Brown Township Permanent Zoning Ordinance

Adopted by the Brown Township Board on October 14, 2026

Effective Date: October 20, 2026

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Brown Township
Manistee County, Michigan
Zoning Ordinance

As Amended Through October 2026
This copy printed October 29, 2026
The Township of Brown, County of Manistee and State of Michigan Ordains:

ARTICLE 1 - TITLE, PURPOSES AND AUTHORITY CLAUSES

101. Title

This Ordinance shall be known as the Brown Township Permanent Zoning Ordinance.

102. Authority

This Ordinance is enacted pursuant to P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101*et seq*.), hereinafter referred to as the "Zoning Act"

103. Purpose

The fundamental purpose of this ordinance is to:

A. Carry out the vision of the Brown Township Master Plan of 2024, as amended, adopted pursuant to the Michigan Planning Enabling Act, MCL 125.3801*et seq.*
B. Promote the public health, safety, and welfare.
C. Provide for the orderly development of the township.
D. Promote stewardship of forest, agriculture, and the natural environment.
E. Minimize conflict among residents.
F. Use resources in accordance with their character and adaptability
G. Limit the improper **use** of land.

104. Scope

This Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of deed restrictions; subdivision regulations; private restrictions placed upon property by covenants; condominium rules, ownership association rules; ordinances, laws, regulations of any federal, state or county agency. When this Ordinance has more restrictive regulations, limitations or requirements, then this Ordinance shall control. The Administrator shall not be engaged in the enforcement of deed restrictions or private restrictions placed upon property by covenants.

105. Codification

This Ordinance is codified by use of articles and sections, and organized in the following manner. Section numbers and article numbers not used in this Ordinance, or skipped, are reserved for future use.

A. Article 1-9 for introductory material for this Ordinance.
    1. Article 1 for basic legal clauses such as but not limited to title, citation, purposes, legal

basis, effective date, explanation of scope and codification.
2. Article 5 for definitions of words and uses which are used in this Ordinance.

B. Article 10-19 for general regulations applicable to all of the land under jurisdiction of this Ordinance.
   1. Article 10 for general regulations which are applicable in all **district**s. This article is further subset as follows:
      a. Sections 1000-1009 for general provisions.
      b. Sections 1010-1019 for water related environmental regulations.
      c. Sections 1020-1029 for solid waste related environmental regulations.
      d. Sections 1030-1039 for land and other environmental regulations.
      e. Sections 1040-1049 for **parcel** and **setback** regulations.
      f. Sections 1050-1059 for vehicle access, **road** and parking regulations.
      g. Sections 1060-1069 for aesthetic (**sign**, views) regulations.
      h. Sections 1070-1079 for **structure** (not **dwelling**) regulations.
      i. Sections 1080-1089 for **dwelling** and residential regulations.
      j. Sections 1090-1099 for other special purpose general regulations which are not classified above.
   2. Article 12 for new **development**s
   3. Article 16 for standards for specific possible conditional and special **use**s.
   4. Article 18 for the establishment of the zoning map and definition of **district**s.

C. Articles 20-79 for each **district**, further organized as follows with articles 20-69 organized from least intense to most intense:
   1. Articles 20-29 for environmental, historic and other special **district**s with each **district** organized from least intense to most intense.
   2. Articles 30-39 for agricultural, forestry, rural and rural residential **district**s with each **district** organized from least intense to most intense.
   3. Articles 40-49 for residential **district**s with each **district** organized from least intense to most intense.
   4. Articles 50-59 for commercial **district**s.
   5. Articles 60-69 for industrial **district**s.
   6. Articles 70-79 for overlay **district**s.

D. Articles 80-89 for permit process and procedures.
   1. Article 80 for **nonconformities**.
   2. Article 82 for the administration of the Ordinance.
   3. Article 84 for permit procedures.
   4. Article 85 for conditional **use**s procedures.
   5. Article 86 for special **use**s procedures.
   6. Article 88 for planned unit development procedures.

E. Articles 90-99 for Ordinance administration.
   1. Article 94 for site plan review process.
   2. Article 96 for appeals board.
   3. Article 98 for Ordinance amendment, validity, enforcement and penalties.

ARTICLE 5 – DEFINITIONS

501. Introduction

For the purpose of this Ordinance certain terms and words are herein defined. Words used in the present tense include the future, words in the singular number include the plural number and words in the plural include the singular number. The word "shall" is always mandatory and not merely directory.

502. Definitions of Words:

ACCESSORY BUILDINGS means a supplementary building on the same **parcel** of land as the main building or buildings or part of the main building occupied by or devoted exclusively to an **accessory use.** Such **use** shall not include any building used for **dwelling**, residential or lodging purpose, or sleeping quarters for human beings.

ACCESSORY USE means a **use** naturally and normally incidental to, subordinate to, and devoted exclusively to the main **use** of the land or buildings.

AGRICULTURE means a land **use** which includes all of the following: (1) a **farm operation**, (2) producing **farm product**, and (3) as commercial activity. The land **use** also includes **accessory uses** for housing and **dwelling**s for the farmer and farm employees (see **farm operation** and **farm product** in section 503 of this Ordinance.)

AGRICULTURE-LIKE means one of the following:

A. A land **use** which may be the principle **use** or **accessory use** on a **parcel** which includes some, but not all, of the following: (1) a **farm operation** or (2) producing a **farm product**
B. Any **agriculture** or **agriculture-like** land **use** where the Right to Farm Act (M.C.L. 286.471*et seq*.) or Generally Accepted Agricultural Management Practices (**GAAMPs)** delegates regulatory control back to local government, such as but not limited to **agriculture** considered to be in a Category 4 Site, as used in the Site Selection and Odor Control for New and Expanding Livestock Facilities **GAAMPs** adopted April 28, 2014.
C. Agriculture-Like for crop(s) and for chicken(s) (but not rooster(s)) is an accessory use to a dwelling.

AGRICULTURAL BUILDINGS means any building, other than a **dwelling**, **erected**, moved upon, or maintained on a farm, which is essential and customarily used on farms in the pursuit of agricultural activities.

ALTERED means any change in the location or use of a building, or any change in size or location of the roof or exterior walls.

ANEMOMETER TOWER means a freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a **utility-scale wind energy system**. It also includes the same equipment for evaluating wind characteristics in preparation of or evaluation of construction of **on-site wind energy system** and **utility-scale wind energy system**.

ANSI means the American National Standards Institute.

APPEALS BOARD means the Brown Township Zoning Board of Appeals as created pursuant to this Ordinance as required by the Zoning Act.

BACKGROUND SOUND means sound from all sources except the source of interest.

BASEMENT means that portion of a building partly below the average grade of the building site.

BOARD means the elected Brown Township Board of Trustees, the legislative body for the Township of Brown, Manistee County, Michigan.

BOARDWALK means a walkway which may be constructed of planking or similar materials and may be constructed along a beach or over a waterway, sand or marshy ground.

BUILDING means any **structure**, either temporary or permanent, having a roof and used or built for the shelter or enclosure of **person**s, animals, chattels, or property of any kind. Buildings shall include tents, awnings, vehicles, whether mounted or on wheels and situated on private property and used for purposes of a building.

BUILDABLE AREA means the area(s) of a **parcel** upon which improvements, **development**, and buildings may be located. It is intended to exclude area(s) of the **parcel** which have specific attributes and characteristics on which such activities should not occur.

