofing materials. *(added 01.02.07)*
  - 10) Location and screening of roof mounted or ground mounted mechanical equipment or transformers and methods/materials used for screening. All such equipment shall be screened to minimize its visibility from adjacent roadways and abutting property lines. Screening shall be at least one (1) foot above the height of the mechanical equipment or transformers. The screening material shall be compatible with the building material and general architecture. Landscape materials or other screening structures shall not interfere with ventilation or access for maintenance. *(added 01.02.07, amended 08.06.07)*
  - 11) Information on masonry materials, siding or other materials, and patterns used for building exterior. *(added 01.02.07)*
- d. Information concerning utilities, drainage, and related matters, including:
- 1) Location of sanitary sewers and septic systems, existing and proposed.
  - 2) Location and size of watermains, well sites, and building service, existing and proposed.
  - 3) Location of hydrants, existing and proposed.
  - 4) Location of storm sewers, existing and proposed.

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- 5) Indication of site grading, drainage pattern, and other stormwater control measures.
  - 6) Stormwater drainage and retention calculations.
  - 7) Location of gas, electric, and telephone lines, above and below ground.
  - 8) Indication of applicability and compliance with requirements of Orion Township Wetlands Protection Ordinance No. 107.
  - 9) Assessment of potential impacts from use, processing, or movement of hazardous materials or chemicals, if applicable.
- e. Information pertinent to multiple-family residential development, including:
- 1) The number and location of each type of residential unit (one-bedroom units, two-bedroom units, etc.)
  - 2) Density calculations by type of residential unit (dwelling units per acre).
  - 3) Floor plans of a typical building, with square feet of floor area.
  - 4) Building elevations of a typical building.
  - 5) Garage and/or carport locations and details.
  - 6) Dedicated road or service drive locations.
  - 7) Community building location, dimensions, floor plans, and elevations.
  - 8) Swimming pool fencing detail, including height and type of fence, if applicable.
  - 9) Location and size of recreation and open space areas.
  - 10) Indication of type of recreation facilities proposed for recreation areas.
- f. General Notes. If any of the items listed above are not applicable to a particular site plan, the applicant shall specify on the site plan which items do not apply, and furthermore, why the items are not applicable.
- F. Standards for Site Plan Approval. The Planning Commission shall grant site plan approval only if the site plan meets all applicable standards set forth in the Ordinance, and only upon a finding that the site design will not, on the basis of the facts known at the time of submission of the site design, have an unduly harmful external impact on surrounding property owners or on the Township as a whole. The Planning Commission may, as a basis for making such a finding, require whatever site design modifications it deems necessary, including the provision of additional site design amenities not specifically required by this Ordinance. In addition, the Planning Commission shall use the following criteria in evaluating a site plan:
1. **Adequacy of Information**. The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed use(s) and structure(s).
  2. **Site Design Characteristics**. All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings. The site shall be so developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

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3. **Preservation of Natural Areas.** The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and alteration to the natural drainage courses. Requirements of the Orion Township Wetlands Protection Ordinance No. 107 shall be complied with, if applicable.
  4. **Privacy.** The site design shall provide reasonable visual and sound privacy for dwelling units located therein and adjacent thereto. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the privacy of its occupants.
  5. **Emergency Vehicle Access.** All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practicable means to all sides.
  6. **Ingress and Egress.** Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways.
  7. **Pedestrian Circulation.** The site plan shall provide a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system.
  8. **Vehicular and Pedestrian Circulation Layout.** The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. The width of streets and drives shall be appropriate for the volume of traffic they will carry.
  9. **Drainage.** Measures proposed to remove surface waters shall not adversely affect neighboring properties or the public storm drainage system. The proposed stormwater management plan shall include provisions for adequate removal of surface waters and prevention of soil erosion.
  10. **Exterior Lighting.** Exterior lighting shall be designed so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.
  11. **Public Services.** The scale and design of the proposed development shall facilitate the adequate provisions of services currently furnished or may be required by the Township, including fire and police protection, stormwater removal, sanitary sewage removal and treatment, traffic control, and administrative services.
  12. **Vulnerability to Hazards.** The level of vulnerability to injury or loss from incidents involving hazardous materials or processes shall not exceed the capability of the Township to respond to such hazardous incidents so as to prevent injury and loss of life and property. In making such an evaluation, the Planning Commission shall examine the location, type, properties, quantity, and use of hazardous materials in relation to the personnel training, equipment and materials, and emergency response plans of the Township.
- G. Site Condominium and Condominium Project Regulations. *(added 11.07.11)*
1. **Intent.** Pursuant to the authority conferred by Section 141 of the State Condominium Act (PA 59 of 1978), site plans shall be regulated by the provisions of this Chapter and approved by the Planning Commission.
  2. **General Requirements.**
    - a. Each condominium lot shall be located within a zoning district that permits the proposed use.
    - b. For the purposes of this Chapter, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which it is located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.
    - c. In the case of a condominium containing single-family detached dwelling units, not more than 1 dwelling unit shall be located on a condominium lot, nor shall a dwelling unit be located on a condominium lot with any other principal structure or use. Required yards shall be measured from the boundaries of a condominium lot.

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- d. Each condominium lot shall front on and have direct access to a public street or a private street approved by the Planning Commission. An approved private street shall comply with the same standards for public subdivision streets as established and in accordance with the Charter Township of Orion engineering standards and Ordinance 60 (Land Division and Private Roads).
  - e. All condominium project plans shall conform to the plan preparation requirements, design, layout and improvement standards, as established by the Township as contained within the Charter Township of Orion Subdivision Regulations, Ordinance 27.
3. **Site Plan Approval Requirements.** Approval of the site plan and approval of the site plan and condominium documents by the Planning Commission shall be required as a condition to the right to construct, expand or convert a site condominium project. No permits for erosion control, building construction, grading, or installation of public water or sanitary sewerage facilities shall be issued for property in a site condominium development until a site plan has been approved by the Planning Commission and is in effect.
- a. The applicant shall submit a site plan pursuant to the standards and procedures set forth in Section 30.01, Site Plan Review Procedures, of this Chapter.
  - b. The site plan and any preliminary documents shall be submitted to the Township for review by the Township Attorney, Township Engineer, and other appropriate staff.
  - c. The applicant shall submit detailed plans in accordance with Section 30.01.E to the Planning Commission.
  - d. The Planning Commission shall approve, deny, or postpone the condominium site plans based upon conformance with all applicable laws, ordinances and design standards.
  - e. The Planning Commission and/or Building Department, as a condition of approval of the site plan, may require the applicant to provide a performance guarantee as set forth in Section 30.09, Performance Guarantees, for the completion of improvements associated with the proposed use.
  - f. Following approval of the site plan, the final Condominium Documents and detailed engineering plans shall also be submitted to the Township.
  - g. Any condominium project containing more than five (5) units or more than two (2) acres of land shall also be submitted to the Township Board for review and approval.
  - h. **Outside Agency Approval:** The applicant shall be responsible for forwarding a copy of the approved condominium plan to all applicable State, County, and local agencies having jurisdiction over specific aspects of the condominium project, such as wetlands, storm drainage, soil erosion and sedimentation, and utilities. The outside agency approval may include one or more of the following:
    - Road Commission for Oakland County
    - Oakland County Drain Commissioner
    - Oakland County Health Department
    - Michigan Department of Environmental QualityAll necessary permits or approvals from applicable outside agencies shall be received prior to issuance of any building permits by the Township.
  - i. The Planning Commission may require review of final condominium documents, including but not limited to the Master Deed and/or Exhibit B drawings, before granting approval of the condominium site plan.
4. **Required Improvements.**

**30.01 Site Plan Review Procedures, Standards & Condominium Requirements**

- a. All design standards and required improvements that apply to a subdivision, under Ordinance No. 27, Subdivision Regulations, adopted by the Township Board, shall apply to any condominium development.
- b. Each condominium unit shall be connected to an approved water and sanitary sewer system. Utility standards stated in Building Code shall apply to all condominium units proposed for location on any property that is not subdivided and recorded, or any property that is to be further subdivided.
- c. Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines.

The Township may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year, on condition that the developer deposit with the Township Treasurer: cash, a certified check, or an irrevocable bank letter of credit running to the Township, whichever the developer selects, in an amount as determined from time to time by resolution of the Planning Commission. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified. If the developer defaults, the Planning Commission shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not to exceed the amount of the security deposit.

- d. Road rights-of-way shall be described separately from individual condominium lots, and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing public utilities. The developer shall declare easements to the Township for all public water and sanitary sewer lines and appurtenances.
  - e. All improvements in a site condominium shall comply with the design specifications as adopted by the Township and any amendments thereto.
5. **Information Required Prior to Occupancy.** Prior to the issuance of occupancy permits for any condominium units, the applicant shall submit the following to the Building Department:
- a. A copy of the recorded Condominium Documents (including exhibits).
  - b. A copy of any recorded restrictive covenants.
6. **Revision of Site Condominium.** If the site condominium subdivision plan is revised, the site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued, where such permit is required.

Minor modifications may be approved administratively by the Building Official. Minor modifications shall include proposed changes which do not affect the character or intensity of the site, vehicular or pedestrian traffic, drainage patterns, or the demand for public services.

The Building Official shall determine if the proposed modifications are minor and in accordance with these guidelines. If the modifications are not deemed minor by the Building Official, then review and approval by the Planning Commission shall be required.

7. **Amendment of Condominium Documents.** Any amendment to a Master Deed or bylaws that affects the site plan, or any conditions of approval of the site plan, shall be reviewed and approved by the Township Attorney and Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the Master Deed or bylaws require corresponding changes in the site plan.

**30.01 Site Plan Review Procedures, Standards & Condominium Requirements**

8. **Relocation of Boundaries.** Relocation of boundaries between adjoining condominium units, if permitted in the Condominium Documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which it is located and shall be approved by the Planning Commission. These requirements shall be made a part of the bylaws and recorded as part of the Master Deed.
9. **Subdivision of Condominium Lot.** Each condominium lot that results in a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which it is located, and shall be approved by the Planning Commission. These requirements shall be made a part of the condominium bylaws and recorded as part of the Master Deed.

**Section 30.02 – Special Land Use Procedures and Standards**

- A. **Intent.** These special land use procedures and standards are instituted to provide consistent and uniform guidelines for the Planning Commission to follow in arriving at any special land use decision over which it has jurisdiction. Special land uses are uses that may be permitted in a district, but only if certain specified conditions are met, and only after review and approval by the Planning Commission. The review procedures and conditions for approval are intended to provide protection for adjacent uses and ensure full compliance with the standards contained herein and other applicable local ordinances and State and Federal laws.
- B. **Procedures and Requirements.** The following procedures and requirements shall be complied with in the review and approval of special land uses:
  1. **Applicant.** The owner of an interest in land for which special land use approval is sought, or the designated agent of the owner, shall file the application for special land use approval with the Township. The applicant shall also have the option of a pre-application meeting with staff and consultants or the option of a brief pre-application review with the Planning Commission prior to submittal of a formal application. The scheduling of a brief review by the Planning Commission shall be subject to the availability of time on the agenda or determined by the Chairperson of the Planning Commission. *(amended 05.18.09)*
  2. **Issuance of Building Permit.** A building permit shall not be issued until the submitted special land use and subsequent site plan review (see Section 30.01) is approved by the Planning Commission in accordance with the procedures and standards set forth herein. *(amended 10.01.07)*
  3. **Application Forms and Documentation.** The application for special land use approval shall be made on such forms as shall be prescribed by the Planning Commission. The application shall be accompanied by the necessary fees and documents as provided herein. *(amended 05.18.09)*
  4. **Review Fees.** Fees for special land use review shall be established by resolution of the Township Board and set forth in the Township fee schedule.
  5. **Submission to Township.** Nineteen (19) copies and one (1) original of the application materials for special land use approval shall be submitted to the Township at least four (4) weeks prior to a scheduled Planning Commission meeting to provide for review by the Fire Department, Water and Sewer Department, Building Department, Planner, Engineer, and determine Planning Commission meeting availability. The applicant shall also deliver one (1) copy of the special land use request to each of the following agencies: *(amended 10.01.07, 05.18.09)*
    - a. The Road Commission for Oakland County and/or Michigan Department of Transportation.
    - b. The Oakland County Water Resource Commissioner's Office.
    - c. The Oakland County Health Department.
    - d. All applicable utility companies.

**30.02 Special Land Use Procedures and Standards**

Proof of submission of the special land use request to each agency shall be provided to the Township at the time of application.

6. **Planning Commission Consideration.** *(amended 05.06.99, 08.06.07, 05.18.09)* After all application materials have been received and review fees paid, the application shall be reviewed in accordance with the following procedures:
  - a. Upon receipt of an application, the Planning Commission staff shall coordinate the need for, and if applicable schedule a site walk with the Site Walk Committee of the Planning Commission.
  - b. The Planning Commission staff shall coordinate and schedule a public hearing which shall be notified as follows:
    - 1) The Planning Commission shall publish a notice of receipt of the special land use application, including the date such application will be considered by the Planning Commission, and the date of the public hearing for a special land use in a newspaper which circulates in the Township, and shall send said notice by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the Township.
    - 2) The notice shall be given not less than fifteen (15) days before the date of the public hearing.
    - 3) If the name of the occupant is not known, the term "occupant" may be used in making notification.
    - 4) The notice shall:
      - a. Describe the nature of the special land use request.
      - b. Indicate the property which is the subject of the special land use request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
      - c. State when and where the request and/or public hearing on the special land use request will be held.
      - d. Indicate when and where written comments will be received concerning the application.
      - e. The notice of receipt of a special land use application shall indicate that a public hearing on the special land use application may be requested by any property owner or the occupant of any structure located within three hundred (300) feet of the property being considered for a special land use regardless of whether the property or occupant is located in the Township.
  - c. Following the site walk (if applicable) and public hearing the special land use petition shall be considered by the Planning Commission. The Commission shall review the application materials for the proposed special land use in relation to applicable standards and regulations, and to identify revisions necessary to bring the plan into compliance. *(amended 01.16.86)*
  - d. If the Planning Commission determines that revisions are necessary to bring the special land use plan into compliance with applicable standards and regulations, the applicant shall be given the opportunity to submit a revised plan. Following submission of a revised plan, the application shall be placed on the agenda of the next available meeting of the Planning Commission for further study. If, following review of the special land use application and plan, the Planning Commission determines that the application and plan are substantially in compliance with applicable standards and regulations, the Planning Commission may take formal action on the request.