BUILDING ENVELOPE means the area(s) of a **parcel** enclosed by the **setback lines**. (See **setback lines** in section 502 of this Ordinance.)

CABIN means a building or similar **structure** which is maintained, offered, or used for **dwelling** or sleeping quarters for transients, or for temporary residence, but shall not include what are commonly designated as hotels, motels, lodging houses, or tourist homes.

CAMPGROUNDS mean an area or place such as a section of forest, field or grove used for camping. Campgrounds may be equipped with designated campsites and fire sites and may have amenities such as available utilities, cooking grills, water, and areas for toilets or showers.

CHILD CARE CENTER: Any facility in which one or more children are given care and supervision for periods of less than 24 hours per day on a regular basis. Child Care Center does not include a Family or Group Day Care Home, or schools. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall be considered accessory to such principal use and shall not be considered to be a Child Care Center.

COMMISSION means the Brown Township Planning Commission as created by the Brown Township Planning Commission Ordinance adopted pursuant to Michigan Planning Enabling Act (being P.A. 33 of 2008, as amended, M.C.L. 125.3801*et seq*.).

COMMERCIAL in the context of a **farm operation** means performing commercial production of any amount, without any minimum threshold of commercial activity, (See **agriculture** in section 502 of this Ordinance.) COMMERCIAL in the context of a District or Zoning means C-1 or Neighborhood Commercial which is meant to serve nearby homes or residents. In addition, the buildings may be mixed use which blend retail with residential uses as may be applied in Home Based Occupations (see Home Based Occupation in section 1084 of this Ordinance.) There are no Land Use Districts established for Commercial or Industrial land (see Commercial and Industrial Districts in section 1802 of this Ordinance.)

COMMON PETS means animals that includes, but not limited to: dogs, domestic cats,

ornamental birds, hamsters, gerbils, guinea pigs, turtles, lizards, aquarium fish, and non-venomous/non-constricting snakes.

CONTIGUOUS means adjacent to or being in actual contact such as along a border, boundary or at a point, or sharing a common border.

CRYPTOCURRENCY MINING/STAKING means a process that blockchain networks, such as Bitcoin, Ethereum, and other cryptocurrencies, use to finalize transactions. Blockchains either use mining (proof of work) or staking (proof of stake) to create new native coins and transaction fees. Crypto mining/staking requires a significant number of specialized high energy computing power or nodes running continuously to maintain the system including circulating new coins, verifying transactions, and securing the networks.

CREST OF A RIVER VALLEY FLOOR AND HIGH BLUFF means the highest point of the channel's bed while the high bluff is the vertical feature along the valley's edge, often directly above or adjacent to the crest. The crest is where the river's energy is lower, and deposition dominates over erosion

DATA STORAGE CENTER means the physical facility or location that stores manages, processes and transmits digital data. The center houses key IT components such as hardware (servers, hard drives and solid state drives), network gear (routers, switches and firewalls), and infrastructure (uninterruptible power supplies, redundant power supplies, back-up generators, climate controls and associated HVAC equipment as well as security systems). Data Storage Centers may support Cloud Storage, AI computing and Cryptocurrency Mining/Staking.

dBxLeq means the equivalent average "x" weighted sound pressure level (SPL) in decibels for a measurement period of time, whereby dBA means the SPL in **decibel**s using the "A" weighted scale defined by **ANSI**, and measures long term exposure adjusting readings to reflect human hearing sensitivity, while dBC ("C" weighting) measures peak impact noise, from a broader frequency range, including more low-frequency energy, eg. gunshots or bass-heavy speakers. Note: Exposure duration standards are based on dBA measurements. dBC is primarily used for peak limits. For added clarity, "A" is loudness detection, "C" is loudness perception at LOUD levels A good meter should measure both, but if the decibel meter reads only dB(A), then a generic conversion could be dB(C) = dB(A)+7. For reference, normal conversation when standing 3 feet apart is 60dBA, while shouting is 85dBA.

DECIBEL means a unit used to measure the intensity of a sound or the power level of an electric signal by comparing it with a given level on a logarithmic scale.

DISTRICT means an area, section or zone of Brown Township for which zoning regulations are prescribed.

DOCK, PERMANENT means a **structure** that is no wider than four foot and no longer than twelve foot, fixed or floating that is installed into the water, but is to extend no more than four foot over the water from the water's edge. The dock is capable of use for vessel mooring and/ or any other water-dependent recreational activity which is constructed and or maintained for the water year-round, not intended to be moved seasonally and or which is anchored or pile driven.

DOCK, SEASONAL means a **structure** fixed or floating that is installed into the water capable of use for vessel mooring and or other water-dependent recreational activity which is installed for part of the year.

DRIVEWAY means an access to one or two **parcel**(s) of land.

DWELLING means a building, **mobile home**, pre-manufactured or precut **structure** designed and used for the complete living accommodations of a **family** and which complies with the standards given in this Ordinance.

A. Single-Family Dwelling: A dwelling occupied by one (1) family, and so designated and arranged as to provide living, cooking, and kitchen accommodations for one (1) family only.
B. Two-Family Dwelling: A dwelling designed to provide for separate living, sleeping and kitchen facilities for two (2) families living independently of each other.
C. Multi-Family Dwelling: A dwelling designed to provide for separate living, sleeping and kitchen facilities for more than two (2) families living independently of each other.
D. Temporary Dwelling: **Cabins**, tents, trailers, recreation vehicle, job-site trailer, garages and **basements**, if used for human occupancy.

EDUCATIONAL AND SCHOOL SUPPORT SERVICES means a **use** that includes establishments providing academic or technical instruction. Also included are establishments providing educational services such as libraries, student exchange programs, and curriculum development found classified in Major Group 82 of the United States 1987 Standard Industrial Classification Manual, and common **accessory uses** such as school bus facilities, food service, administration, athletic facilities. This includes, among other uses, elementary and secondary schools, colleges, universities, professional schools, junior colleges, libraries and vocational schools. Not included within this definition is instruction of beauticians and cosmetologists, barber colleges, job training for the unemployed, underemployed and handicapped.

END OF USEFUL LIFE means the end of the manufacturer's recommended useful life of the product, when lease or easements expire, the **WES** or parts of the **WES** are abandoned for 12 months or more, or power purchase agreements expire.

ERECTED includes built, constructed, reconstructed, moved upon, or any physical operations on the land. Activity required for a **building**, **structure**, excavations, fill, drainage, and the like shall be considered a part of erection.

EXISTING BUILDING means a **building** existing in whole or whose foundations are complete, and whose construction is being diligently pursued on the effective date of this ordinance.

FAMILY means one or more **person**s living together and interrelated by bonds of consanguinity, marriage, legal adoption, functional family or group of individuals who occupy a single-family residential unit for an indefinite time. A family shall be deemed to include domestic servants and gratuitous guests.

FAMILY DAY CARE HOME: A private home properly registered or licensed under 1973 Public Act 116, as amended (MCL 722.111 et. seq.) in which 1-6 minor children (or such other increased capacity number of minor children permissible under State Law) are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. This term shall include a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

FARM OPERATION means the same as defined in the Michigan Right to Farm Act, M.C.L. 286.472(b). (See **Agriculture** in section 503 of this Ordinance.)

FARM PRODUCT means the same as defined in the Michigan Right to Farm Act, M.C.L. 286.472(c). (See ACRICULTURE in section 503 of this Ordinance.)