**30.02 Special Land Use Procedures and Standards**

7. **Applicant Representation.** The applicant or a designated representative must be present at all scheduled review meetings or consideration of the request will be tabled due to lack of representation.
8. **Planning Commission Determination.** The Planning Commission shall make the final determination on the application for special land use approval. Such determination shall be based on the requirements and standards of this Ordinance. In making the final determination, the Planning Commission shall consider the reports and recommendations from the Enforcement Officer, Water and Sewer Department, Township Planner, Township Engineer, Township Fire Chief, the Road Commission for Oakland County, the Oakland County Health Department, the Oakland County Drain Commission, appropriate utility companies, and the Michigan Department of Transportation, where applicable. The Planning Commission is authorized to approve, approve with conditions, or deny a request for a special land use, as follows:
  - a. **Approval.** Upon determination of the Planning Commission that a special land use approval request is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, approval shall be granted and a site plan application may be considered in accordance with Section 30.01. *(amended 10.01.07)*
  - b. **Approval with Conditions.** The Planning Commission may impose reasonable conditions with the approval of a special land use. The conditions may include provisions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
    - 1) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
    - 2) Be related to the valid exercise of the police power, and purpose which are affected by the proposed use or activity.
    - 3) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

The conditions imposed shall be recorded in the record of approved action, and shall remain unchanged except upon mutual consent of the Planning Commission and the landowner. The conditions imposed shall be noted on an accompanying site plan. *(amended 10.01.07)*
  - c. **Denial.** Upon determination of the Planning Commission that a special land use request does not comply with standards and regulations set forth in this Ordinance, or otherwise will be injurious to the public health, safety, welfare and orderly development of the Township, a special land use request shall be denied. In this case, "Denied" shall be written on the special land use plan and the reasons for denial shall be indicated, and one copy shall be provided to the applicant.
  - d. The decision of the Planning Commission on a special land use application shall be incorporated into a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.
9. **Appeal of a Denial.** The applicant may appeal a denial of a special land use request by submitting a request to be placed on the agenda of the next regularly scheduled Township Board meeting. The Township Board shall review and may act upon any appeal of a denial made by the Planning Commission on a special land use request.



**30.02 Special Land Use Procedures and Standards**

10. **Recording of Planning Commission and Township Board Action.** Each action taken with reference to special land use review, along with the grounds for such action and any conditions imposed, shall be duly recorded in the minutes of the Planning Commission and/or Township Board. After final action has been taken on the special land use request, separate copies of the special land use plan shall be marked by the Planning Commission and/or Township Board for the following distribution:
- a. One (1) copy shall be returned to the applicant along with a written transmittal of the grounds for action and/or conditions of approval.
  - b. One (1) copy shall be forwarded to the Township Building Department.
  - c. One (1) copy shall be retained in the Planning Commission and/or Township Board files.
  - d. In the case of an appeal, one (1) copy shall be marked by the Township Board and forwarded to the Planning Commission.
11. **Completion of Site Design.** Following approval of a special land use request and subsequent site plan review application (see Section 30.01), a building permit may be obtained, subject to review and approval of the engineering plans by the Township Engineer and review of construction plans by the Building Department. It shall be the responsibility of the applicant to obtain all other applicable Township, County, or State permits prior to issuance of a building permit. If site plan approval has not been sought within one (1) year of approval, the special land use approval becomes null and void and a new application for special land use review shall be required. The applicant may apply to the Planning Commission for a one-year extension of the approval. Additional one (1) year extensions may also be granted at the discretion of the Planning Commission. *(amended 10.01.07, 05.18.09)*
12. **Application Data Requirements.** The application and data requirements for special land use approval shall be the same as set forth in Section 30.01 (E) for site plan review. Detailed submittal of site engineering and utility information may be waived by the Planning Commission unless it is determined to be necessary in determining the appropriateness of the special use application. Other data as may also be required by the Planning Commission, Enforcement Officer, or Township Planner to review the special use application. *(amended 10.01.07)*
13. **Standards for Granting Special Land Use Approval.** The Planning Commission shall approve special land uses upon determination that the proposed use will comply with all applicable requirements of the Ordinance, applicable standards for specific uses, and the following general standards *(amended 10.01.07)*:
- a. **Compatibility with Adjacent Uses.** The proposed special land use shall be designed, constructed, operated and maintained so as to be compatible with uses of adjacent land. The site design of the proposed special land use shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
    - 1) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
    - 2) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment, in relation to surrounding development.
    - 3) The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
    - 4) The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.

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- b. **Compatibility with Master Plan.** The proposed special land use shall be compatible with and in accordance with the general principles and objectives of the Orion Township Master Plan and shall promote the intent and purpose of this Ordinance.
  - c. **Public Services.** The proposed special land use shall be located so as to be adequately served by essential public facilities and services, such as highways, streets, police and fire protection, drainage systems, water and sewage facilities, and schools.
  - d. **Impact of Traffic.** The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use on surrounding uses. In determining whether this requirement has been met, consideration shall be given to:
    - 1) Proximity and access to major thoroughfares.
    - 2) Estimated traffic generated by the proposed use.
    - 3) Proximity and relation to intersections.
    - 4) Adequacy of sight distances.
    - 5) Location of and access to off-street parking.
    - 6) Required vehicular turning movements.
    - 7) Provision for pedestrian traffic.
  - e. **Detrimental Effects.** The proposed special land use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be so located or designed, as to be detrimental to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.
  - f. **Enhancement of Surrounding Environment.** The proposed special land use shall provide the maximum feasible enhancement of the surrounding environment, and shall not unreasonably interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. In determining whether this requirement has been met, consideration shall be given to:
    - 1) The provision of landscaping and other site amenities. Provision of additional landscaping over and above the requirements of this Ordinance may be required as a condition of approval of a special land use.
    - 2) The bulk, placement, and materials of construction of proposed structures in relation to surrounding uses.
  - g. **Isolation of Existing Land Use.** The location of the proposed special land use shall not result in a small residential area being substantially surrounded by non-residential development, and further, the location of the proposed special land use shall not result in a small non-residential area being substantially surrounded by incompatible uses.
- C. **Personal Wireless Service (PWS) Facilities.** In those instances where PWS Facilities may be permitted as a Special Land Use by the Planning Commission or Township Board, only the procedural provisions of Paragraphs (A) through (C) above of this section shall apply. *(amended 08.21.97)*
- D. **Required Signage.** An applicant requesting a special land use, shall construct and install a sign indicating the requested special land use. The sign shall be installed no less than fifteen (15) days prior to the scheduled public hearing. The sign shall be installed on the parcel(s) requested for special use consideration and shall be clearly

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visible from an adjoining roadway. The sign shall not be placed within a public right of way, nor shall the sign obstruct clear vision for motorists. (added 10.01.07)

The sign shall comply with the following sign specifications:

- Black letters on white background.
- Size: minimum 4 ft. (vertical) by 6 ft. (horizontal).
- Signs face must be exterior plywood, aluminum, or similar material.
- Wording shall be as follows:

<p>SPECIAL LAND USE PROPOSED          For more information call:          Charter Township of Orion          Building Department          (248) 391-0304 ext. 5002</p>
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- (min. 8” high letters)
- (min. 3” high letters)
- (min. 4” high letters)
- (min. 4” high letters)

- Sign support system must be structurally sound and mounted with 4”x4”s or “u” channel steel posts. The posts shall be set in the ground at least 30” below the surface. The bottom of the sign shall be no less than three (3’) above the ground level.

Special Land Use signs shall be removed within:

- Seven (7) days of action by the Planning Commission.
- Seven (7) days of withdrawing special land use application.
- Failure to remove sign within this period may result in removal of the sign by the Township, following notice and an opportunity to cure, at the owner’s expense.

The Planning Commission may waive or modify the requirement for special land use signage. A waiver may be requested where one (1) or more of the following factors exist:

- The proposed special use involves an expansion of an existing special land use.
- The proposed special use does not abut residential uses.
- The proposed special use will have limited impacts associated with traffic, noise, hours of operation or other site factors.
- Other factors as identified by the Planning Commission.

Section 30.03 – Planned Unit Development (PUD)

A. Intent. A Planned Unit Development (PUD) may be applied for in any zoning district. The granting of a PUD application shall require a rezoning by way of amendment to this Ordinance upon the recommendation of the Planning Commission and approval of the Township Board. The procedure for rezoning is that which is authorized by the Zoning Enabling Act (Public Act 110 of 2006, as amended), as contained in Section 503.

It is the intent of this section to authorize the use of Planned Unit Development (PUD) regulations as an alternative to traditional subdivisions or other developments and for the purpose of: encouraging the use of land in accordance with its character and adaptability; conserving natural resources, natural features and energy; encouraging innovation and greater flexibility in land use planning and design; providing enhanced housing, employment, shopping, traffic circulation, and recreational opportunities for the people of this Township; encouraging a less sprawling form of development; and ensuring compatibility of design and use between neighboring properties. The PUD is designed to give the Township and applicant more flexibility than would be allowed under the existing zoning, encouraging development of the property according to its unique characteristics.

The provisions of this section are not intended as a device for ignoring the Zoning Ordinance and specific standards set forth therein, or the planning upon which it has been based. To that end, provisions of this section

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are intended to result in land use development substantially consistent with the existing zoning and existing Charter Township of Orion Master Plan, with modifications and departures from generally applicable requirements made in accordance with standards provided in this section to ensure appropriate, fair, and consistent decision-making. Requirements stated in this section are development guidelines that the Planning Commission, Township Board and Township staff will use to determine the merits of a particular application. The Planning Commission may recommend variations from these guidelines when an applicant has demonstrated that doing so will result in a corresponding benefit to the community.

Approval of a PUD by the Township is optional and will be subject to a determination of compliance by the Planning Commission and Township Board. A PUD shall be reviewed for compliance to the standards contained within this Section of the Ordinance and will be used for possible approval or denial. *(added 05.18.09)*

The procedures for review of a PUD are specified in Section 30.03 (G), and can be processed as either a Minor or Major PUD. A minor PUD will be subject to the same standards and informational requirements as a major PUD. However, a Minor PUD will allow a concurrent review of a Concept Plan (Section 30.03 (G)(5) and a Final Plan (Section 30.03(G)(6)). *(added 01.22.13)*

B. **Eligibility Criteria.** To be eligible for Planned Unit Development (PUD) approval, the applicant shall demonstrate that the following criteria will be met:

1. **Recognizable Benefit.** The PUD will result in a recognizable and substantial benefit, both to the residents of the project and the overall quality of life in the Township. These benefits can be provided through site design elements in excess of the requirements of this Ordinance, such as:
  - a. Preservation of natural features, specifically, but not limited to, woodlands, specimen trees, open spaces, wetlands, and hills.
  - b. Preservation of historic buildings.
  - c. Improvements in traffic patterns, including unified access and conformance with the access management section of the Ordinance.
  - d. Improvements in the aesthetic qualities of the development itself, such as unique site design features, extensive landscaping, and safety path/greenway connections.
  - e. Improvements in public safety or welfare through better water supply, sewage disposal, stormwater management, or control of air pollution and water pollution.
  - f. High quality architectural design.
  - g. Provision of transitional areas between adjacent residential land uses.

Economic benefit to the community shall not, by itself, be deemed sufficient to allow eligibility, but may be considered in conjunction with the benefits listed above. Preservation of natural features shall be deemed potentially the greatest benefit to the community.

Those benefits to the community that are concrete in nature, and therefore easily monitored, shall be listed on the plans and shall become part of the agreement between the Township and the applicant. Benefits that shall be listed shall include, but not be limited to, historic buildings and natural features to be preserved and specific improvements in water supply, sewage disposal, and stormwater management.

2. **Density Impact.** The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads, and utilities in reaction to the use or uses otherwise permitted by this Ordinance, and shall not place an unreasonable impact on the subject site and/or surrounding land and/or property owners and occupants and/or the natural environment. The Planning Commission may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic or socio-economic impacts resulting from the PUD. An unreasonable impact shall be considered an

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unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development. The Planning Commission may require that the applicant prepare a quantitative comparison of the impacts of a conventional development and the PUD plan to assist in making this determination (such as an overlay of the conceptual development plans on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand and services or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the PUD.

3. **Township Master Plan.** The proposed development shall be consistent with the intent and spirit of the Township Master Plan, and further its implementation. If the proposed development is not consistent with the Master Plan but there has been a change in conditions in the area in that will explain why the proposed PUD is a reasonable use of land, the Planning Commission can consider an amendment to the Master Plan and site plan approval for the proposed development in question.
4. **Economic Impact.** In relation to the existing zoning, the proposed development shall not result in a material negative economic impact upon surrounding properties, as determined by the Planning Commission.
5. **Guaranteed Open Space.** The proposed development shall contain at least as much usable open space as would otherwise be required by the existing zoning, or if no minimum standard is provided, the following shall apply:

Residential Uses	15% of the site
Non-Residential Uses	10% of the site

The usable open space shall include both active and passive upland spaces, while trails through the low lands/wetlands may be included in the calculation, provided all applicable permits are granted. However, the following are not considered usable open space:

- a. The area of any street right-of-way proposed to be dedicated to the public. This provision shall not preclude the future dedication of a private road easement to a public road agency.
- b. Wetlands, lakes or submerged lands (as defined in Ordinance No. 107, Wetland Protection).
- c. The required setbacks surrounding any structure, residential or otherwise, that is not located on an individual lot or condominium lot.
- d. Stormwater management facility, including detention, retention and sedimentation basins.

Amenities within the open spaces may include park-like amenities such as gazebos, seating areas, playscapes, etc., none of which may be serviced by utilities. All open space areas shall be equally available to all residents of the development.

The applicant shall guarantee to the satisfaction of the Township Planning Commission that all open space portions of the development will be maintained in the manner approved. Documentation shall be presented that binds all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township Supervisor and the land uses continue as approved in the PUD plan.

6. **Unified Control.** The proposed development shall be under single ownership and/or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
- C. **Project Design Standards.** A proposed Planned Unit Development (PUD) shall comply with the following design standards:

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**30.03 Planned Unit Development**

1. **Location.** A PUD may be applied for within any zoning district.
2. **Minimum Lot Size Without Public Sewer.** The minimum single-family residential lot size of any PUD that is not served by sanitary sewer and central water is 30,000 square feet or as permitted by the Oakland County Health Department.
3. **Permitted Uses or Combination of Uses.** A PUD is permitted for the following types of uses: single-family detached, attached residential dwellings, commercial uses, industrial uses and mixed-use projects of the above stated land uses. For PUD's that propose to mix residential and commercial or multiple-family components, please refer to Section 30.03 (E).
  - a. Unless modified by the Planning Commission, the following standards herein apply: all residential dwellings and all non-residential buildings and structures shall meet the yard, lot width, and bulk standards required by Article XXVI, Schedule of Regulations, except that single-family attached dwellings may have zero (0) side lot lines, for those yards that abut interior lots.
  - b. Single-family projects that will contain a commercial or multiple-family component may be allowed by the Planning Commission and shall qualify under the standards of Section 30.03 (E).
4. **Plan Submittal.** Any application for a PUD shall be accompanied by three (3) plans: (1) a plan based on existing zoning at the time of application, (2) a density plan prepared in accordance with this section, and (3) a PUD plan. The density allowable within a PUD shall be determined through preparation of the density plan, which shall have the following requirements (*amended 05.18.09*):
  - a. The applicant shall prepare, and present to the Planning Commission for review, a density plan for the project that is consistent with State, County, and Township requirements and design criteria for a tentative preliminary plat or site condo, whichever is appropriate. The density plan shall meet all standards for lot size (as shown in Paragraph B below), lot width and setbacks as normally required under Article XXVI, public roadway improvements and private parks, and contain an area which conceptually would provide sufficient area for stormwater detention. Lots in the density plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Environmental Quality. All structures, buildings, parking lots, streets, roads and driveways shall be set back twenty-five (25) feet from any wetland boundary as defined in Article II and Section 27.17 while decks shall be setback ten (10) feet from the same boundary. (*amended 09.17.07*)
  - b. The density plan shall contain the following elements:
    - 1) Layout of roads and rights-of-way.
    - 2) Lot lines.
    - 3) Wetland boundaries, submerged lands.
    - 4) Floodplains.
    - 5) Lot numbers and a schedule of lot areas.
    - 6) Areas proposed for stormwater management.