FLOOD PLAIN means a flood prone flat or low-lying area of land adjacent to a body of water such as a river, stream or coastline, which is susceptible to being inundated by water caused by rising floodwaters, heavy rains or seasonal snowmelts. A 100-Year Floodplain (Special Flood Hazard Area) has a 1% or greater chance of a flood in any given year. Given the continuously changing nature of waterways, floodplains may affect or be affected by development.

FLOWING BODIES OF WATER means a river, stream, creek, rivulet, brook, or other that has water in it year-round, but not a lake.

FOOTPATH means a narrow path for people to walk along to a point or points of interest.

GAAMPs means Generally Accepted Agricultural Management Practices as adopted and as updated from time to time by the Michigan Commission of Agriculture pursuant to the Right to Farm Act, M.C.L. 286.471*et seq*.)

GREEN BELT set back means a vegetative belt, buffer or natural vegetative strip adjacent to water and used to filter out chemicals or nutrients to help maintain the natural flowing waters. There is no mowing allowed in a Green Belt with the exception of a four foot wide path to a dock or a single point at the water's edge

GROUP DAY CARE HOME: A private home properly registered or licensed under 1973 Public Act 116, as amended, (MCL 722.111 et. seq.) in which 7-12 minor children (or such other increased capacity number of minor children permissible under State Law) are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to the resident of the home by blood, marriage, or adoption. This term shall include a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

GUEST HOUSE means a **dwelling** subject to the same requirements as a **dwelling** in the **district** in which it is located.

HAZARDOUS SUBSTANCES means one or more of the following:

A. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
B. "Hazardous substance" as defined in the comprehensive environmental response, compensation and liability act of 1980, Public Law 96-510, 94 Stat. 2767.
C. "Hazardous waste" as defined in Article II Chapter 3 Part 111 of P.A. 451 of 1994, as amended, (being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.45101*et. seq.)*
   [Annotation. M.C.L. 324.45101 *et. seq.* it formerly P.A. 64 of 1979 (being M.C.L. 299.501 to 299.551, the Hazardous Waste Management Act).]
D. "Petroleum" as defined in Article II Chapter 8 Part 213 of P.A. 451 of 1994, as amended, (being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act, M.C.L. 324.45101*et. seq.).*
   [Annotation: M.C.L. 324.45101 *et. seq.* is formerly P.A.478 of 1988 (being M.C.L.299.831 to 299.850, the Leaking

Underground Storage Tank Act).]

HOBBY means an activity carried out by a **person** primarily for pleasure and self-entertainment.

HOME BASED ENTERPRISE means a **use** which includes any activity carried out for gain by a resident on the property on which the resident lives including manufacturing, services, sales of goods, and services made or provided on the premises. The **use** is intended to allow residents to conduct economic activities on their property at a scale greater than a **home occupation** but less than a full-scale commercial or industrial enterprise.

HOME OCCUPATION means a **use** which includes any activity carried out for gain by a resident and conducted as an **accessory use** in the **person**'s home, but not a **hobby**.

HORIZONTAL AXIS WIND TURBINE means a **wind turbine** that utilizes a main **rotor** shaft and electrical generator at the top of the tower and points into the wind for optimal operation.

IEC means the International Electro technical Commission.

INDUSTRIAL means Light Industrial with low impact operations, assembly and warehousing fully contained within buildings with minimal external noise or traffic as part of Home Based Occupations (see Home Based Occupation in section 1084 of this Ordinance.) INDUSTRIAL in the context of a District or Zoning means (L-1 or M-1) Light Industrial which is meant to serve nearby homes or residents. There are no Land Use Districts established for Commercial or Industrial land (see Commercial and Industrial Districts in section 1802 of this Ordinance.)

LARGE SOLAR ENERGY SYSTEM means an area of land containing energy facilities intended to be used to convert solar energy to electric or any other energy to be used off site, and includes all solar panels, arrays, mounting and tracking systems, inverters, transformers, batteries and related and appurtenant **structure**s and facilities, such as access **road**s, **driveway**s and fencing. The term includes but is not limited to photovoltaic power systems, solar thermal systems and solar hot water systems. (See **Personal-Scale Solar Energy System**.)

LAYDOWN AREA means a designated area where turbine components are temporarily stored prior to erection. A central **lay down area** may be used for the project or there may be several**ly-down area**s. A **lay down area** may be used temporarily during construction or may be a permanent feature of the **WES** development.

LEGAL ACTION means the procedures and remedial actions authorized under this Ordinance. These shall be in addition to, not in lieu of, additional actions the township may take pursuant to other township ordinances or laws of the State of Michigan.

LEQ (Leq) means the equivalent average sound level for the measurement period of time.

LODGE means a **structure** for use as a meeting place for members of private clubs, lodges, and other nonprofit fraternal or religious organization.

LOT means a platted lot in a subdivision and a unit of the surface of land in a site condominium.

MANUFACTURING means to make a product suitable for use, from raw materials by hand or by machinery according to an organized plan and/or with a division of labor.

MARIJUANA means marijuana, or marihuana, as defined Initiated Law 1 of 2008, as amended

(being the Michigan Medical Marihuana Act, MCL 333.26421 *et seq*.); P.A. 281 of 2016, as amended (being the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq*.); Act 282 of 2016 (being the Marihuana Tracking Act, MCL 333.27901 *et seq*.); and Initiated Law 1 of 2018 (being the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*).

MARIJUANA FACILITY means a facility or establishment which includes the following, as defined in Initiated Law 1 of 2008, as amended (being the Michigan Medical Marihuana Act, MCL 333.26421 *et seq*.); P.A. 281 of 2016, as amended (being the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq*.); Act 282 of 2016 (being the Marihuana Tracking Act, MCL 333.27901 *et seq.*); and Initiated Law 1 of 2018 (being the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*).

A. [medical Marihuana] Grower (indoor or outdoor),
B. [recreational] Marihuana Grower (indoor or outdoor) class A, B, and C,
C. [medical Marihuana] secure transporter,
D. [recreational] Marihuana secure transporter,
E. [medical] Marihuana Processor, and
F. [recreational] Marihuana Processor.

If licensed by Brown Township and within the maximum number allowed by the township pursuant to Brown Township Ordinance 2019-1 (being an Ordinance to Authorize and Regulate Medical Marijuana Establishments, effective March 20, 2019), as amended; and Brown Township Ordinance 2020-2 (being an Ordinance to Authorize and Regulate Marijuana Establishments, effective April 10, 2020), as amended. For purposes of this Ordinance Marijuana Facility does not include the following, as defined in Initiated Law 1 of 2008, as amended (being the Michigan Medical Marihuana Act, MCL 333.26421 *et seq*.); P.A. 281 of 2016, as amended (being the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq*.); Act 282 of 2016 (being the Marihuana Tracking Act, MCL 333.27901 *et seq*.); and Initiated Law 1 of 2018 (being the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*).

A. [medical Marihuana] Provisioning center,
B. [recreational] Marihuana Retailer,
C. [medical Marihuana] Safety Compliance facility,
D. [recreational] Marihuana safety compliance facility,
E. [recreational] Marijuana micro business,
F. [recreational] Marijuana Special Event, and
G. Any other type of Marijuana facility or establishment.

A [medical] Marihuana Patient and [medical] Marihuana Caregiver are not included within this definition and not considered a land **use** by this ordinance and are neither prohibited nor is a permit required.

MINING means the extraction of any mineral, used in the broad sense to include extraction of minerals occurring naturally: solids such as coal ores, sand, gravel, clay and other earth; liquids, such as but not limited to crude petroleum; and gasses such as but not limited to natural gas. The term is also used in the broad sense to include quarrying, well operations, milling (e.g., crushing, screening. washing. flotation), and other preparation customarily done at the mine site, or as a part of mining activity. Also included are exploration activities.

MOBILE HOME means any house car, house trailer, trailer home, automobile trailer, or similar vehicle used or so constructed as to permit it to be used as a place of occupancy or sleeping place by one (1) or more **person**, whether or not mounted on jacks, wheels, skirting or foundations.

NONCONFORMITIES and NONCONFORMING USE means any **building** or land lawfully occupied by a **use** at the effective date of this Ordinance or amendment thereof which does not conform after passage of the Ordinance or amendment thereto with the requirements of the **District** in which it is situated.

NON-PARTICIPATING PARCEL means a parcel for which there is not a signed lease or easement for development of a **utility-scale wind energy system** associated with the applicant project. (See participating parcel.)

ON-SITE WIND ENERGY SYSTEM means a land use for generating electric power from wind and is often an accessory use that is intended to primarily serve the needs of the consumer on-site or an adjacent property.

PARK means any non-commercial recreational area.

PARCEL means a tract of land or one or more **lot**s having a single tax identification number issued by the Manistee County Equalization Department or a condominium unit of land space and directly associated limited common element, except that if two or more parcels meeting the foregoing definition are contiguous and under common ownership, then all of such parcels shall be deemed a single parcel for purposes of this Ordinance.

PARENT PARCEL means "parent parcel" or "parent tract" as defined by the Michigan Land Division Act, (M.C.L. 560.101*et. seq.).*

PARTICIPATING PARCEL means one or more parcels under a lease or easement for development of a **utility-scale wind energy system**. (See non-participating parcel.)

PERMIT means giving authorization or consent to someone to do something usually by means of a written warrant or license granted by the one having authority.

PERSON means a Homosapien and includes corporation, Limited Liability Company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

PERSONAL SCALE SOLAR ENERGY SYTEM means a ground-mounted or building-mounted Solar Energy System that is accessory to the principle residential use on the parcel. The sale and distribution of excess available energy to an authorized public utility for distribution, if permitted, shall be incidental to this type of system, and not its primary purpose. (See **Large Solar Energy System**.)

PRIVATE ROAD means a **road** which is part of a recorded subdivision and shown as a private road on the plat, shown as a private road within a condominium of land, or a **road** which is not public which services more than two **dwelling**s and businesses. Private Road shall not include **driveway**s to a **dwelling** or business or **accessory buildings** thereto when the **driveway** is located on the same **parcel** of land as the serviced **structure**; a United States Forest Service Road; two-track trails which have been in common use for fifteen (15) or more years and which provide the only access to a **parcel** of property.

PUBLIC UTILITIES means any **person**, firm or corporation, municipal department, or board, duly

authorized to furnish to the public (under government regulation), transportation, water, gas, electricity, telephone, steam, telegraph, or sewage disposal and other services.

RIVER VALLEY means the valley of the Big Manistee River and Bear Creek.

ROAD means a public thoroughfare which affords a principal means of access to abutting property.

ROTOR means an element of a **WES** that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

SETBACK LINES or SETBACK means the minimum horizontal distance between one's structures or **building**, including steps, unenclosed and unroofed porches, terraces, patios awnings and nonpermanent canopies, measured from whichever of the following results in a smaller **building envelope**(s). (See **building envelope** in section 502 of this Ordinance.)Setback lines are measured from:

A. The specified distance from the **parcel** boundary.
B. The specified distance, plus thirty-three feet, from the centerline of a **road** and **private road**.
C. The specified distance from the **road** and **private road** right-of-way boundary.
D. The specified distance from the crest of the river valley floor high bluff

SHADOW FLICKER means alternating changes in light intensity caused by the moving blade of a **WES** casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

SHORT TERM RENTAL means a commercial arrangement such as a contract or agreement to occupy a home or accessory dwelling unit usually rented for periods of time ranging from a few days to up to 30 days. The rental may typically be furnished but has distinct legal, regulatory and commercial considerations compared to long-term rentals or hotels.

SIGN means anything which is used for, but not limited, to any lettered, numbered, symbolic, pictorial, design, trademark, banner, or visual display, designed to identify, announce, direct, or inform. It does not include flags, community art and public art.

A. GROUND SIGN means a permanent sign mounted on the ground to a foundation flush with the surface of the ground.
B. MOUNTED SIGN means a temporary sign or permanent sign mounted on the ground by means of posts, wire, plastic, or other means pushed or stuck in the ground and which are not fastened to a foundation.
C. POLE SIGN means a permanent sign mounted on one or two post(s) or pole fixed to a foundation.
D. POSTED SIGN means a sign tacked or otherwise fastened to a fence post, tree, fence which is smaller than one square foot.
E. PORTABLE SIGN means a temporary sign, or sign board placed on the ground which is portable and not anchored or secured to a **building**, ground, or anything else or carried around by a human or animal.
F. ROOFTOP SIGN means a permanent sign mounted above the roof of a **building**.
G. WALL SIGN means a permanent sign mounted on or otherwise displayed on the surface of a wall of a **building**.

STRUCTURE means any production or pieces of material artificially built up or composed of parts joined together in some definite manner; any construction including **dwelling**, garages, **building**, **sign**s and sign boards, towers, poles, antennas, standpipes, or other like objects.

SWEETENING FACILITY means a facility or plant which is designed for the removal of sulfur compounds from natural gas from gas and oil wells.

TEN (10) ACRES means a **parcel** of land that is 10 acres in area, or a **parcel** which is ¼ of ¼ of ¼ (1.5625 percent) of the actual size of the public land survey section the **parcel** is within, whichever is less.

USE means the purpose for which land, or a **building** thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

UTILITY-SCALE WIND ENERGY SYSTEM means a land use for generating power by use of wind at multiple tower locations in a community and includes accessory uses such as but not limited to a SCADA Tower, electric substation. A **utility-scale wind energy system** designed and built to provide electricity to the electric utility.

VACATION RENTAL means a furnished residential property typically rented to tourists or travelers for short-term stays (short term rental) as an alternative to hotels, and allow for guests to live independently during their stay.

VARIANCE is an officially granted exception to a zoning ordinance which allows a property owner to deviate from specific rules due to their unique circumstances. A variance is not a change to the zoning but a specific waiver for a particular property granted by the Zoning Board of Appeals. A variance may be related to unique physical characteristics of a property such as irregular lot shape, slopes, water edges or pre-existing structures that make compliance impractical.

VEGETATIVE BELT, STRIP or BUFFER means natural habitat of trees and shrubs. Vegetation removal shall be minimized as consistent with Michigan DEQ guidance. Mowing in the vegetative strip is prohibited as noted in 2010-026 Natural Rivers Zoning Rules. In a wetland, vegetation removal is restricted in accordance with Part 303 of the Michigan Natural Resources and Environmental Protection Act which regulates wetlands protection. EGLE defines types of activities of minor impacts which must be permitted.