The density plan shall be drawn at a scale not greater than 1"=100'.
  - c. The density plan shall be prepared with the following minimum lot areas. The density plan is only used to determine allowable density for a PUD project. A density credit may be granted in addition to the provisions of this subsection if the development qualifies under Section 30.03 (E), with the exception of stand-alone commercial and industrial projects.

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<b>Underlying/ Existing Zoning District</b>	<b>Zoning Ordinance Minimum Lot Size (acres/square feet)</b>	<b>Density Plan Minimum Lot Size (acres/square feet)</b>
SF	2.5 acres	2.5 acres
SE	1.5 acres	1.5 acres
SR	30,000 sq. ft.	30,000 sq. ft.
R-1	14,000 sq. ft.	14,000 sq. ft.
R-2	10,800 sq. ft.	10,800 sq. ft.
R-3	8,400 sq. ft.	8,400 sq. ft.
All other zoning districts – as recommended by the Planning Commission and approved by the Township Board		

- d. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed under the density plan. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the PUD project, shown on the PUD plan. The Planning Commission may recommend approval for a density credit for exemplary projects that meet the conditions outlined in Section 30.03 (E).
- e. Note that overall residential density shall be determined by use of the density plan using the underlying/existing zoning, corresponding lot sizes in the chart under Section 30.03 (C)(4)(c), above and/or the Township's Master Plan. The applicant may propose other underlying zoning categories for the consideration of density in the chart above. *(amended 12.18.06, 05.18.09)*

The ultimate density shall be recommended by the Planning Commission and determined by the Township Board and shall be based upon the underlying zoning and density credit (if applicable, per Section 30.03 (E)) or a density as designated by the Township's Master Plan. *(amended 12.18.06)*

- 5. **Public Services.** The proposed PUD shall not exceed the capacity of existing and available public services, including utilities, public roads, police and fire protection services, and educational services, unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the PUD is completed.
- 6. **Base Zoning Regulations.** Unless specifically waived or modified by the Planning Commission and Township Board, all Zoning Ordinance requirements for the underlying zoning district, except for minimum lot area, and other Township regulations, shall remain in full force.
- 7. **Impact of Traffic.** The PUD shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses. In determining whether this requirement has been met, consideration shall be given to:
  - a. The access to major thoroughfares.
  - b. Estimated traffic to be generated by the proposed development.
  - c. Proximity and relation to intersections.
  - d. Adequacy of driver sight distances.
  - e. Location of and access to off-street parking.
  - f. Required vehicular turning movements.
  - g. Provisions for pedestrian traffic.

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A traffic study shall be submitted as part of the PUD consideration and verification of compliance with the standards for minimizing impacts of traffic.

8. **Regulatory Flexibility.** To encourage flexibility and creativity consistent with the PUD concept, the Planning Commission may recommend, and the Township Board may grant, specific departures from the requirements of the Zoning Ordinance as a part of the approval process. *(amended 05.18.09)*

Any regulatory modifications shall be approved through findings by the Planning Commission and Township Board that the deviations shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of a PUD plan may be appealed to the Zoning Board of Appeals. This provision shall not preclude an individual lot owner from seeking a dimensional variance following final approval of the PUD, provided such variance does not involve alterations to the common elements as shown on the approved PUD site plan.

A table shall be provided on the site plan which specifically details all deviations from the established zoning area, height, and setback regulations, off-street parking regulations, general provisions, or subdivision regulations that would otherwise be applicable to the uses and development proposed in the absence of this PUD section. This specification should include ordinance provisions from which deviations are sought, and the reason and mechanisms to be utilized for the protection of the public health, safety, and welfare, in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this Ordinance shall be considered.

9. **Compatibility with Adjacent Uses.** The proposed PUD shall set forth specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design and layout features which demonstrate due regard for the relationship of the development to surrounding properties and the uses thereon. In determining whether this requirement has been met, consideration shall be given to:

- a. The bulk, placement, and materials of construction of proposed structures.
- b. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
- c. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
- d. The hours of operation of the proposed uses.
- e. The provision of landscaping and other site amenities.

10. **Transition Areas.** Where the PUD abuts a single-family residential district, the Planning Commission and Township Board may require a transition area. Grading within the transition area shall be minimal unless needed to provide effective buffering or accommodate drainage. If the grade change adjacent to a single-family residential area is to be varied by more than three (3) feet, the site plan shall include cross sections illustrating existing and proposed grades in relation to existing and proposed building heights. Perspective renderings from adjacent residential units are encouraged. The Planning Commission may review the proposed transition area to ensure compatibility. The Planning Commission and Township Board may require that the transition area consist of one (1) or more of the following:

- a. A row of single-family lots or condominium sites similar to the adjacent single-family developments in terms of density, lot area, lot width, setbacks and building spacing.
- b. Woodlands, natural features and/or a landscaped greenbelt sufficient to provide an obscuring effect.
- c. Open or recreation space.
- d. Significant changes in topography, which provide an effective buffer.



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11. **Architectural and Site Element Design.** Residential facades should not be dominated by garages. Where attached garages are proposed, at least fifty percent (50%) of the garages should be side-entry or recessed, where the front of the garage is at least five (5) feet behind the front line of the living portion of the principal dwelling. The intent of encouraging recessed or side entry garages is to enhance the aesthetic appearance of the development and minimize the visual impact resulting from the close clustering of units allowed under these regulations. Building elevations shall be required for all structures other than single-family dwellings. *(amended 08.06.07)*

Signage, lighting, entryway features, landscaping, building materials for the exterior of all structures, and other features of the project, shall be designed and completed with the objective of achieving an integrated and cohesive development, consistent with the character of the community, surrounding development, and natural features of the area. The Planning Commission and Township Board may require street or site lighting where appropriate.

12. **Access.** Direct access onto a county road or state highway shall be required to a PUD. The nearest edge of any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line).

13. **Internal Roads.** Internal roads within a PUD may be public or private.

- a. Private roadways within a PUD shall meet the design requirements of the Township's Private Road Ordinance No. 60. The Planning Commission and Township Board may modify these requirements, if all of the following findings are made:

- 1) There is no potential for the road to connect with abutting land or to be extended to serve additional land in the future.
- 2) Significant natural features such as mature trees, natural slopes, wetlands or other water bodies would be preserved through allowing a modification to the private road standards.

- b. Where private roads are developed, a maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, shall be reviewed and approved by the Planning Commission and Township Board.

- c. Both sides of all internal roads shall be landscaped with street trees. For road frontages of individual lots or condominium sites, a minimum of two (2) canopy trees shall be provided per residential dwelling. For sections of road that do not abut lots or condominium sites, one (1) canopy tree shall be provided on each side for every fifty (50) feet of road frontage. Existing trees to be preserved within five (5) feet of the road right-of-way or easement may be credited towards meeting this requirement.

- d. Additional requirements in regards to buffering/screening, greenbelts, and parking lot trees for non-residential projects may be required by the Planning Commission and Township Board and can be found in Section 27.05 of the Township Zoning Ordinance.

14. **Pedestrian Circulation.** The PUD plan shall provide pedestrian access to all open space areas from all residential/development areas, connections between open space areas, public thoroughfares and connections between appropriate on-site and off-site uses. Trails within the PUD may be constructed of gravel, wood chips or other similar materials, but the Planning Commission and Township Board may require construction of an eight (8) foot wide asphalt safety path through portions of the development. Safety paths are required along all public roads, as denoted in the Master Plan and detailed in the Safety Path Ordinance No. 97.

15. **Natural Features.** The development shall be designed to promote the preservation of natural resources and natural features, taking into consideration the local, state, and federal concern for the protection and preservation of natural resources and natural features, and taking into account the provisions and standards of the Township's Wetlands Protection Ordinance No. 107 and the Stormwater Management and Soil Erosion and Sedimentation Ordinance No. 139. If animal or plant habitats of significant value exist on the site, the

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Planning Commission and Township Board shall require that the PUD plan preserve these areas in a natural state and adequately protect them as conservation easements of limited access areas. The Planning Commission and Township Board shall also require a minimum of a twenty-five (25) foot wide undisturbed open space setback from the edge of any lake, pond, river, stream or wetland; provided that the Planning Commission and Township Board may permit trails, boardwalks, observation platforms, or other similar structures than enhance the passive enjoyment of the site's natural amenities, within the setback. Additionally, the setbacks may be modified or waived upon demonstration of the appropriateness of a lower setback and compliance with one (1) or more of the following criteria (*amended 09.17.07*):

- a. demonstrated habitat preservation
- b. demonstrated water quality preservation
- c. demonstrated storm water quality retention
- d. existence of a legal lot of record

16. **Existing Structures.** When a tract contains structures or buildings deemed to be of historic, cultural or architectural significance, as determined by the Planning Commission and Township Board, and if suitable for rehabilitation, the structures shall be retained. Adaptive reuse of existing structures for residential or non-residential use or permitted accessory uses shall be encouraged.

17. **Additional Considerations.** The Planning Commission shall take into account, in considering approval or denial of a particular project, the following considerations, as the same may be relevant to a particular project: drainage and utility design; underground installation of utilities; insulating the pedestrian circulation system from vehicular thoroughfares and ways; achievement of an integrated development with respect to signage, lighting, landscaping and building materials; and noise reduction and visual screening of mechanical equipment.

**D. Non-Residential Project Design Standards.**

1. All design standards contained in Section 30.03 (C) are applicable where appropriate.
2. Non-residential uses shall always be separated and buffered from residential units in a manner consistent with good land use and community planning principles.
3. For non-residential developments, minimum lot area, lot size, building height, and placement shall be determined by the Board after review and recommendation of the Planning Commission. The Master Plan, the character of the area, and the previous zoning classification shall be reviewed before the Planned Unit Development (PUD) Concept Plan, density, setbacks, parking requirements, and the like are approved.
4. The Master Plan shall be reviewed to determine the overall lot density on the property and a compatible zoning district standard may be selected to set forth proper setbacks, lot coverage and lot widths. For all special uses, regulations applicable to the respective uses shall apply. The Township Board, in its discretion, shall resolve all ambiguities as to applicable regulations. Notwithstanding the immediately preceding provision of this Paragraph, deviations with respect to such regulations may be granted as part of the overall approval of the PUD, provided there are features or elements deemed adequate by the Township Board designed into the project plan for the purpose of achieving the objectives of this section.
5. To the maximum extent feasible, the development shall be designed so as to preserve natural resources and natural features. In the interpretation of this provision, natural resources and natural features may be impaired or destroyed only if it is clearly in the public interest to do so. In determining whether an action is in the public interest, the benefit, which would reasonably be expected to accrue from the proposal, shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state, and national concern for the protection and preservation of the natural resources or features. To accomplish the desired balance, the following criteria shall be applied:

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- a. The availability of feasible and prudent alternative methods of completing the development;
  - b. The extent and permanence of the beneficial or detrimental effects of the proposed activity; and
  - c. The size, quality, and rarity of the natural resources or natural features that would be impaired or destroyed.
6. There shall be a perimeter setback and berming, as found to be necessary by the Township Board, for the purpose of buffering the development in relation to surrounding properties. If the PUD project includes non-residential uses adjacent to a district authorizing residential uses, a perimeter setback shall be established with a dimension from the property line of up to one hundred (100) feet, at the discretion of the Planning Commission and Township Board, taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.
  7. Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.
  8. Where feasible, there shall be underground installation of utilities, including electricity and telephone.
  9. In all cases, where separation can be accomplished without significantly reducing the kind and density of uses, the pedestrian circulation system, and its related walkways and safety paths, shall be separated from vehicular thoroughfares and roadways.
  10. Signage, lighting, landscaping, building materials for the exterior of all structures, and other features of the project shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.
  11. In all cases where non-residential uses abut residentially zoned or used property, noise reduction and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls shall be employed. The Planning Commission and Township Board, at their discretion, shall review and approve the design and location of such mechanisms in regard to maximizing, to a reasonable extent, the achievement of the screening objectives.

**E. Optional Provisions for Exemplary Projects.**

The Planning Commission and Township Board may allow an exemplary Planned Unit Development (PUD) to include one (1) or more of the following optional provisions. In order to qualify for an optional provision, the applicant shall demonstrate to the satisfaction of the Planning Commission and Township Board, that the proposed project exceeds the minimum standards for PUD eligibility under Section 30.03 (B).

In order to qualify for development under the optional provisions of this section, architectural standards shall be subject to review by the Planning Commission and Township Board. Buildings shall be harmonious with adjacent uses in terms of texture, materials, roof lines and mass, but there shall be a variation of front facade depth and roof lines to avoid monotony. Building elevations shall be required for all structures.

1. **Density Credit.** A variable density credit may be allowed at the discretion of the Planning Commission and Township Board, based upon a demonstration by the applicant of design excellence in the PUD. Projects qualifying for a density credit shall include no less than two (2) of the following elements (*amended 05.18.09*):
  - a. A high level of clustered development, where at least twenty percent (20%) of the PUD is common usable open space.
  - b. Providing perimeter transition areas or greenbelts around all sides of the development that are at least one hundred (100) feet in depth.
  - c. The proposed plan is designed to enhance surface water quality and ground water quality.

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- d. Provisions and design that preserve natural features.
  - e. Donation or contribution of land or amenities that represent significant community benefit.
  - f. Other similar elements as determined by the Planning Commission and Township Board.
2. **Multiple-Family Component.** A PUD with a gross area of ten (10) acres or more may incorporate a multiple-family component, provided that all of the following are met (*amended 05.18.09*):
- a. **Front Yard.** The minimum building setback from an internal road shall be twenty-five (25) feet from the public street right-of-way or private road easement. The Planning Commission and Township Board may reduce the setback based upon a determination that off-street parking will be adequate, and that the modification will preserve natural features or that the rear yard buffer will be increased by one (1) foot for each one (1) foot of reduction in the front yard setback. In no instance shall the front yard setback be reduced below a minimum of fifteen (15) feet. Buildings that front on two (2) streets shall provide the required front yard setback from both streets.
  - b. **Rear Yard.** A minimum thirty-five (35) foot rear yard shall be maintained for all buildings. Where the rear of a building abuts the side or rear of another residential structure, the minimum spacing between the structures shall be the combined total of the two (2) setback requirements.
  - c. **Side Yards.** A thirty-five (35) foot setback shall be maintained to the side of all buildings. Where two (2) buildings are located side-by-side, twenty (20) feet shall be maintained between the buildings.
  - d. **Off-Street Parking Lots.** All off-street parking lots serving three (3) or more dwelling units shall provide a ten (10) foot wide greenbelt around the perimeter of the parking lot.
  - e. The building setback requirements may be varied provided they are specifically indicated on the PUD plan and the Planning Commission and Township Board determines the variation does not negatively impact adjacent properties and provides a recognizable benefit. Building setback requirements on the perimeter of the development shall not be reduced below thirty-five (35) feet.
3. **Commercial Component.** A PUD with a gross area of ten (10) acres or more may incorporate a commercial land use component, provided that all of the following are met:
- a. The commercial component shall be located on a lot of sufficient size to contain all commercial structures, parking, and landscape buffering. (*amended 05.18.09*)
  - b. All commercial uses shall be compatible with the residential area.
  - c. The Planning Commission finds that the architectural design of the structures is compatible with the balance of the development.
  - d. All commercial structures are connected to a pedestrian access system servicing the project.
  - e. All parking and loading areas serving the commercial uses shall be to the rear or side of the structure and fully screened from view of any public roadway, except that the Planning Commission may allow up to twenty five percent (25%) of the minimum number of required parking spaces in the front yard. Where the parking lot is visible from residential units or open space, it shall be planted with a landscape buffer consisting of evergreen trees spaced no more than ten (10) feet on center.
- F. **Project Standards.** In considering any application for approval of a Planned Unit Development (PUD) plan, the Planning Commission and Township Board shall make their determinations on the basis of the standards for site plan approval set forth in Section 30.01, Site Plan Review, as well as the following standards and requirements:

1. **Compliance with the PUD Concept.** The overall design and land uses proposed in connection with a PUD

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plan shall be consistent with the intent of the PUD concept, as well as with specific design standards set forth herein.