WATER'S EDGE means the surveyed property line along the shore of a body of water or at the ordinary high-water mark, in the event there is no surveyed property line along the shore at the water's edge. The water’s edge is typically lower in elevation than the crest of the valley floor and is where the river’s energy is highest such that deposition and erosion are most intense, causing erosion on the outer bank and deposition on the inner bank.

WES means wind energy system (see **on-site wind energy system** and **utility-scale wind energy system**).

WETLAND means a transitional ecosystem where the water table is at or near the surface. The land may at times be covered by shallow water. Wetlands support wildlife habitats and are also crucial in flood control, water filtration, and climate resilience (carbon sequestration, shore erosion and storm surge protection).

WIND TURBINE means a group of component parts used to convert wind energy into electricity and includes the tower, base, **rotor**, nacelle, and blades.

WIND TURBINE HEIGHT means the distance between the base of the **wind turbine** tower at grade to the tip of the blade at its highest reach.

WIRELESS COMMUNICATION means a facility, which includes transmitters, antenna structures, towers and other types of equipment necessary for, but not limited to, wireless broadband, licensed or unlicensed, terrestrial or satellite, commercial mobile, broadcast, and public safety services, as well as fixed wireless services such as microwave backhaul or fixed broadband, and other such services, but does not include antennas which are an accessory use to a dwelling or small business which are exclusively for reception for occupants of the dwelling or small business.

YARD means a space unoccupied or unobstructed except by encroachments specifically permitted in this Ordinance, on the same **parcel** with a **building** or **structure**. Yard measurements shall be the minimum horizontal distances.

A. Front Yard (**Road** Frontage): A yard extending across the full width of the **parcel** between the front **parcel** lines and the nearest line of the main **building** or of **accessory building**.
B. Rear Yard: A yard extending across the full width of the **parcel** between the rear **parcel** line (opposite from the front, or **road**) and the nearest line of the main **building** or of **accessory building**.
C. Side Yard: A yard extending from the front yard to the rear yard between the side **parcel** line and the nearest line of the main **building** or of **accessory building**.
D. Waterfront (**Water's Edge**): A yard extending across the full width of the **parcel** between the **water's edge** and the nearest line of the main **building** or of **accessory building**.

ARTICLE 10 - GENERAL PROVISIONS

1001. Purpose

It is the purpose of this Article to provide regulations that apply in all **district**s to all permitted **use**s and special **use**s.

1002. Scope

Except as otherwise provided in this Ordinance, no **lot** or **parcel** of land, no **existing building**, **structure,** or part thereof shall hereafter be located, **erected**, constructed, reconstructed, **altered** or used for purposes other than in conformity with the provisions of this Ordinance.

1003. Bulk Regulations

It is the obligation of the owner of the **use**, **structure**, **building** and **parcel** to carry out the requirements of the Ordinance.

A. The requirements of this Ordinance shall be in connection with only one **use**, **structure**, **building**, **parcel** and are not transferable, not to be split or divided by any means, not to be shared, unless;
    1. any of the **use**s, **structure**s, **buildings**, **parcel**s involved in the transfer does not result in failing to meet the requirements of this Ordinance or other applicable ordinances including, but not limited to, the Township, Manistee County and State of Michigan

subdivision control laws.
2. specifically permitted elsewhere in this Ordnance.

B. The requirements of this Ordinance shall apply uniformly within each respective **district** to all **use**s, **structure**s, **buildings** and **parcel**s except that the following can be located anywhere on a **parcel**(given due consideration to applicable setbacks and other restrictions- ref definition of setback):
   1. those parts of a **building** which are unroofed porches, terraces, patios and steps, and awnings and nonpermanent canopies;
   2. flag poles;
   3. hydrants;
   4. clothes lines;
   5. arbors, trellises, trees, plants, shrubs;
   6. recreation equipment, outdoor cooking equipment; and
   7. sidewalks, private **driveway**s and walkways.

C. Notwithstanding anything to the contrary contained in this section, and except as stated in Section 1082, no **parcel** of land shall contain more than one principal **building** or **use** and no accessory **building** or **structure** may be located on any **parcel** of land which does not have a principal **building** or **use** already established or being established contemporaneously, if the permit for the accessory is obtained at the same time as the permit for the principle structure, with the principle building completed within three (3) years of building the accessory structure.

1004. General Provisions

No **parcel**, **building** or **structure** in any **district** shall be used or occupied in manner which creates any dangerous, injurious, noxious, or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Any **use** permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements:

A. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved as is required by applicable provisions of the State Construction Code and rules promulgated there under and/or the State Fire Marshal.
B. Activity which emits radioactivity at any point, or electrical disturbance shall not be permitted in excess of the applicable federal, state, or local regulations or rules promulgated there under, including but not limited to, regulations of the Federal Nuclear Regulatory Commission or Public Service Commission or Michigan Department of Health and Department of Radiology.
C. No vibration shall be permitted in excess of the applicable township noise ordinance or regulations promulgated by rule there under.
D. No malodorous gas or matter shall be permitted in excess of the applicable state or federal air pollution statutes or regulations promulgated by rule there under.
E. No pollution of air by fly-ash, dust, vapors, or other substances shall be permitted in excess of

the applicable state or federal air pollution statutes or regulations promulgated by rule there under.

F. No pollution of water bodies shall be permitted in excess of the applicable state or federal water pollution statutes or regulations promulgated by rule there under.
G. No audible noise shall be permitted in excess of the standards in the township Noise Ordinance, as amended.
H. No storm water runoff, which is a result of development site design, or other manmade alternatives, shall be allowed to collect which results in water standing on the surface, unless the standing water is a part of a properly managed and maintained storm water retention system, sediment pond; or the standing water is in a natural wetland or water body.

The Administrator shall enforce this section by cooperating with and reporting suspected violations to the respective enforcement agency(s) responsible for enforcement of the statutes, rules or ordinances cited above. The Board may take direct enforcement action only after a finding that cooperation by the Administrator with other agencies has not been successful.

1010 Environmental, Water

1011. Water Supply and Sewage Facilities

A **structure** which is for human occupancy shall be connected to a public sewer and water supply or to such private facilities in compliance with the Manistee County Sanitary Code, as amended.

A. The Administrator shall enforce this section by cooperating with and reporting suspected violations to the respective enforcement agency(s) responsible for enforcement of the statutes, rules or ordinances cited above. The Board may take direct enforcement action only after a finding that cooperation by the Administrator with other agencies has not been successful.

1012. Water Protection (Green Belt Areas)

It is the policy of this Ordinance to preserve and maintain the natural quality of **flowing bodies of water** within the Township of Brown by restricting the clearing of natural habitat away from, and the construction of improvements upon land bordering upon such bodies of water.