2. **Compatibility with Adjacent Uses.** The proposed PUD plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
  - a. The bulk, placement, and materials of construction for the proposed structures.
  - b. Pedestrian and vehicular circulation.
  - c. The location and screening of vehicular use or parking areas.
  - d. The provision of landscaping and other site amenities.
3. **Impact of Traffic.** The proposed PUD shall be designed to minimize the impact of traffic generated by the PUD on surrounding uses.
4. **Protection of Natural Environment.** The proposed PUD shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
5. **Compliance with Applicable Regulations.** The proposed PUD shall comply with all applicable federal, state, and local regulations.
6. **Township Master Plan.** The proposed PUD shall be consistent with, and further the implementation of, the Township Master Plan. If the proposed PUD is not consistent with the Master Plan, the Planning Commission and Township Board shall consider reasons for deviating from the Master Plan. This could include one (1) or more of the following:
  - a. Changes in surrounding land use or zoning.
  - b. Changes in infrastructure, such as roads, sewers, etc.
  - c. Community benefit.
  - d. Design excellence.

**G. Procedures for Review and Approval. (amended 01.22.13)**

1. **Pre-Application Conference.** Prior to the submission of an application for Planned Unit Development (PUD) approval, a pre-application conference may be held. The purpose of this conference shall focus on the PUD process and required information, as outlined in this section, and shall not constitute any form of official review and approval of the PUD project. Nor shall this conference in any way circumvent, replace, or supersede the review and approval powers of the Planning Commission and Township Board regarding the PUD application. The pre-application conference shall determine if a PUD can be considered for Minor or Major PUD procedures. The eligibility to apply for a Minor PUD shall be determined by an affirmative vote of the following individuals (amended 01.22.13):
  - a. One member of the Planning Commission.
  - b. One representative of the Building/Planning Department.
  - c. Township Supervisor.

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The Building Department shall, if requested, contact the requisite parties and schedule the meeting to be held in the Township Hall. In addition to the applicant and/or applicants representatives, the following persons may be in attendance: Township Zoning/Planning Administrator and/or Planning Coordinator, Building Official, Director of Public Works, Fire Chief, and Township Planning and Engineering consultants. The applicant shall present at such conference, or conferences, at least a sketch plan of the proposed PUD, as well as the following information:

- a. Total size of the project.
- b. A statement of the number of residential units, if any.
- c. The number and type of non-residential uses.
- d. The size of the area to be occupied by each type of use.
- e. The known deviations from ordinance regulations to be sought.
- f. The number of acres to be preserved as open or recreational space.
- g. All known natural features or historic features to be preserved.

During the pre-application conference, a prospective applicant may request that the PUD be considered as a Minor PUD. The Minor PUD will be subject to the same standards and submittal requirements as a Major PUD. However, a Minor PUD will allow a concurrent review of a Concept Plan (Section 30.03 (G)(5) and a Final Plan (Section 30.03 (G)(6). *(added 01.22.13)*

Eligibility for a Minor PUD review shall be subject to the following guidelines *(added 01.22.13)*:

- a. Proposed PUD uses, including single-use or mixed-use developments.
- b. Traffic impacts, including, traffic generation and level of service of existing road system.
- c. Impact on natural resources such as woodlands, wetlands, and natural areas.
- d. Potential impacts on adjoining property owners.

Township representatives attending the pre-application conference shall consider the request for a Minor PUD review and shall consider the above guidelines in determining eligibility for a Minor PUD. Township representatives shall then inform the prospective applicant if the project is eligible for Minor PUD consideration. *(added 01.22.13)*

If the Township representatives determine that the project is eligible for Minor PUD, a concurrent submittal of the Concept PUD plan (Section 30.03 (G)(5) and Final PUD plan (Section 30.03 (G)(6) shall be submitted. Eligibility for Minor PUD consideration shall not in any way imply or commit approval of the Final PUD by the Planning Commission or Township Board. *(added 01.22.13)*

2. **Informal Planning Commission Review.** A prospective applicant may also request a brief review with the Planning Commission regarding a proposed PUD. The scheduling of a brief review by the Planning Commission shall be subject to the availability of time on the agenda as determined by the Chairperson of the Planning Commission. *(added 05.18.09)*
3. **Signage.** An applicant requesting a PUD shall construct and install a sign indicating the requested PUD. The sign shall be in accordance with Section 30.04 (H) of the Zoning Ordinance. *(added 10.01.07)*
4. **Procedures.** The procedures for PUD approval are summarized in the PUD process flow chart found at the end of this section.

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5. **Concept Plan.** Following the optional pre-application conference, the applicant shall submit a Concept Plan and application for the proposed PUD.
  - a. **Information Required.** The Concept Plan for a PUD shall contain, at a minimum, the following information set forth below. Any of the following requirements may be waived by the Planning Commission when determined to be unnecessary, not applicable, or premature at this stage of review, given the nature, size, and scope of the development.
    - 1) A narrative description of the project, discussing the market concept of the project, and explaining the manner in which the criteria set forth for eligibility and design have been met.
    - 2) Provide evidence of compatibility with the Master Plan and the adjacent uses.
    - 3) An explanation of why the submitted PUD plan is superior to a plan that could have been prepared under strict adherence to related sections of this Ordinance.
    - 4) Applicant's name, address, and telephone number.
    - 5) The name of the proposed development.
    - 6) Common description of the property and complete legal description.
    - 7) Dimensions of land, including width, length, acreage, and frontage.
    - 8) Existing zoning and current land use of the property under consideration and zoning and current land use of all adjacent properties.
    - 9) General location of all existing structures, roadways, and natural features including, but not limited to, contours at two (2) foot intervals, lakes, streams, wetlands and/or other watercourses, specimen trees and/or stands of trees on and within one hundred (100) feet of the subject site.
    - 10) Name, address, city and phone number of the firm or individual who prepared the plan; and the owner of the property.
    - 11) Superimposed on the existing conditions drawing or by transparent overlay on such drawing or on a recent aerial photograph of the site, the general location of all proposed buildings, roadways, parking areas, and any other changes proposed to be made on the subject property. The drawing shall also indicate proposed preliminary spot grades in sufficient number to show the general intent of proposed grading, with emphasis on grading to be done in areas of existing natural features such as existing vegetation, trees, slopes or wetlands.
    - 12) Traffic studies, in accordance with Section 27.14, if required by the Planning Commission or Township Board.
    - 13) The density plan as set forth in Section 30.03 (C)(4).
    - 14) Layout of proposed structures, parking lots, landscaping, driveways and other site improvements.
  - b. **Submittal.** The Concept Plan and application for a PUD shall be submitted to the Township Building Department, and it shall be put on the next available Planning Commission agenda, provided the Township received it by noon at least four (4) weeks prior to the meeting. Upon submittal, the Planning Commission staff shall also set a date for the joint public hearing. *(amended 08.06.07, 05.18.09)*
  - c. **Site Walk.** The Planning Commission staff shall coordinate the need for, and if applicable schedule a site walk with the Site Walk Committee or with all members of the Planning Commission. *(amended 05.18.09)*

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- d. Consultant Review. The Planning Commission shall refer the Concept Plan to the Planning and Engineering consultants for review and comment. The plan shall be reviewed for compliance with the PUD requirements.
- e. Public Hearing. The Concept Plan shall be noticed for a joint public hearing before the Planning Commission and Township Board, in accordance with the procedures, public notice, and hearing requirements for rezoning approval as set forth in Section 30.04. If the number of Township Board members attending the public hearing constitutes a quorum, then the public hearing required by the Township Board (Section 30.03 (G)(6)(e)) shall be fulfilled and an additional public hearing at the Final PUD stage shall not be necessary. If the number of Township Board members attending the public hearing constitutes less than a quorum then only the public hearing of the Planning Commission shall be considered fulfilled and the Township Board shall fulfill its requirement to hold a public hearing at the Final PUD stage. If any Township Board member or Planning Commissioner is unable to attend the joint public hearing, they may submit written comments to the Township Clerk, who will read them into the minutes of the hearing. *(amended 08.06.07, 07.07.14)*

If, during the pre-application conference, the Township representatives determine that a Minor PUD may be submitted, the concurrent Concept Plan and Final Plan shall be noticed for a joint public hearing before the Planning Commission and Township Board, in accordance with the procedures, public notice, and hearing requirements for rezoning approval set forth in Section 30.04. If the number of Township Board members attending the public hearing constitutes a quorum, then the public hearing required by the Township Board (Section 30.03 (G)(6)(e)) shall be fulfilled and an additional public hearing by the Township Board shall not be necessary. If the number of Township Board members attending the public hearing constitutes less than a quorum, then only the public hearing of the Planning Commission shall be considered fulfilled and the Township Board shall fulfill its requirement to hold a public hearing separately. If a Township Board member or Planning Commissioner is unable to attend the joint public hearing, they may submit written comments to the Township Clerk, who will read them into the minutes of the hearing. *(added 01.22.13, amended 07.07.14)*

- f. Density Determination. Following the public hearing, the Planning Commission shall establish density, as provided by the yield calculated by the Density Plan, in the accordance with Section 30.03 (C)(4)(c).
- g. Planning Commission Action. Following the public hearing, or at a subsequent Planning Commission meeting, the Planning Commission shall review the Concept Plan and shall take one of the following actions *(amended 07.07.14)*:
  - 1) Approval. Upon finding that the Concept Plan meets the criteria set forth in the intent and this section, the Planning Commission shall recommend Concept Plan approval to the Township Board. Approval by the Township Board shall constitute approval of the uses, density, and design concept as shown on the Concept Plan and shall confer upon the applicant the right to proceed to preparation of the Final Plan. A recommendation of approval of the Concept Plan by the Planning Commission shall not bind the Township Board to approval of the Final Plan submittals.
  - 2) Approval with Changes or Conditions. The Planning Commission may recommend conditional approval to the Township Board, subject to modifications as performed by the applicant.
  - 3) Postponement. Upon finding that the Concept Plan does not meet the criteria set forth in the intent of this section, but could meet such criteria if revised, the Planning Commission may recommend to postpone action to the Township Board until a revised Concept Plan is submitted.
  - 4) Denial. Upon finding that the Concept Plan does not meet the criteria set forth in the intent of this section, the Planning Commission shall recommend denial of the Concept Plan to the Township Board.



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- 5) Request Changes. If the Planning Commission request changes, the applicant shall submit the revised drawings and/or information within the time frame allotted. Failure to submit the revised plans and/or information within the requisite time frame shall void the request. *(amended 05.18.09)*
  
- h. Township Board Action. If the Concept Plan has been recommended for approval, recommended for approval with conditions, or recommended for denial by the Planning Commission, the Township Board shall take the following action *(amended 07.07.14)*:

Upon finding that the Planning Commission has issued a recommendation on the Concept Plan, the Township Board may approve, approve with conditions, or deny said Concept Plan. The Township Board may also refer the Concept PUD plan back to the Planning Commission with comments. Applicant may still submit a Final Plan in accordance with Section 30.03 (G)(6), regardless of action taken by the Township Board on the Concept Plan. *(amended 07.07.14)*
  
- i. Development Agreement. After approval of the Concept Plan by the Planning Commission, the Township shall instruct the Township Attorney to prepare a Development Agreement setting forth the conditions upon which such approval is based; which Agreement, after approval by the Township Board, shall be executed by the Township and the applicant and recorded in the Office of the County Register of Deeds. Approval of the Agreement shall be effective upon recording. *(amended 07.07.14)*
  
6. **Final Plan.** Following receipt of the Planning Commission comments on the Concept Plan, and action by the Township Board, the applicant shall submit a Final Plan and supporting materials conforming to this section. If a Final Plan is not submitted by the applicant for final approval within twelve (12) months of Township Board Concept Plan approval, the Concept Plan approval becomes null and void. The Planning Commission may, however, issue a waiver for greater periods of time if it is determined to be appropriate, as a condition of Concept Plan approval. Such extension and request of waiver shall be made prior to the expiration date.
  - a. Information Required. A Final Plan and application for a PUD shall contain the following information:
    - 1) Applications for Final Plan approval shall include all of the data requirements for site plan review as specified in Section 30.01 (E) and Section 30.01 (F) of this Ordinance. *(amended 01.02.07)*
    - 2) Proposed acceleration, deceleration, and passing lanes.
    - 3) Depict which natural features are to be entirely preserved, which are to be modified or disturbed, and which are to be destroyed.
    - 4) Locations of existing culturally, historically, and architecturally significant structures.
    - 5) All parking areas and number of spaces, by size.
    - 6) The number and location of areas to be preserved as open or recreation space.
    - 7) Layout and typical dimensions of proposed lots, footprints, and dimensions of proposed buildings and structures, and uses, with the acreage allotted to each use.
    - 8) General location and type of landscaping proposed (evergreen, deciduous, berm, etc.), noting existing trees and landscaping to be retained.
    - 9) Any additional graphics or written materials requested by the Planning Commission or Township Board, to assist the Township in determining the appropriateness of the PUD.
    - 10) If the applicant desires to build the PUD in phases, then the phasing plan shall be a part of the Final Plan submittal documents, in accordance with the following:

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Since the benefits and impact of a development on the community shall be considered as a whole, the applicant shall seek Final Plan approval of the project in its entirety. Construction of the development may be proposed to be completed in phases provided that the project must be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area. During construction or completion of initial phases, all future phases shall be maintained.

- 11) The PUD Master Deed, Bylaws, and Exhibit B (if applicable) shall be submitted for review and approval in conjunction with the Final Plan.
  - 12) Easement and Rights-of-Way Instruments shall be submitted for review and approval in conjunction with the Final Plan.
  - 13) A separate delineation of all deviations from this Ordinance that would otherwise be applicable to the uses and development proposed in the absence of this PUD section.
  - 14) A utility master plan for the entire PUD site shall be provided which includes the location and size of all public and private utilities, utility services, storm sewers, basins, and necessary easements.
  - 15) A specific schedule of the intended development and construction details, including phasing or timing.
  - 16) A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.
  - 17) A specification of the exterior building materials with respect to the structures proposed in the project.
  - 18) Proposed street names as approved by the Township Fire Chief and the Road Commission for Oakland County.
  - 19) Signatures of all parties having an interest in the property.
- b. Submittal. The applicant shall submit the Final Plan and application for a PUD to the Township Building Department within twelve (12) months of Concept Plan approval, otherwise the Concept Plan approval becomes null and void. The Planning Commission may, however, issue a waiver for greater periods of time if it is determined to be appropriate, as a condition of Concept Plan approval. Such extension and request of waiver shall be made prior to the expiration date.

The Final Plan shall be put on the next available Planning Commission agenda, provided the Township received it by noon at least four (4) weeks prior to the meeting. *(amended 05.18.09)*

- c. Consultant Review. The Planning Commission shall refer the Final Plan, Master Deed, Bylaws, Exhibit B, and Easements and Rights-of-Way Instruments to the Building Department, Assessor's Office, Township Attorney, Planning and Engineering consultants for review and comment. The plan shall be reviewed for compliance with the Concept Plan approval and Section 30.03 (G)(5).
- d. Planning Commission Action. The Planning Commission shall review the Final Plan and shall take one of the following actions *(amended 07.07.14)*:
  - 1) Approval. Upon finding that the Final Plan meets the criteria set forth in the intent of this section, the Planning Commission may recommend Final Plan approval to the Township Board. Approval of the Master Deed, Bylaws, Exhibit B, and Easements and Rights-of-Way Instruments shall be

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granted by the Building Department, Assessor's Office, Township Attorney, Planning and Engineering consultants.

- 2) Approval with Changes or Conditions. The Planning Commission may recommend to the Township Board conditional approval, subject to modifications as performed by the applicant. These conditions may include review and approval of the Master Deed, Bylaws, Exhibit B, and Easements and Rights-of-Way Instruments by the Building Department, Assessor's Office, Township Attorney, Planning and Engineering consultants.
  - 3) Postponement. Upon finding that the Final Plan does not meet the criteria set forth in this intent of this section, but could meet such criteria if revised, the Planning Commission may recommend to postpone action to the Township Board until a revised Final Plan is submitted.
  - 4) Denial. Upon finding that the Final Plan does not meet the criteria set forth in the intent of this section, the Planning Commission shall recommend denial of the Final Plan to the Township Board.
  - 5) Request Changes. If the Planning Commission requests changes, the applicant shall submit the revised drawings and/or information within the time frame allotted. Failure to submit the revised plans and/or information within the requisite time frame shall void all prior approvals. *(amended 05.18.09)*
- e. Township Board Final Action. The Township Board shall schedule a public hearing in accordance with the procedures, public notice, and hearing requirements for rezoning approval as set forth in Section 30.04. The public hearing conducted by the Township Board may be part of the first or second reading for a PUD zoning amendment. If the public hearing for the PUD Concept stage has been noticed as a joint meeting and a quorum of the Township Board were present, there is no need for a second public hearing to be conducted by the Township Board. If the proposed development has been approved, approved with conditions, or denied by the Planning Commission, the Township Board shall take the following action *(amended 07.07.14)*:
- Upon finding that the Planning Commission has issued a recommendation on the Final Plan, the Township Board may approve, approve with conditions, deny or refer the Final Plan back to the Planning Commission. If approved the requirement for a Notice of Amendment Adoption described in Section 30.04 (G) shall also apply. *(amended 08.06.07, 07.07.14)*
- f. All actions on the Concept Plan or Final Plan by the Planning Commission and the Township Board shall state the reasons for approval, conditional approval, postponement, denial or referral back within the body of the motion. *(amended 07.07.14)*
  - g. Upon approval of the Final Plan, with any related conditions having been reviewed and approved, the Township may sign the final copy and direct the applicant to record the Master Deed with the County. Subsequent to filing the Master Deed with the County, the applicant may request release of the site's sidwell numbers from the Assessor, providing that all taxes and special assessments have been paid on the parent parcel. Upon release of the sidwell numbers, the Building Official will assign addresses and issue building permits.
  - h. Following approval by the Township Board, and the signing of the plans, the Building Department shall direct the Planning consultant to amend the Township zoning map to reflect the PUD approval by amending the zoning designation.

**7. Planned Unit Development (PUD) Conditions.**

- a. Reasonable conditions may be required by the Planning Commission and Township Board before the approval of a PUD, to the extent authorized by law, for the purpose of ensuring that public services and

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- facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. The conditions of approval may be drafted in writing, specifying conditions of approval and use. Conditions may stipulate that the PUD may only be used for selective land uses, provided the restraints advance, rather than injure, the interests of adjacent landowners; are a means of harmonizing private interests in land, thus benefiting the public interest; are for the purposes of ensuring that the PUD fulfills the purposes and intent of this section and thus, benefits the public interest; and/or possess a reasonable relationship to the promotion of the public health, safety, and welfare.
- b. Conditions imposed shall be designed to protect natural resources and the public health, safety, and welfare of individuals in the project and those immediately adjacent, and the community as a whole; reasonably related to the purposes affected by the PUD; and, necessary to meet the intent and purpose of this Ordinance, and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the written record of the Final Plan that shall include a site plan and written Development Agreement signed by the Township Supervisor and Clerk and the applicant.
  - c. In the event that conditions set forth herein are not complied with, then the Supervisor shall have the right to compel a show cause hearing by the Planning Commission or issue a violation pursuant to Section 30.15 of this Ordinance. At the show cause hearing, additional conditions may be imposed by the Township and/or a new PUD application required.

**H. Phasing and Commencement of Construction.**

1. **Phasing.** Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the Planned Unit Development (PUD) and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable in the discretion of the Township Board, after recommendation from the Planning Commission. Similarly, the schedule upon which any and all community benefits proposed in association with the development will be installed or otherwise become available shall be disclosed and determined to be reasonable at the discretion of the Township Board. The conditions regarding timing and phasing of community benefits as well as other PUD components shall be specified within the PUD agreement and may be attached to specified performance guarantees. *(amended 05.18.09)*
2. **Commencement and Completion of Construction.** Construction shall be commenced within one (1) year following the date of Final Plan approval and shall proceed substantially in conformance with the schedule set forth by the applicant and in accordance with this Ordinance. If construction is not commenced within such time, any previous PUD plan approval shall expire and become null and void unless an extension is granted. An extension for up to one (1) year may be granted by the Planning Commission, upon good cause shown, if such request is made to the Planning Commission prior to the expiration of the initial period. Additional one (1) year extensions may also be granted at the discretion of the Planning Commission. Moreover, in the event the PUD plan approval has expired, a new application shall be required, and shall be reviewed according to existing and applicable law and ordinance provisions at the time of any subsequent submission. *(amended 05.18.09)*

**I. Effect of Approval.**

1. If and when approved, the Final Plan for the Planned Unit Development (PUD), with any conditions imposed, shall constitute the land use authorization for the property, and all improvements and uses shall be in conformity with the approved plan. Subsequent to approval of the Final Plan, the Building Official shall not

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issue building permits or Certificates of Occupancy unless the Building Official determines that all subsequent working drawings and plans comply with the approved Final Plan and the Planning Commission's resolution of approval. However, once a PUD receives final approval, the Township shall not refuse to issue the necessary permits if the development proceeds in conformance with the approved plan, even though the PUD regulations and procedures may be changed or amended.

2. It shall be the responsibility of the applicant to obtain all other applicable Township, County, and State permits for all phases of the project prior to commencing any clearing, earthwork, or other site development related work.
3. Since eligibility for a PUD rests entirely upon proof of specific substantial benefits to the community, as well as to the applicant, these benefits shall be considered part of the contract between the Township and the applicant. The benefits agreed upon by the Township and the applicant shall be listed on the plans.

Any breach, such as modification, disturbance, or destruction of natural features designated to remain untouched, shall cause approval of the PUD to be held null and void and shall result in suspension of all permits issued until the breach has been remediated to a condition as close as possible to that designated in the PUD plan.

Alternatively, the applicant may, at his discretion, commence the approval process again from the beginning. In this event, however, the Township shall be under no obligation whatsoever to approve the new project. Approval shall be entirely at the discretion of the Township, which may impose additional conditions on the applicant.

- J. Modifications of Approved Final Plans. Approved Final Plans for a Planned Unit Development (PUD) may be modified in accordance with the procedures set forth in Section 30.03 (F) and under the following conditions:

1. **Minor Modifications.** Minor changes may be permitted by the Planning Commission, following normal site plan review procedures outlined in Section 30.01 (D), subject to its finding that:
  - a. Such changes will not adversely or substantially affect the initial basis for granting approval.
  - b. Such minor changes will not adversely or substantially affect the overall PUD, in light of intent and purpose of such development as set forth in Section 30.03 (A).
  - c. For residential buildings, the size of structures may be decreased, or increased by five percent (5%) provided that the overall density of units does not increase.
  - d. Square footage of non-residential buildings may be decreased, or increased by up to five percent (5%) or 10,000 square feet, whichever is smaller.
  - e. Horizontal and/or vertical elevations may be altered by up to five percent (5%).
  - f. Movement of a building or buildings by no more than ten (10) feet.
  - g. Designated "areas not to be disturbed" may be increased.
  - h. Plantings approved in the final PUD landscape plan may be replaced by similar types of landscaping on a one-to-one or greater basis.
  - i. Improvements to site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
  - j. Changes of building materials to another of higher quality.
  - k. Changes in floor plans which do not alter the character of the use.

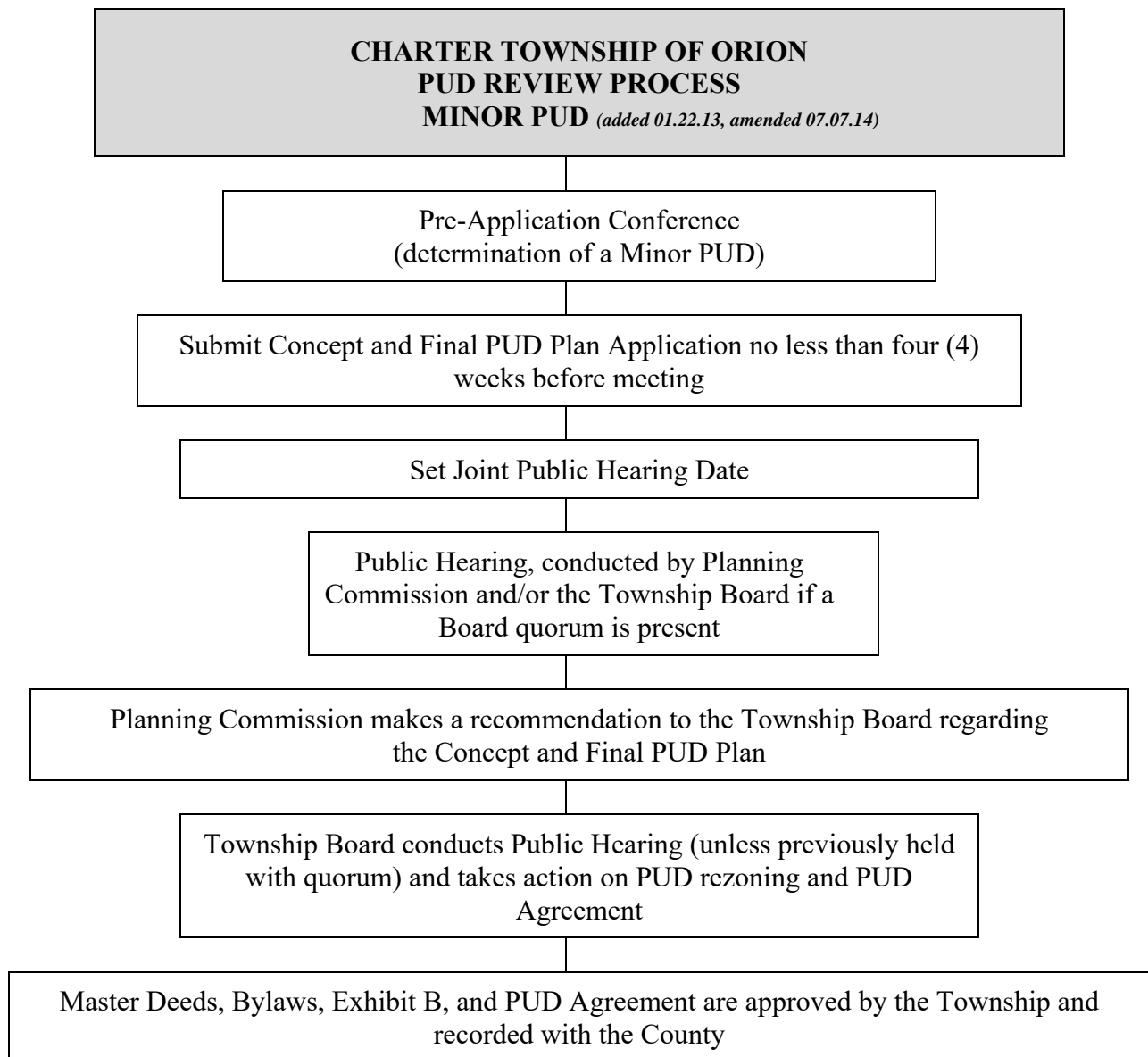
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- l. Slight modification of sign placement or reduction of size.
  - m. Relocation of sidewalks and/or refuse storage stations.
  - n. Internal rearrangement of parking lots that does not affect the number of parking spaces or alter access locations or design.
  - o. Changes required or requested by the Township for safety reasons shall be considered a minor change.
2. **Major Modifications.** Modifications other than those noted above are considered major changes and will require a resubmittal to the Township and a new public hearing held. The procedures outlined in this section (30.03) shall apply in all such cases.