A. No **dwelling** or other **structure** shall be built, located or permitted closer than:
    1. For the Big Manistee River, Bear Creek and any tributary in the Big Manistee River Corridor **District: water**front yard setback of 200 feet to the **water's edge**.
    2. In Bialik and Crawford Residential **districts**: a setback of 100 feet back from the **water's edge**, or the current distance of the **dwelling** and **structures** in place on the effective date of this **Ordinance**, whichever is less.
    3. In Chief Lake Residential **District**: a setback of 10 feet from the water's edge.
    4. For all other **flowing bodies of water**, lakes, and wetlands**:** waterfront yard setback of 100 feet back from the **water's edge.**
B. Vegetative buffer:
    1. For the Big Manistee River, Bear Creek and any tributary in the Big Manistee River Corridor District: within 100 feedbacks from the **water's edge** only 10 percent of the trees and shrubs may be removed in a five-year period.
    2. In residential **districts**: within 100feet back from the **water's edge**, or one half of the

current average distance of the **dwelling** and **structures** in place on the effective date of this **Ordinance**, whichever is less

3. For all other flowing bodies of water and lakes within 50 feet back from the **water's edge** only 10 percent of the trees and shrubs may be removed in a five-year period. Any cutting of vegetation in a wetland must also comply with Part 303, Wetlands Protection

C. Notwithstanding the foregoing, no **structure** shall be built, located, or permitted within the 100-year flood plain (the area with a one percent chance of flooding within any given year), or in any wetland area.

D. Mineral extraction is not permitted within 300 feet of any **flowing bodies of water**, lakes, and wetlands.

E. This section does not apply to a bridge and a dock at the shore, and a stairs and a path to the shore. These things can be built within the **water's edge** setback so long as only 10 percent of trees and shrubs are removed in a five-year period to accommodate the construction of these things. Any cutting of vegetation in a wetland must also comply with Part 303, Wetlands Protection

1013. Hazardous Substance Site Design for Groundwater Protection.

Purpose: The requirements here are intended to reduce the accidental spill of **hazardous substances** onto the ground through site plan and design requirements when a **building** or **structure** is ***first built***. It is not for environmental enforcement of other state statutes or response to spills. Refer to Sate DNR publication https://www.michigan.gov/-/media/Project/Websites/egle/Documents/Programs/MMD/Hazardous-Waste/Secondary-Containment-Guidance.pdf?rev=e90073bbfdd844daa9593a8708217cd6 for laws regulating the safe handling of hazard waste and ground water protection.

A. Secondary containment **structure**s such as out buildings, storage rooms, sheds and pole barns **shall not** have floor drains which outlet to soils, groundwater, or nearby drains or rivers.

1014. Surface Runoff

For all commercial establishments, industrial establishments, planned unit developments, special **use**s, and new developments (section 12 et seq. of this Ordinance) the site shall be designed to require no net runoff or found to comply with standards and criteria for design of storm water runoff and control shall comply with Rules published from time to time by the County Drain Commissioner and filed with the County Clerk and County Planning Department as County Drain Commissioner Storm water Control and Management Rules (hereinafter "Rules").

A. In addition to compliance with the Rules, provisions for long-term maintenance of any storm water runoff and control practice will be addressed in documentation submitted for a zoning permit application.

B. Prior to submitting a site plan, obtain a storm water permit; including payment of any fees, from the County Drain Commissioner which documents the site plan submitted complies with the Rules.

1020. Environmental, Solid Waste

1021. Waste Accumulation and Outside Storage

It shall be unlawful for any **person** to accumulate junk on any land except in a permitted junkyard or licensed sanitary landfill or as allowed by Township Junk Ordinance of August 2002, as amended.

A. No sewage, wastewater or water containing foreign substances shall be deposited or drained into any water bodies unless the same has first been approved by state and county health authorities.
B. The provisions of this section are not to be deemed to prohibit storing or spreading of manure, fertilizers, or other soil conditioners as part of a permitted **Agriculture**, Forestry operation; home garden or lawn care; Nature Parks and Other Similar Institutions; and **park**s. However, provisions must be made to control runoff and erosion with soil and water conservation practices, such as vegetative buffer strips between surface waters and soils where manure is applied. (Refer to Michigan Generally Accepted Agricultural and Management Practices for Manure Management and Utilization2024 for guidance.)

1030. Environmental, Other

1031. Buildable Area

No **structure**, **temporary dwelling**, or other **development** shall occur on that part of the **parcel** which comprises one of the following features. If there is not an area within a **parcel** of record which exists on the effective date of this Ordinance, or a subsequent larger **parcel**, large enough to allow any **use** of the **parcel**, then the **Appeals Board** shall grant a variance from this provision:

A. sand dune with slopes greater than 18 percent,
B. beach contiguous to a lake or stream,
C. wetland,
D. area which is not accepted by the District Health Department for on-site sewage disposal unless an alternate system of sewage disposal is approved by the District Health Department,
E. that part of a flood plain where flood waters are expected to have a destructive current,
F. existing public utility easements, and encumbered land subject to deeded easements.
G. existing public rights-of-way, and
H. waterfront **setback** areas, (including setbacks specified in section 2304.D.4).

1040. Parcel and Setback Regulations

1041. Parcel Width to Depth Ratio

Any parcel created after the effective date of this Ordinance shall not have a depth which is more than four (4) times its width, nor a width which is more than four (4) times its depth.

1042. High-Forest Fire Urban Interface Regulations

Any **structure** constructed or **altered** after the effective date of this Ordinance which is located in a highly combustible vegetation area shall comply with the requirements of this section. “Highly combustible vegetation area” means an area which has predominantly evergreen tree species with lower branches near to the ground, such as, but not limited to, Jack Pine or Scrub Pine, Scotch Pine or

Scotch Fir, Red Pine or Norway Pine, Spruces, Hemlock, and Cedars or Junipers; and other situations where **structure**s encroach into wild lands.

A. Applicants seeking a zoning permit for land located in the Wildfire Hazard Area, shall be required to be aware of Wildfire Hazard risk in the vicinity of his/her property. The following information is the suggested base of reading material for awareness of wildfire risks (articles can be provided if requested):
    1. Notice of Wildfire Hazard Area, detailing that the land is located in the Wild land and is exposed to wildfire fire risk.
    2. MSU Extension Wildfire Series Bulletin E2831 - "Protect Your Michigan Home from Wildfire":https://www.canr.msu.edu/resources/protect-your-michigan-home-from-wildfire
    3. MSU Extension Wildfire Series Bulletin E2948 – Wildfire-resistant Landscape Plants: https://www.canr.msu.edu/resources/wildfire-resistant-landscape-plants-for-michigan

1050. Vehicle access/road/parking

1051. Driveway Design

Driveways, unless specified otherwise elsewhere in this Ordinance:

A. shall have a minimum unobstructed width of sixteen (16) feet and a minimum unobstructed height of fourteen (14) feet and no greater turn than 90 degrees.
B. gates shall open inward, with a clear opening which is two (2) feet wider than the **driveway**, and located thirty (30), or more, feet from the **road** or **private road**.
C. shall have at the foot of the **driveway** an address number displayed on a **sign** or mailbox in compliance with the County Address Ordinance.
D. Bridge construction, if any, shall be designed with a sixteen (16) foot wide deck and to support 80,000 pounds.

1052. Private Road

Every **private road** which provides access to and from a public **road** for three (3) or more **dwelling** units or principal **buildings** on separately owned **parcel**s shall meet the following conditions:

A. All **private road**s shall be established by recorded conveyance of a right-of-way which shall be not less than sixty-six (66) feet wide. The **road** shall be constructed to the Manistee County Road Commission specifications.
B. Be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage by such means as two-foot-deep ditches constructed parallel to and on either side of the **private road**, or by use of curb and gutter with a storm sewer system; and by sloping the sides of the **private road** from the center thereof, or by other effective methods.
C. Bridge construction, if any, shall be designed to standards as exist or may be adopted by the Manistee County Road Commission for width and load capacity.

1053. Vehicular Parking Space, Access and Lighting

For each principal **building** or establishment hereafter **erected** or **altered** and located on a public **road** in any **district**, including buildings and **structure**s used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is adequate for the

parking or loading of motor vehicles in the proportions shown below. The parking spaces called for hereunder shall be considered minimum requirements under this Ordinance and in the case of more than one **use** on a **parcel**: the minimum shall be the sum of the required parking for each **use**:

A. **Single family Dwelling**s, **Two-family Dwellings**, and **Multi-Family Dwellings**: as needed parking spaces for each **dwelling** unit occupying the premises.
B. Nursing & Residential Care Facilities, Hospitals: Institutions of a Similar Nature: One (1) parking space for each four (4) beds, plus one (1) space for each doctor.
C. Accommodation: One (1) parking space for every three (3) spaces of legal sleeping capacity.
D. Auditoriums, churches, and other places of public assembly: One (1) parking space for each four (4) seats of legal capacity.
E. Offices; Finance, Insurance; Real Estate; Professional, Scientific & Technical Services; Management of Companies & Enterprises; Administration & Support Services; Ambulatory Health Care Services; Social Assistance; Public Administration: One (1) parking space for every two hundred (200) square feet of floor area; provided, however, that doctors' offices and clinics shall be provided with three (3) spaces for each doctor.
F. Food Services and Drinking Places: One (1) parking space for each three (3) seats of legal capacity.
G. Any other Retail Trade: One (1) parking space for each one hundred (100) square feet of floor area.
H. Any other Information; Educational Services; Other Services; Public Administration: One (1) parking space for each two hundred (200) square feet of floor area.
I. In addition to the above requirements, parking space in the proportion of one (1) space for every two (2) **persons** employed at the establishment shall be provided. Where no specific requirement is designated for other businesses, parking space which is adequate shall be provided. Adequacy of parking shall be based upon the anticipated intensity of use of the business establishment by patrons and employees and by reference to the standards contained in Section 1052.A. The Zoning Administrator shall establish the number of parking spaces required in the Land **Use** Permit.
J. A parking space, except for a **single-family dwelling** or a **two-family dwelling**, shall be a minimum area as follows:

ANGLE	SPECIFICATION
76 to 90 Degree	10 x 20 feet with 26 feet wide aisle for 2-way traffic or 18 feet for single-loaded 1-way aisle.
30 to 75 Degree	9.5 x 21 feet with 24 feet wide aisle for 2-way traffic or 15 feet for single-loaded 1-way aisle.
Parallel Parking	9 x 25 feet with a 3 feet area striped for "No Parking" between each two spaces, and 22 feet for 2-way traffic aisle or 15 feet wide for 1-way aisle.

K. Approval for location of all exits and entrances shall be obtained from the Manistee County Road Commission for all **road**s. Such approval shall also include the design and construction thereof in the interests of safety, adequate drainage, and other public requirements.
L. Collective Parking Arrangements: Except for single-family detached housing units, two (2) or more **buildings** or **use**s may collectively provide the required off-road parking, in which case the required number of parking spaces for the **use**s calculated individually may be reduced by

up to ten percent (10%) if a signed agreement is provided by the property owners, and the Zoning Administrator, after site plan review, determines that the peak usage will occur at different periods of the day. The agreement shall be recorded by the applicant with the Manistee County Register of Deeds, shall run with the land and not the property owners or **use**s of record, and shall only be modified by consent of the **Commission**

M. More Than One **Use** on Premises: Where two or more **use**s exist on the premises, parking requirements shall be calculated for each **use**, unless specifically provided otherwise herein.

N. In addition to the above requirements, parking space in the proportion of one (1) space for everyone (1) **person**(~~s~~) employed at the establishment shall be provided. Where no specific requirement is designated for other businesses, parking space which is adequate shall be provided. Adequacy of parking shall be based upon the anticipated intensity of use of the business establishment by patrons and employees and by reference to the standards contained in Section 1052.A.The Zoning Administrator shall establish the number of parking spaces required in the Land **Use** Permit and shall be rounded up to the next whole number.

O. The maximum number of parking spaces shall not be more than 1.5 times the minimum number calculated from this section located on an impervious surface (concrete, brick, asphalt, gravel, and similar surfaces) but in no case shall there be more parking spaces than 2 times the minimum number calculated from this section. Any parking spaces which are more than 1.5 times the minimum number calculated from this section shall be located on a surface designed to be pervious and which allows surface water to flow through it into the ground underneath it.

P. Deferred Parking: If an applicant claims that fewer parking spaces are needed than required in this Ordinance, the **Commission** may defer a certain number of parking spaces if the following conditions are met:
   1. The site plan shows the deferred parking spaces, which together with the other parking spaces shown on the site plan and built would equal or exceed the number of parking spaces required in this Ordinance.
   2. The area of the deferred parking spaces remains as open space so that those parking spaces can be constructed; and
   3. The area of the deferred parking spaces is accessible by service road or being adjacent to the parking area which is being constructed. If the Administrator finds lack of parking at the site becomes a problem, the Administrator shall require the deferred parking be constructed as parking on the site. The property owner may request some or all of the deferred parking be constructed as parking on the site.

Q. A parking space shall be a minimum size of ten (10) feet wide by twenty (20) feet deep, with center and cross aisles being a minimum of twenty (20) feet wide.

R. Parking areas required under this section, and publicly owned parking lots, shall not be used for the storage or continuous parking of recreational vehicles, trailers, motor vehicles without a current license plate, and junk for more than a twenty-four (24) hour period.

1060. Aesthetics, Signs

1061. Signs

Purpose: The number, placement, and size of **sign**s are found to be distracting to motorists and

pedestrians and can create a traffic hazard. Also, they are found to reduce the effectiveness of **sign**s needed to direct the public. The number, placement, and size of **sign**s are found to mar the appearance of the landscape, night sky, and rural character of the township upon which economic and tourist prosperity partly depends upon. The provisions of this section are intended to apply the minimum amount of regulation in order to avoid these problems. To that end in this section:

A. All the basic needs of **sign**s for way finding, instruction, and identification are provided for; while also
B. Preserving the community aesthetic created by good **building** design, rural character and design of public spaces such as **road** rights-of-way, **park**s, squares, beaches, etc.; as well as
C. Preventing traffic problems from **sign** clutter poorly constructed or maintained **sign**s, and **sign**s that are improperly located.
D. The intent is for **sign** regulations to be content neutral for all **sign**s. No **sign** may be **erected** unless it is expressly authorized by, or expressly exempted from, this Ordinance. A maximum amount of **sign** area and number of **sign**s is allowed per **parcel**. Different **sign** areas are allowed in different **district**s and additional regulations. Any **sign** authorized by this ordinance may substitute its current message with any commercial, non-commercial, or other message, without further permit or approval under this Ordinance, so long as messages do not regularly change at a frequency of more than once per two-week period.
E. **Sign** Regulation Table.
    1. The following **sign**s are not regulated by this Ordinance and not included in calculating the total number of **sign**s or sum of the area of **sign**s in the application of this table.
        a. Any **sign** less than 1.25 square feet in size.
        b. Any **sign** not visible to anyone on any **road**, alley, water body, public lands, or adjacent **parcel**s.
        c. Any **sign** which is required under authority of this Ordinance; site plan approval; any statute; or a **sign** located within a **road**, street, or highway right-of-way that is owned and maintained by any county, city, village road agency, Michigan Department of Transportation; and any legal postings required by law.
        d. Any **sign** inside a **structure**, regardless if it can be seen through a window from the outside of the **structure** or not.
        e. Flags, community and public art, holiday decorations.