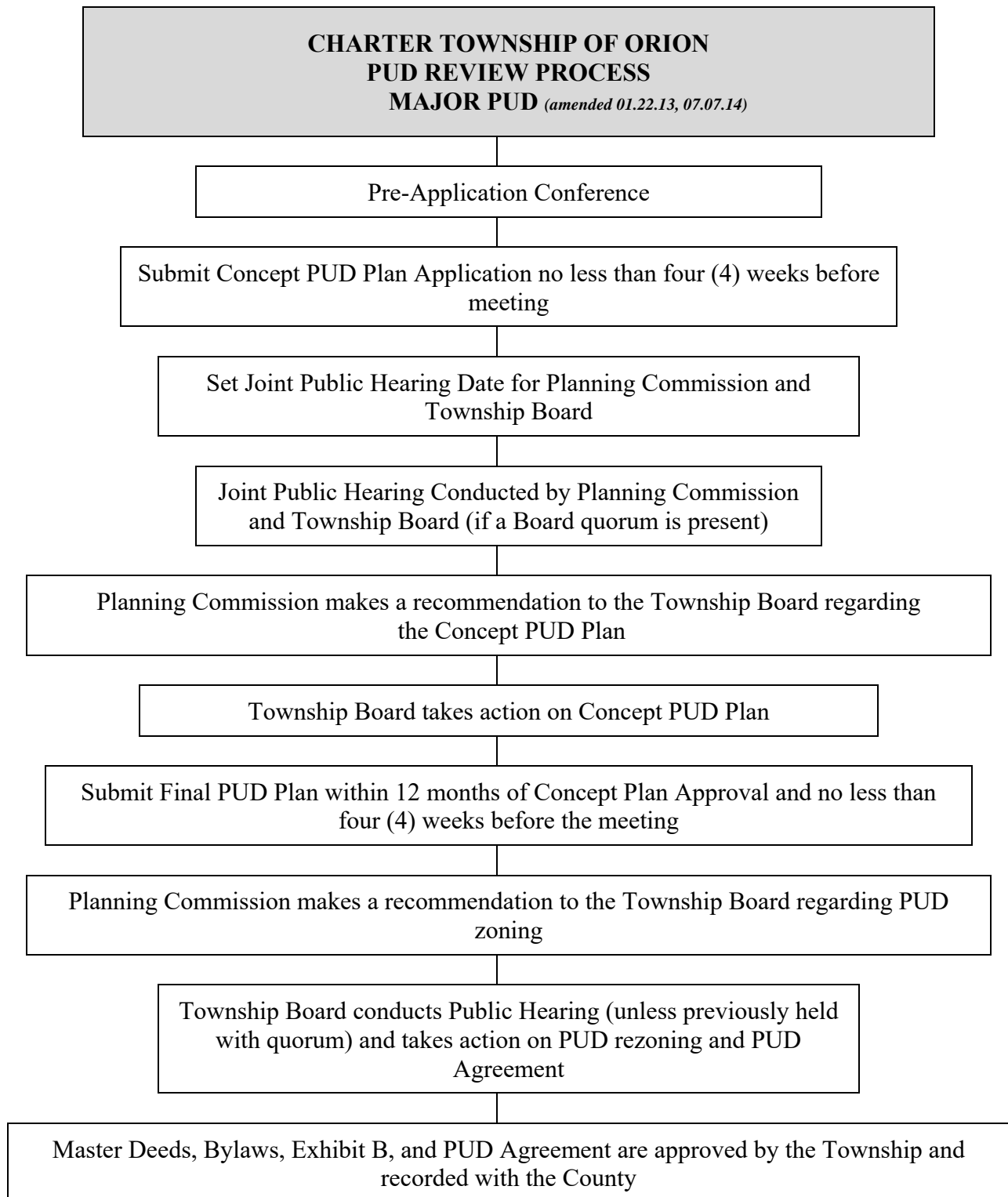
**K. Recording of Planning Commission and Township Board Actions.**

1. Each action taken with reference to a Planned Unit Development (PUD) shall be duly recorded in the minutes of the Planning Commission and Township Board. The reasons for the action taken shall also be recorded in the minutes. After all steps in each phase of the review process have been completed, three (3) copies of the Final Plan shall be marked by the Planning Commission staff for the following distribution (*amended 05.18.09*):  
  
One (1) copy shall be returned to the applicant, along with a written transmittal of the reasons for action and/or conditions of approval.  
  
One (1) copy shall be forwarded to the Township Building Department.  
  
One (1) copy shall be retained in the Planning Commission files.
2. A notice of adoption of the PUD shall be filed with the Oakland County Register of Deeds.

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**30.04 Amendments to the Zoning Ordinance****Section 30.04 – Amendments to the Zoning Ordinance**

- A. Initiation of Amendment. Text amendments may be proposed by any governmental body or any interested person or organization. Map amendments may be initiated by any governmental body or any persons having a freehold interest in the subject property, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest entitled to exclusive possession or which is specifically enforceable.
- B. Application for Amendment. *(amended 01.24.85, 08.06.07, 11.07.11)* An application for an amendment to this Ordinance, whether it is a text amendment or an amendment to change the zoning classification of a particular property, shall be filed with the Chief Building Officer / Enforcement Officer on such forms and accompanied by such fees as may be specified by the Township Board. The application and any supporting documentation shall be forwarded by the Building Department to the Planning Commission for study and recommendation.
1. Each application for an amendment to change the zoning classification of a particular property shall include statements addressing the following: *(amended 05.22.97)*
    - a. An explanation of why the rezoning is necessary for the preservation and enjoyment of the rights of usage commonly associated with property ownership.
    - b. An explanation of why the existing zoning classification is no longer appropriate.
    - c. An explanation of why the proposed rezoning will not be detrimental to surrounding properties.
  2. Applications for amendments that are intended to change the zoning classification of a particular property shall be accompanied by a plot plan, and description of the zoning request. Information required shall include the following: *(amended 11.07.11)*
    - a. Applicant's name, address, and telephone number.
    - b. Scale of plot plan, northpoint, and dates of submission and revisions.
    - c. Zoning classification of petitioner's parcel and all abutting parcels.
    - d. Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within one hundred (100) feet of the site. Aerial imagery or photographs with parcel data/or property lines should be submitted.
    - e. Existing use of the property.
    - f. Right-of-way widths of all abutting streets and alleys.
    - g. Tax parcel identification number and/or legal description with acreage calculation.
    - h. Listing of all existing street addresses within the property.

If any of the items listed are not applicable to a particular plot plan, the applicant shall specify on the plot plan which items do not apply, and furthermore, why the items are not applicable.
  3. Additional Information Requirements. The Planning Commission or Building Department may require additional items of information which are pertinent to the analysis of a zoning map amendment. This information includes the following: *(added 11.07.11)*
    - a. Listing of known easements, including utility easements, drainage easements, etc.
    - b. Information regarding existing sanitary systems and/or septic systems and adequacy or feasibility of service.

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- c. Information regarding existing water mains, well sites, and adequacy or feasibility of service.
  - d. The location of regulated wetlands or floodplains.
- C. **Evaluation by the Township.** The Charter Township of Orion shall base its decision regarding a zoning map amendment upon findings of fact and review of the criteria contained in Section 30.04 (D) (4). The Township shall also evaluate a rezoning request based upon the information provided by the applicant as required by this section, including information pertaining to utilities such as water and sanitary service, natural features such as wetlands, and easements. It is the responsibility of a rezoning applicant to fully investigate the feasibility for development. It is also the responsibility of the applicant to fully understand all possible site development constraints, including but not limited to wetlands, floodplains, easements, and on-site utilities. A successful rezoning does not necessarily guarantee or commit the Township to provide full extension of utility services such as water and sanitary sewer service to those sites or parcels without these services. *(added 11.07.11)*
- D. **Action by the Planning Commission.** *(amended 08.06.07)*
1. **Public Hearing.** The Planning Commission shall hold at least one (1) public hearing on each application for an amendment at such time and place as shall be established by the Planning Commission.
  2. **Notice of Public Hearing.**
    - a. Notice of the public hearing shall be published in a paper of general circulation in the Township. In addition, written notice must also be sent by mail or personal delivery to the owners of the property for whom approval is being considered, and to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property, regardless of whether the property or structure is located within the Township. Notice must be given not less than fifteen (15) days prior to the public hearing. If the name of the occupant is not known, the term "occupant" may be used in making notification. In addition, notice must also be given to each electric, gas and pipeline utility company, any telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Clerk for the purpose of receiving such notice.
    - b. The notice shall do all of the following:
      - 1) Describe the nature of the request.
      - 2) Indicate the property that is the subject of the request. The notice must include a listing of all street addresses within the property. If there are no street addresses, other means of identification may be used.
      - 3) State when and where the request will be considered.
      - 4) Indicate when and where written comments will be received concerning the request.
      - 5) Finally, the notice must also include the places and times at which the proposed text and any maps of the amendments may be examined.
    - c. If the proposed amendment involves the rezoning of eleven (11) or more parcels, the notice need not be sent to owner(s) of the property in question, nor are three hundred (300) feet notices required. Also, individual addresses need not be included in the Notice.
  3. **Submission for Approval.** For parcels which share a common boundary with a neighboring community, following the hearing, the Planning Commission shall submit the proposed amendment to the Oakland County Coordinating Zoning Committee for review and recommendation. If the recommendation of the County Planning Commission has not been received by the Township within thirty (30) days, it shall be conclusively presumed that the County has waived its right for review and recommendation.

**30.04 Amendments to the Zoning Ordinance**

4. **Findings of Fact and Recommendation of the Planning Commission.** *(amended 05.22.97)* Following the public hearing, the Planning Commission shall transmit a summary of comments received at the public hearing and the proposed Ordinance amendments, including any maps and recommendations make written findings of fact and transmit same, together with its recommendation, to the Township Board. The Township Board may hold additional hearings if the Township Board considers it necessary, or if requested.

Where the purpose and effect of the proposed amendment is to change the zoning classification of a particular property, the Planning Commission shall make findings based on the evidence presented to it with respect to the following matters:

- a. The objectives of the Township's Master Plan.
- b. Existing uses of property within the general area of the property in question.
- c. The zoning classification of property within the general area of the property in question.
- d. The suitability of the property in question to the uses permitted under the existing zoning classification.
- e. The trend of development in the general area of the property in question, including any changes which have taken place in the zoning classification.

E. Action by the Township Board. *(amended 08.06.07)*

1. After receiving a Zoning Ordinance amendment from the Planning Commission, the Township Board may hold a public hearing if it considers it necessary, or if requested.
2. Notice of a public hearing by the Township Board shall be given in the same manner as required under Section (D)(2), above.
3. The Township Board may refer any proposed amendments to the Planning Commission for consideration within a time specified by the Board.
4. The Township Board shall grant a hearing on a proposed ordinance amendment to a property owner who requests a hearing by certified mail, addressed to the Township Clerk.
5. After the public hearing, if held, the Township Board shall consider and vote on the adoption of the amendment, with or without modifications. Notice of the meeting at which the Township Board shall consider for approval an amendment to the Zoning Ordinance shall be given as follows:
  - a. If an individual property or ten (10) or fewer adjacent properties are proposed for rezoning, notice of the request shall be published in a newspaper of general circulation in the Township. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property, regardless of whether the property or occupant is located in the Township. The notice shall be given not less than fifteen (15) days before the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall do all of the following:
    - 1) Describe the nature of the request.
    - 2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
    - 3) State when and where the request will be considered.

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- 4) Indicate when and where written comments will be received concerning the request.
- b. If eleven (11) or more adjacent properties are proposed for rezoning, the Township Board shall give notice of the proposed rezoning in the same manner as required under Section (5)(a), above, except that no individual addresses are required to be listed under Section (5)(a)(ii).
- 6. A Zoning Ordinance amendment shall be considered approved upon a majority vote of the members of the Township Board.
- 7. A Zoning Ordinance amendment shall take effect upon the expiration of seven (7) days after publication, as required below.
- 8. An amendment to the Zoning Ordinance for purposes of confirming a provision of the Ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the legislative body and the notice of adopted amendment published without referring the amendment to any other Board, Commission, or agency provided for under this Ordinance.
- F. Effect of Denial of Amendment. No application for a map amendment which has been denied by the Township Board shall be re-heard unless there have been changes in the facts, evidence, and/or conditions in the case. Determination of whether there have been such changes shall be made by the Planning Commission at the time the application is submitted for processing. *(amended 08.15.85)*
- G. Notice of Amendment Adoption. Following adoption of a Zoning Ordinance amendment by the Township Board, the Zoning Ordinance amendment shall be filed with the Township Clerk, and a notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. The notice shall include the following information:
  - 1. Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
  - 2. The effective date of the ordinance amendment.
  - 3. The place and time where a copy of the ordinance may be purchased or inspected.
- H. Required Signage. An applicant requesting a zoning map change, or PUD, shall construct and install a sign indicating the requested change of zoning. The sign shall be installed no less than fifteen (15) days prior to the scheduled public hearing. The sign shall be installed on the parcel(s) requested for rezoning and shall be clearly visible from an adjoining roadway. The sign shall not be placed within a public right of way, nor shall the sign obstruct clear vision for motorists. *(added 10.01.07)*

The sign shall comply with the following sign specifications:

- Black letters on white background.
- Size: minimum 4 ft. (vertical) by 6 ft. (horizontal).
- Signs face must be exterior plywood, aluminum, or similar material.
- Wording shall be as follows:

<p>ZONING CHANGE PROPOSED          For more information call:          Charter Township of Orion          Building Department          (248) 391-0304 ext. 5002</p>
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- (min. 8” high letters)
- (min. 3” high letters)
- (min. 4” high letters)
- (min. 4” high letters)

**30.04 Amendments to the Zoning Ordinance**

- Sign support system must be structurally sound and mounted with 4"x4"s or "u" channel steel posts. The posts shall be set in the ground at least 30" below the surface. The bottom of the sign shall be no less than three (3') above the ground level.

Rezoning or PUD signs shall be removed within:

- Seven (7) days of approval by Township Board.
- Seven (7) days of withdrawing rezoning or PUD application.
- Seven (7) days of denial of rezoning request or PUD request by Township Board.
- Failure to remove sign within this period may result in removal of the sign by the Township, following notice and an opportunity to cure, at the owner's expense.

**Section 30.05 – Conditional Rezoning** *(added 07.06.09, 11.01.16)***A. Intent.**

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning classification, that certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

**B. Application and Offer of Conditions.**

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. The offer shall be contained in a proposed Conditional Rezoning Agreement, as described in this section, below. This offer or any additional offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process; however, the offer shall in all events be considered by the Planning Commission prior to being acted upon by the Township Board.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section. Prior to submission of a formal application, applicants are encouraged to request and attend pre-application meetings with the Township staff.
3. The owner's offer of conditions may not authorize uses or development not permitted in the requested new zoning district. The owner must state in the application the new zoning district under which the conditional rezoning will be reviewed and evaluated.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the conditional rezoning is requested. The provisions to allow conditional rezoning shall not be construed to allow rezoning by exaction.
5. Conditional rezoning shall not alter any of the various zoning requirements for the uses in question, i.e., parking, landscaping, lot area, lot width, building height, setbacks, lot area coverage, etc. Conditional rezoning shall not grant zoning variances of any kind. Any zoning variance must follow the provisions of section 30.07 of this Zoning Ordinance and can be obtained by separate application only after the conditional rezoning has been approved by the Board of Trustees, unless specifically allowed in advance by the Board of Trustees.
6. Any use or development proposed as part of an offer of condition that would require site plan approval under the terms of this ordinance may only be commenced if a site plan is ultimately granted in accordance with the provisions of this ordinance, if necessary.

**30.05 Conditional Rezoning**

7. Any use or development proposed as part of an offer of conditions that would require special land use approval under the terms of this Ordinance may only be commenced if special land use approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
8. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application may be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
9. In addition to the factors for rezoning found in Section 30.04 of this Ordinance, the deliberations of the Planning Commission and Township Board shall include, but not be limited to, the following:
  - a. Compatibility with the policies and uses designated for the land and area in the Township's Master Plan, or deviation from the Master Plan if the proposed development is compatible with the overall development, goals, character and/or needs of the Township.
  - b. Compatibility, or reasonable assimilation through offered conditions, with other uses in the surrounding areas considering the area as a whole and the overall development, goals, character and/or needs of the Township.
  - c. Availability and adequacy of public services and facilities, and whether there is likely to be any adverse impact from a development or use allowed under the rezoning with Conditional Rezoning Agreement; and
  - d. Whether the development that would be approved shall advance the public interest, weighing the reasonably expected burdens likely to result from allowing the development against the reasonably expected benefits to be achieved by the development.
- C. Planning Commission Review. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 30.05 B(9) of this ordinance, may recommend approval or denial of the rezoning.
- D. Township Board Review. After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request.

The Township Board may consider amendments to the proposed conditional rezoning application as offered by the applicant, and may deny the application, approve the conditional rezoning with or without offered amendments, or send the application back to the Planning Commission for further consideration. In the case of newly offered amendments to the proposed conditional rezoning and/or if a conditional rezoning request is referred back to the Planning Commission for further consideration the Township Board shall make a determination if a new public hearing shall be held.

- E. Approval.
  1. If the Township Board finds a rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a Conditional Rezoning Agreement. The Agreement shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
  2. The Conditional Rezoning Agreement, as initially submitted, or as may be modified during the course of the rezoning process, shall:
    - a. Be in a form recordable with the Register of Deeds for Oakland County or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner of the property giving notice of the Conditional Rezoning Agreement in a manner acceptable to the Township Board.

**30.05 Conditional Rezoning**

- b. Contain a legal description of the land to which it pertains.
  - c. Contain a statement and acknowledgement that the terms and conditions of the Conditional Rezoning Agreement shall run with the land and be binding upon and inure to the benefit of the property owner and the Township, and their respective heirs, successors, assigns and transferees;
  - d. Contain a specification of all conditions proposed by the land owner to be applicable to the use and development of the land, including the following to the extent relevant:
    - 1) The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features.
    - 2) Permissible uses of the property, and a specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation, and the like.
    - 3) Preservation of natural resources and/or features.
    - 4) Facilities to address any relevant traffic, storm water and water quality issues.
    - 5) Provisions for maintenance of areas on the land, as relevant.
  - e. Contain a statement acknowledging that the Conditional Rezoning Agreement, or an Affidavit or Memorandum giving notice thereof, may be recorded by the Township with the Register of Deeds of Oakland County.
  - f. Contain a statement acknowledging that the Township is not required to issue a certificate of occupancy until all conditions in the Conditional Rezoning Agreement have been met.
  - g. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that the Conditional Rezoning Agreement, as the same may have been modified during the rezoning process (if applicable) has been freely, voluntarily and knowledgeably offered by such owners, and agreed upon in its entirety. If the land owner is unable to sign this due to a lack of one or more conditions that are not voluntary, the land owner shall provide a notice to this effect with the Township Clerk before final action of the Township Board.
3. Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification, along with a designation that the land was rezoned with a Conditional Rezoning Agreement. The Township Clerk shall maintain a listing of all lands rezoned with a Conditional Rezoning Agreement.
  4. The approved Conditional Rezoning Agreement, or Affidavit or Memorandum giving notice thereof, shall be filed by the Township with the Register of Deeds of Oakland County. The Township Board shall have the authority to waive this requirement if it determines that, given the nature of the conditions and/or the timeframe in which the conditions are to be satisfied, the recording of such document would be of no material benefit to the Township or to subsequent owners of land.
  5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Conditional Rezoning Agreement.
- F. Compliance with Conditions.
1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Conditional Rezoning Agreement. Any failure to comply with a condition contained within the Conditional Rezoning Agreement shall constitute a violation of the Zoning Ordinance

**30.05 Conditional Rezoning**

and shall be punishable accordingly. Additionally, any such violations shall be deemed a nuisance per se and be subject to judicial abatement as provided by law.

2. No permit or approval shall be granted under the ordinance for any use or development that is contrary to an applicable Conditional Rezoning Agreement.
- G. Time Period for Establishing Development or Use. Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within six (6) months after the rezoning took effect, and thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the Township Board if:
1. It is determined to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and
  2. The Township Board finds that there has not been a change in circumstance that would render the current zoning with Conditional Rezoning Agreement incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
- H. Termination. If approved development and/or use of the rezoned land does not occur within the timeframe specified under Subsection G above, if the property owner makes a request in writing for termination of the Conditional Rezoning Agreement prior to making any improvements pursuant to the Conditional Rezoning Agreement, or if the land that is conditionally rezoned is thereafter rezoned, then the conditional rezoning and the Conditional Rezoning Agreement shall be deemed to be immediately terminated except in the Township's discretion as to that part of the land, if any, that has been developed. In the event of such termination, no new development or use of the land shall be permitted until a new zoning classification is approved by a rezoning of the land. Upon such termination, the Planning Commission shall immediately initiate the process to rezone the land in whole or in part to its prior or other appropriate zoning classification. The procedure for considering and adopting this rezoning shall be the same as applied to all other rezoning requests. Once the rezoning has occurred, the Township shall, upon request of the land owner, record with the Register of Deeds for Oakland County a notice that the Conditional Rezoning Agreement, except in the Township's discretion as to that part of the land, if any, that has been developed, is no longer in effect.
- I. Amendment of Conditions.
1. During the time period for commencement of an approved development or use specified pursuant to Subsection G or any extension granted by the Township Board, the Township shall not add to or alter the conditions in the Conditional Rezoning Agreement.
  2. The Conditional Rezoning Agreement may be amended in the same manner as was prescribed for the original rezoning and Conditional Rezoning Agreement.
- J. Township's Right to Rezone. Nothing in the Conditional Rezoning Agreement or in the provisions of this section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Conditional Rezoning Agreement to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*
- K. Failure to Offer Conditions. The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's right under this ordinance.



**30.06 Appeals****Section 30.06 – Appeals**

- A. Scope of Appeals. An appeal may be taken to the Zoning Board of Appeals by any person, firm, or corporation, or by any office, department, board, or bureau aggrieved by a decision of the Enforcement Officer, the Planning Commission, or other administrative officer or body charged with enforcement of this Ordinance, except that decisions or actions with regards to special land uses shall not be subject to appeal to the Board of Appeals. An appeal from any decision or action of the Enforcement Officer, the Planning Commission, or other administrative officer or body shall be taken not later than thirty (30) days after the start of construction or alterations or a change in use authorized by any permit or certificate issued by the Enforcement Officer, or within thirty (30) days after the decision or action complained of has been taken.
- B. Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Enforcement Officer certifies to the ZBA, after the notice of appeal has been filed, that by reason of the facts stated in the appeal notice a stay would cause imminent peril to life and property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by the circuit court, on application, and upon notification of the Enforcement Officer, and on due cause shown.
- C. Appeal Procedures.
1. Appeals of any nature in which ZBA action is sought shall be commenced by a person filing an "Application for Appeal" on such forms and accompanied by such fee as may be specified by the Township Board. The Application for Appeal shall specify the grounds upon which the appeal is based and shall be signed. Applications involving a request for a variance shall specify the requirements from which a variance is sought and the nature and extent of such variance. Applications involving a specific site shall be accompanied by a plot plan prepared in accordance with the following standards: *(amended 01.24.85)*
    - a. Where the application involves a single-family residential use, the following information shall be included on all plot plans, where applicable:
      - 1) Applicant's name, address, and telephone number.
      - 2) Scale, northpoint, and dates of submission and revisions.
      - 3) Zoning classification of petitioner's parcel and all abutting parcels.
      - 4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within one hundred (100) feet of the site.
      - 5) Proposed lot lines and lot dimensions, and general layout of proposed structures, parking areas, driveways, and other improvements on the site.
      - 6) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.
      - 7) If any of the items listed are not applicable to a particular plot plan, the applicant shall specify on the plot plan which items do not apply, and furthermore, why the items are not applicable.
    - b. Where the application involves multiple-family or non-residential uses, the following information shall be included on all site plans, where applicable:
      - 1) Applicant's name, address, and telephone number.
      - 2) Scale, northpoint, and dates of submission and revisions.
      - 3) Zoning classification of petitioner's parcel and all abutting parcels.
      - 4) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within one hundred (100) feet of the site.

**30.06 Appeals**

- 5) Proposed lot lines and lot dimensions, and general layout of proposed structures, parking areas, driveways, and other improvements on the site.
  - 6) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.
  - 7) Location of existing drainage courses, flood plains, lakes and streams, and woodlots.
  - 8) All existing and proposed easements.
  - 9) Location of sanitary systems and/or septic systems, existing and proposed.
  - 10) Location and size of watermains, well sites, and building service, existing and proposed.
  - 11) Identification and seal of architect, engineer, land surveyor, or landscape architect who prepared plans.
  - 12) If any of the items listed are not applicable to a particular site plan, the applicant shall specify on the site plan which items do not apply, and furthermore, why the items are not applicable.
- c. Where an application involves a variance sought in conjunction with a regular site plan review, the application data requirements for site plan review as set forth in Section 30.01 (E) shall be complied with.

The Enforcement Officer shall forward all Applications for Appeal, along with any supporting documents or site plans, to the ZBA.

2. The ZBA shall fix a reasonable time for the hearing of appeals. Notice of the hearing shall be published in a paper of general circulation in the Township. Notice shall also be sent to the applicant and owner of the property for which approval is being considered. Notice shall further be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located within the Township. Notice shall be given not less than fifteen (15) days before the appeal will be considered. The notice shall *(amended 01.16.86, 08.06.07)*:
  - a. Describe the nature of the appeal.
  - b. Indicate the property which is the subject of the appeal. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
  - c. State when and where the request will be considered.
  - d. State when and where written comments will be received concerning the appeal.
  - e. Any petitioner shall appear in person or be represented by a duly authorized agent or attorney.
- D. Decision of the Zoning Board of Appeals. The ZBA shall thereafter reach its decision within sixty (60) days from the hearing of the appeal. The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Enforcement Officer, Planning Commission, or other administrative officer or body, and may issue or direct the issuance of a permit. To that end, the ZBA shall have all the power of the officer or body from whom the appeal was taken. The decision of the ZBA shall be final; however, a person aggrieved by the decision of the Zoning Board of Appeals may appeal to the circuit court. *(amended 08.06.07)*
- E. Record of Appeal. The ZBA shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include:

**30.06 Appeals**

1. The relevant administrative records and the administrative orders issued thereon relating to the appeal.
2. The notice of appeal.
3. Such documents, exhibits, photographs, or written reports as may be submitted to the ZBA for its consideration.

The requisite written findings of fact, the decisions, orders, and conditions by the ZBA in disposing of the appeal shall be entered into the official record after they have been signed by the Chairman of the ZBA and after written notice of the disposition of the appeal has been served, either in person or by mail, upon the parties to the appeal and the Enforcement Officer. The Chairman shall, within ten (10) days after the date the ZBA has reached its final decision on an appeal, sign the necessary orders to effectuate the decision of the ZBA.

A copy of the official record of an appeal shall be made available for the parties to the appeal upon request and after the payment of such fee as may be specified by the Township Board.

**Section 30.07 – Variances**

- A. Purpose. Where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would involve practical difficulties, within the meaning of this Ordinance, the Board of Appeals shall have power upon appeal in specific cases to authorize such non-use variation or modification of the provisions of this Ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this Ordinance, and so that public safety and welfare be secured and substantial justice done. *(amended 08.06.07)*
- B. Application for Variance. An application for a variance shall be taken as specified for appeals to the Zoning Board of Appeals in Section 30.06.
- C. Standards for Variances. All non-use variances or modifications to the provisions of this Ordinance shall be granted only in accordance with the standards established in Michigan Public Act 110 of 2006, as amended, and based on the findings for each specific case that all of the following standards are met *(amended 08.06.07)*:
  1. A finding of practical difficulty shall be made by the Board of Appeals in order to approve a non-use variance request.
  2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or class of uses in the same district or zone.
  3. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity.
  4. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.

In addition, the Board of Appeals shall, prior to granting a variance or modification to the provisions of this Ordinance, make a determination that the proposed variance will not:

1. Impair an adequate supply of light and air to adjacent property, or
2. Unreasonably increase the congestion in public streets, or
3. Increase the danger of fire or endanger the public safety, or
4. Unreasonably diminish or impair established property values within the surrounding area, or
5. In any other respect, impair the public health, safety, comfort, morals, or welfare of the inhabitants of the Township.

**30.07 Variances**

In exercising their authority to grant variances or modifications to the provisions of this Ordinance, the Board of Appeals shall have the following responsibilities:

1. Where physical or cultural features on the ground are at variance with those shown on the official Zoning Map, the Board of Appeals shall interpret the district boundaries in accordance with the provisions of this Ordinance and in such a way as to carry out the intent and purpose of the plan embodied therein.
2. The Board of Appeals may permit the modification of fence, screening, automobile parking space, and/or loading requirements in specific instances where such modification is consistent with the purpose and intent of such requirements, and furthermore, is consistent with the standards and regulations concerning granting of variances, as set forth herein.
3. The Board of Appeals may permit the modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.
4. The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established herein and the objectives of this Ordinance.

**Section 30.08 – Interpretations**

- A. Upon receipt of a written request seeking an interpretation of the Zoning Ordinance, a notice stating the time, date and place of the public hearing shall be published in a newspaper of general circulation in the Township, and shall be sent to the person requesting the interpretation not less than fifteen (15) days before the public hearing. If the request for an interpretation involves a specific parcel of land in the Township, then notice shall also be given as provided for in Section 30.06 (C)(2).

**Section 30.09 – Performance Guarantee**

- A. Intent. To ensure compliance with the provisions of this Ordinance and any conditions imposed thereunder, the Township shall require that a performance guarantee be deposited with the Township Clerk, to ensure faithful completion of improvements.
- B. Improvements Covered by the Performance Guarantee. As used in this section, improvements include those features and actions associated with a project which are considered necessary to protect natural resources, or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area. Improvements shall include roadways, lighting, utilities, sidewalks, screening, parking areas, drainage, and similar features. Township requirements related to improvements such as record (as-built) plans, easements, maintenance and financial guarantees, and similar items, along with consultants' review time, shall also be included in the performance guarantee improvements. *(amended 09.04.01, 08.15.16)*
- C. Completion Agreement (PUD Agreement). For a Planned Unit Development under Section 30.03, or any development intended to be developed in more than one phase, the following shall be set forth in a completion agreement: the improvements to be covered by the performance guarantee, the amount required to guarantee completion of the improvements plus an administrative fee in an amount approved by the Township Board, and the time for completion of the improvement. The completion agreement shall be in a form and manner approved by the Township Attorney. *(added 08.06.07, amended 08.15.16)*
- D. All performance guarantee and completion agreements (PUD Agreements) shall meet the following requirements *(amended 08.06.07, 08.15.16)*:
  1. The performance guarantee shall be in the form of a cash deposit, irrevocable bank letter of credit or certified check.

**30.09 Performance Guarantee**

2. The performance guarantee shall be submitted along with a fully executed completion agreement at the time of issuance of the permit authorizing the activity or project. The Township shall deposit the funds in an account in a financial institution with which the Township regularly conducts business.
  3. The amount of the performance guarantee shall be sufficient to cover fifty percent (50%) of the total estimated cost of improvements associated with a project for which site plan approval is sought, which amount shall be reviewed and approved by the Township Engineers, plus an administrative fee in an amount approved by the Township Board.
  4. The entire performance guarantee, without interest and less the ten percent (10%) detailed in Section 30.09 (D) (5) below, shall be returned to the applicant upon satisfactory completion of the required improvements within the time limits specified in this Ordinance. The applicant may request that the performance guarantee be returned as work progresses in reasonable proportion to the ratio of work completed on the required improvements. The applicant is responsible to pay all costs and fees, including all consultant or third party fees, related to the Township's determination of the reasonable proportion of the work completed.
  5. An amount not less than ten percent (10%) of the total performance guarantee shall be retained for a period of at least one (1) year after installation of landscape materials to ensure their proper maintenance and replacement, if necessary. This amount, without interest, shall be released to the applicant upon certification by the Building Department that all landscape materials are being maintained in good condition.
- E. Unsatisfactory Completion of Improvements. Whenever required improvements are not installed or maintained in accordance with the standards or time limits of this Ordinance or as set forth in a completion agreement, the Township may complete the necessary improvements itself or by contract with an independent contractor, and assess all costs of completing said improvements against the performance guarantee or other surety. Prior to the completing of said improvements, the Township shall notify the owner, site plan review applicant, or other individual or firm responsible for installation and maintenance of the required improvements. *(amended 08.06.07, 08.15.16)*

**Section 30.10 – Fees**

Any application for an amendment to the text of this Ordinance, a special land use, a variance, site plan review, or other requested administrative action shall be subject to, and accompanied by, a fee as established by resolution of the Township Board.

There shall be no fee, however, in the case of applications filed in the public interest by the Township or any Township official.

**Section 30.11 – Permits to Construct, Move, Alter or Change Use**

- A. Application Requirements. The Enforcement Officer, or his duly appointed assistants, shall require that every application for a permit for construction, moving, alteration, or change of use of any structure shall be accompanied by a written statement and plans or plots drawn to scale showing the following in sufficient detail to enable the Enforcement Officer to ascertain whether the proposed work is in conformance with this Ordinance:

The actual shape, location and dimensions of the lot. If the lot is not a lot of record, a recorded survey and legal description must be provided, and a parcel identification number must be obtained.

The shape, size, elevation views, and location of all buildings or other structures to be erected, altered, or moved, and of any other buildings or other structures already on the lot.

The existing and intended use of the lot and of all structures upon it.

The location of all utilities, including water and sanitary sewer, serving the property.

Such other information concerning the lot or adjoining lots or other matters as may be essential for determining whether the provisions of this Ordinance are being observed.

**30.11 Permits to Construct, Move, Alter or Change Use**

- B. Preliminary Application. The Enforcement Officer may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work; and the Enforcement Officer may, on such preliminary submittal, take the formal action of tentative denial or tentative approval.
- C. Issuance of a Permit. If the proposed construction, moving, alteration, or change of use set forth in the application is in conformity with the provisions of this Ordinance, the Enforcement Officer shall issue a permit. If an application for such permit is denied, the Enforcement Officer shall state in writing on an appropriate form the reason for denial. The denial form shall be forwarded to the applicant. Issuance of a permit shall in no case be construed as waiving any provisions of this Ordinance.
- D. Valid Period of Permit. A building permit issued pursuant to the provisions of this Ordinance and/or the Orion Township Building Code shall be good for one (1) year from date of issue. Failure to begin work authorized by the permit within six (6) months from date of issue shall cause the permit to become null and void.
- E. Inspection of Completed Work. The holder of any building permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof shall notify the Orion Township Building Official, or his designated representative, immediately upon completion of the work authorized by such permit for the necessary inspection. This provision includes the final inspection. After receiving a final approved inspection, an application shall be made in writing on forms furnished by the Orion Township Building Department for a Certificate of Occupancy.
- F. Temporary Use Permits. *(amended 03.09.00, 07.07.03, 02.16.10, 06.04.12, 01.06.14)*

Temporary use permits may be considered by the Township for the following uses:

Outdoor Display and Sales  
Open Air Business

**1. Initial Application and Procedures for Review**

a. Outdoor Display and Sales

- 1) Temporary use permits may be issued administratively by the Building Department for Outdoor Display and Sales for the marketing of goods or products which do not exceed ten percent (10%) of the principal building area or greater than one thousand (1,000) square feet (whichever is less). This shall exclude Outdoor Display and Sales areas normally allowed as a principal use within the GB zoning district.
- 2) Outdoor Display and Sales shall only be conducted on a parcel of land owned or leased by the operators displaying and selling goods. Proof of ownership or lease shall be furnished to the Township upon request.

b. Open Air Business

- 1) The Zoning Board of Appeals shall have the authority to review and approve an Open Air Business involving seasonal display of goods such as Christmas trees, pumpkins, fireworks, etc. This shall exclude lumber yards, outdoor garden shops, or other outdoor sales normally allowed within permitted zoning districts.
- 2) Temporary use permits may be issued for Open Air Business. The Zoning Board of Appeals shall have the authority to specify conditions, including duration of use and hours of operation, in order to ensure compliance with this Ordinance. Property owners and residents within three hundred (300) feet of the zoning lot on which the proposed Open Air Business is to be located shall be notified at least fifteen (15) days in advance of the meeting at which the application for the temporary use permit will be considered.

**30.11 Permits to Construct, Move, Alter or Change Use****2. Required Conditions for Outdoor Display and Sales or Open Air Business**

- a. The temporary use for Outdoor Display and Sales or Open Air Business shall not occupy any essential parking spaces or maneuvering lanes associated with an on-site permanent use.
- b. To ensure the continued safety of the customers, when located adjacent to a vehicular traffic area, the temporary sales area for Outdoor Display and Sales or Open Air Business shall be fenced or provided with appropriate barriers to ensure pedestrian safety and pedestrian passageway with a minimum of five (5) feet of clearance. Materials shall be displayed no closer than ten (10) feet from building entrance doors.
- c. Access for Outdoor Display and Sales or Open Air Business shall be provided via a paved driveway.
- d. Dedicated parking areas for Outdoor Display and Sales and Open Air Business shall be provided and shall not extend over sidewalks or safety paths.
- e. Due to traffic safety concerns, no temporary sales for either Outdoor Display and Sales and Open Air Business shall be permitted at facilities dispensing flammable products such as vehicle fuels or propane.
- f. A sketch plan and floor plan, drawn to scale in a manner acceptable to the Building Department, showing location of the stand or tent, setback from the rights-of-way, distance to nearest building or structure, placement of fire extinguishers, all entrances and exits, storage areas, pedestrian traffic flow, parking areas and vehicular traffic flow, and nature of occupants of nearest buildings shall be provided in the application.
- g. Detailed information on the materials and wind load capability of the tent or stand to be erected on the site shall be provided in the application.
- h. Detailed information regarding the plan for storage of display items during booth open and closed hours shall be provided in the application.

**3. Additional Requirements for Open Air Business**

- a. All products for an Open Air Business shall be compatible with the permitted uses of the respective zoning district within which the site is located. The Zoning Board of Appeals may deny any application for temporary use if it is found that the proposed use is not consistent with the intent of the Zoning District in which the property is located or is incompatible with the permitted uses allowed within the Zoning Ordinance.
- b. Flammable products for such as fireworks shall be stored in accordance with National Fire Protection Association Standards (NFPA 1124, 2006) and as determined by the Fire Chief of the Charter Township of Orion.
- c. All signage shall comply with the requirements of the Charter Township of Orion Sign Regulations (Ord. No. 138). As a condition of approval for Open Air Business, the ZBA may impose more restrictive sign regulations than those sign regulations specified in Ordinance No. 138, where traffic safety or impacts to neighboring properties are a concern.
- d. The Zoning Board of Appeals shall deny a temporary use permit for Open Air Business if the requested temporary use is located one mile (5,280 ft) of similar Open Air Business use which sells the same or similar product.
- e. An Open Air Business shall only be conducted on a parcel of land owned or leased by the operators of the Open Air Business. Proof of ownership or lease shall be furnished to the Township upon request.

**30.11 Permits to Construct, Move, Alter or Change Use**

- f. An Open Air Business shall only be conducted on the following commercially zoned properties: RB, GB, BIZ or on non-residential institutional sites, such as churches or schools, within residential zoning districts.
- g. The above listed regulations for Open Air Business shall exclude a permitted agribusiness such as farm markets, fruit and vegetable stands as permitted in Section 5.02.
- h. A record of temporary use Open Air Business permits granted by the Zoning Board of Appeals shall be maintained by the Building Department. Each file shall include at least the following: the original application, the terms of approval of the initial application, and any written complaints received by the Township regarding the use.
- i. The Zoning Board of Appeals shall review the file for the temporary use/Open Air Business prior to a decision on renewal of a permit.
- j. The temporary use/Open Air Business shall not be transferable to another individual, entity or corporation.
- k. The owner of the property on which the temporary use/Open Air Business is requested shall jointly sign the application for temporary use or shall provide written permission for use of the property as a temporary use. The property owner shall jointly be responsible for all property clean up.
- l. The Open Air Business site and associated structures for sales or storage of goods shall not be used as living quarters or as a temporary dwelling.
- m. The Zoning Board of Appeals and or the Building Department shall require a performance guarantee in the form of cash or letter of credit to insure compliance with the conditions of a temporary use permit for Open Air Businesses. *(amended 08.15.16)*

**4. Renewal Of Temporary Sales Permits**

- a. Once a temporary use permit for Open Air Business has been granted, the use may be reinstated only by way of a new application and review by the Zoning Board of Appeals in accordance with Section 30.11F.
- b. Renewal of Outdoor Display and Sales permits may be issued through the Building Department.

**Section 30.12 – Nonconformities**

All nonconforming uses, structures, sites, or lots shall be subject to the provisions set forth in Section 27.01 of this Ordinance.

**Section 30.13 – Certificates of Occupancy**

- A. Scope of Application. No building or addition thereto, constructed after the effective date of this Ordinance, and no addition to a previously existing building shall be occupied, and no vacant land shall be used for any purpose until a Certificate of Occupancy has been issued by the Enforcement Officer. No change in a use shall be made until a Certificate of Occupancy has been issued by the Enforcement Officer. Every Certificate of Occupancy shall state that the use of occupancy complies with the provisions of this Ordinance. Certificates of Occupancy, as required by the Orion Township Building Code, shall also constitute Certificates of Occupancy, as required by this Ordinance.
- B. Application. Applications for Certificates of Occupancy shall be submitted to the Enforcement Officer.
- C. Issuance of Certificates of Occupancy. Certificates of Occupancy shall be issued, if so requested by the owner, for existing buildings, structures, or parts thereof, or for existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such uses of land are in conformity with the provisions of this Ordinance.



**30.13 Certificates of Occupancy**

- D. Accessory Buildings. A Certificate of Occupancy issued for a residential dwelling unit shall also cover any accessory building(s), provided that:
1. The accessory building(s) is shown on the plot plan that is submitted with the application for a Certificate of Occupancy.
  2. The accessory building(s) is completed at the same time as the dwelling. This provision applies only to residential accessory buildings.
- E. Period of Validity. A Certificate of Occupancy shall remain in force for the life of the building, structure, or part thereof, or until the use of the building, structure or part thereof changes. A change of use shall require a new Certificate of Occupancy.
- F. Temporary Certificates of Occupancy. The Enforcement Officer and his designated assistants may, in their discretion, issue a temporary Certificate of Occupancy for a portion of a building or structure in process of construction, erection, or alteration, provided that such portion of the building, structure or premises is in conformity with the provisions of this Ordinance, including Section 27.02 (C). In addition to the requirements of the International Building Code, the following provisions shall govern the issuance of a temporary Certificate of Occupancy (*amended 08.06.07*):
1. Such certificate may be issued for a time period not to exceed six (6) months.
  2. Such certificate may be renewed only once for an additional six (6) months, provided that construction, erection, or alteration of the remaining portion of the building or structure is proceeding without delay.

**Section 30.14 – Records**

- A. The Orion Township Building Department shall maintain all permanent and current records of this Ordinance, including, but not limited to, all maps, amendments, variances, appeals, special land uses, certificates of occupancy, and applications therefore.
- B. Every rule or regulation, order, requirement, decision, finding of fact, condition of approval, resolution, determination, or other transaction of business of the Planning Commission or Zoning Board of Appeals shall be duly recorded and filed as a public record in the Office of the Township Clerk.

A copy of any application, permit, certificate, transcript of a public meeting, or other item of the public record, may be obtained from the appropriate Township office upon payment of the per page copying fee as established by the Township Board.

**Section 30.15 – Violation and Penalties**

- A. Municipal Civil Infraction / Payment of Fine.

Any person, firm, or corporation violating a provision of this Ordinance, upon an admission or a finding of responsibility for such violation, shall be deemed responsible for a municipal civil infraction, as that term is defined and used in MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended, and shall pay a civil fine as prescribed by ordinance or as determined by the district court, district court judge, or district court magistrate.

- B. Costs.

A person, firm, or corporation ordered to pay a fine under Subsection (A) shall be ordered by the district court judge or magistrate to pay costs of not less than Nine Dollars (\$9) or more than Five Hundred Dollars (\$500), which costs may include all expenses, direct and indirect, to which the Township of Orion has been put in connection with the violation of the ordinance, up to the entry of the court's judgment or order to pay fine and costs.

**30.15 Violation and Penalties****C. Additional Writs and Orders.**

A person who admits or is found responsible for violation of this Ordinance shall comply with any order, writ, or judgment issued by the district court to enforce this Ordinance pursuant to Chapter 83 and Chapter 87 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

**D. Default on Payment of Fines and Costs.**

A default in payment of a civil fine, costs, or damages or expenses ordered under Subsection (A) or (B), or an installment of the fine, costs, or damages or expenses as allowed by the court, may be collected by the Township of Orion by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

**E. Failure to Comply with Judgment or Order.**

If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under Subsection (G).

**F. Failure to Appear in Court.**

A defendant who fails to answer a citation or notice to appear in court for a violation of this Ordinance is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500) plus costs and/or imprisonment not to exceed ninety (90) days.

**G. Civil Contempt.**

1. If a defendant defaults in the payment of a civil fine, costs, or other damages or expenses, or installment as ordered by the district court, upon motion of the Township of Orion or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
2. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on their part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
4. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment of each installment, or revoking the fine, costs, or damages or expenses.
5. The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one day for each Thirty Dollars (\$30) due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30) per day.
6. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:
  - a. Defendant is credited with an amount due pursuant to Subsection (G)(5).
  - b. The amount due is collected through execution of process or otherwise.

**30.15 Violation and Penalties**

c. The amount due is satisfied pursuant to a combination of Subdivisions (G)(6)(a) and (b).

7. The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection (G)(6).

**H. Lien Against Land, Building, or Structure.**

If a defendant does not pay a civil fine or costs or installment ordered under Subsection (A) or (B) within thirty (30) days after the date upon which the payment is due for a violation of this Ordinance involving the use or occupation of land or a building or other structure, the Township of Orion may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the Register of Deeds for Oakland County. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order.

1. The lien is effective immediately upon recording of the court order with the Register of Deeds.
2. The court order recorded with the Register of Deeds shall constitute the pendency of the lien. In addition, a written notice of the lien shall be sent by the Township of Orion by first class mail to the owner of record of the land, building, or structure at the owner's last known address.
3. The lien may be enforced and discharged by the Township of Orion in the manner prescribed by its Charter, by the General Property Tax Act, Act No. 206 of the Public Acts of 1893, being Sections 211.1, 221.157 of the Michigan Compiled Laws, or by an ordinance duly passed by the Township. However, property is not subject to sale under Section 211.60 of Act No. 206 of the Public Acts of 1893, being Section 211.60 of the Michigan Compiled Laws, for nonpayment of a civil fine or costs or an installment ordered under Subsections (A) or (B) unless the property is also subject to sale under Act No. 206 of the Public Acts of 1893 for delinquent property taxes.
4. A lien created under this section has priority over any other lien, unless one or more of the following apply:
  - a. The other lien is a lien for taxes or special assessments.
  - b. The other lien is created before the effective date of the amended ordinance that added this section.
  - c. Federal law provides the other lien has priority.
  - d. The other lien is recorded before the lien under this section is recorded.
5. The Township may institute an action in a court of competent jurisdiction for collection of the fines and costs imposed by a court order for a violation of this Ordinance. However, an attempt by the Township to collect the fines or costs does not invalidate or waive the lien upon the land, building, or structure.
6. A lien provided for by this subsection shall not continue for a period longer than five (5) years after a copy of the court order imposing a fine or cost is recorded unless within that time an action to enforce the lien is commenced.

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