Zoning District	**Maximum size of a single sign**	**Maximum total Area of all Sign(s) Allowed**	**Maximum height from ground to bottom of sign**	**Maximum height from ground to top of sign**	**Sign structure type allowed**	**Setback**	**Permit needed**
Big Manistee River Corridor District	12 square feet	36 square feet	Four feet	Eight feet	**Mounted** **Posted**	Not within **road** ROW Not within waterfront **setback** Not within 10 feet from side **parcel** line	Yes

Zoning District	**Maximum size of a single sign**	**Maximum total Area of all Sign(s) Allowed**	**Maximum height from ground to bottom of sign**	**Maximum height from ground to top of sign**	**Sign structure type allowed**	**Setback**	**Permit needed**
Agriculture, Forest and Rural Residential District	24 square feet, or not to exceed 25% of the total wall area, or not to exceed the height of the side of the **building**, whichever is greater	42 square feet	Four feet	Eight feet	**Ground** **Mounted** **Posted** **Portable** **Wall**	Not within **road** ROW Not within waterfront **setback** Not within 10 feet from side **parcel** line	No
Residential, Chief Lake Residential, and Bialik Residential Districts	12 square feet, or not to exceed 25% of the total wall area, or not to exceed the height of the side of the **building**, whichever is greater	36 square feet	Four feet	Eight feet	**Ground** **Mounted** **Posted** **Surface**	Not within **road** ROW Not within waterfront **setback** Not within 10 feet from side **parcel** line	No
Special **Use** Permitted land **use**s (regardless of which zoning district)	36 square feet, or not to exceed 25% of the total wall area, or not to exceed the height of the side of the **building**, whichever is greater	72 square feet	Four feet	12 feet	**Ground** **Mounted** **Pole** **Post** **Portable** **Rooftop** **Wall**	Not within **road** ROW Not within waterfront **setback** Not within 10 feet from side **parcel** line	Yes

F. Discontinued Or New **Districts**: If any zone is discontinued from this Ordinance or if a new zone is created no **sign**s shall be permitted herein until this Ordinance is amended to include such zone(s) in the above table and all permitted **sign**s are specified therein.

G. Construction: All **Sign**s must be maintained in good condition and repair. A **Sign** must be constructed in such a fashion that it will comply with P.A. 230 of 1972, as amended, (being the Stille-Derossett-Hale Single State Construction Code Act of 1972, M.C.L. 125.1501 et seq.). A **Sign** must be maintained so as to assure proper alignment of **Structure**, continued structural soundness, and continued readability of message.

H. **Sign** removal: Once the purpose of the **sign** has ended, ceases to exist or is over the **sign**(s) shall be removed within 14 calendar days. Anything formerly used to support or provide a **structure** for a **sign** and not in use for any other purpose shall be removed. **Sign**s which are damaged, structurally unsound, has chipped paint, has rust, cracking or damaged lettering, and other forms of damage or wear shall be removed or repaired.

I. Illumination: Except as provided for here, **sign**s shall not be internally illuminated. Illuminated **sign**s shall be lit by use of a light shining downward onto the **sign**. The source of the light shall be baffled so it is not visible to automobiles or pedestrians on any **road**, alley, water body, public lands, and adjacent **parcel**s or in the air above the illumination.

J. Prohibited: Any **sign** not expressly authorized by this Ordinances prohibited. The following **sign**s but not limited to these **sign**s are also prohibited: **sign**s with motion or rotation, electronic message center (EMC) and mechanical changeable message, and flashing lights.

1062. Outside Lights

A. Any light source over 1,500 lumen and left on continuously between dusk and dawn shall be shaded so there is not a direct line of sight to the filament or light bulb from anywhere off the **parcel** the light is located on.
B. Any light source for a parking area shall be directed to illuminate only the parking area and pedestrian walkways from the parking area to the principal land **use**.

1063. Fences

A. Fences shall be subject to the following:
    1. If the fence is opaque and over six (6) feet high then it shall be set back the required distance for **structure**s for the respective **district**
    2. If the fence is opaque and within the side or rear **yard setback** area then it shall not exceed six (6) feet in height.
    3. If the fence is opaque and within the front or waterfront **yard** portion(s) of a **parcel,** then it shall not exceed four (4) feet in height.
    4. Any fence shall not extend beyond the **water's edge**.
    5. If the fence is barbed wire, chain-link, welded wire, or similar and a part of **agriculture** then it may be located within or without **setback** areas and be of any height.
B. When a proposed non-residential or non-**park use** is contiguous to any **dwelling**, **park**, or environmental **district** the **parcel** owner of the proposed **use** shall establish one of the following buffers on his **parcel** adjacent to, and along the contiguous boundary of the **parcel** on which the **dwelling**, **park**, or environmental district is located:
    1. a woody vegetated buffer area (**setback**) of fifty (50) feet; or
    2. a berm six (6) feet, or more, in height; or
    3. a opaque wall six (6) feet, or more, in height; or
    4. a proportionately adjusted combination of the above.

1070. Structure Regulations

1071. Communication Tower Facilities (Permitted Use)

A. **Wireless Communication** equipment is a permitted use of property, not subject to special use approval if the following requirements are met:
B. The **wireless communications** equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
C. The existing **wireless communications** support structure or existing equipment compound is in compliance with this Ordinance or was previously permitted by this Ordinance.
D. The proposed collocation will not do any of the following:
    1. Increase the overall height of the **wireless communications** support structure by more than 20 feet or 10% of its original **height**, whichever is greater
    2. Increase the width of the **wireless communications** support structure by more than the

minimum necessary to permit collocation.

3. shall not increase the width of the building, structure, existing tower more than a 20-foot extension to the side of its initial approval width, and
4. Increase the area of the existing equipment compound to greater than 2,500 square feet.

E. The proposed collocation complied with the terms and conditions of any previous final approval of the **wireless communications** support structure or equipment compound by the zoning administrator.
F. shall be removed and the site restored to its original condition by the property owner or lessee within ninety (90) days of being abandoned (no longer used).
G. shall be so constructed and placed that there is no danger of the structure falling on adjacent properties or off premises electric power lines and further the operation of any such facilities shall not interfere with normal radio/television reception in the area.
H. Any other private or individual television/radio reception tower shall be so constructed and placed that there is no danger of the structure falling on adjacent properties or off premises electric power lines and further the operation of any such facilities shall not interfere with normal radio/television reception in the area.
I. Action on a permit application shall take place within 14 days of a complete application being received with a fee (that is less than $1,000) and such action shall not include any consideration of health impacts or concerns of radio frequency emissions if such emissions comply with FCC regulations on emissions, or property value concerns not documented by expert testimony and study done specifically for the site and area.
J. **Wireless Communication** Facilities that do not meet the standards in this Section might be permitted as a special use, subject to the standards contained in this Ordinance, included by not limited to Section 1610 of this Ordinance.

1072. On Site Wind Energy Systems

An **on-site wind energy system** is a permitted or accessory use which shall meet the following standards:

A. Designed to primarily serve the needs of a home, agriculture, or small business or to test wind or other environmental conditions in the area for a period not to exceed 3 years from the date the permit is issued.
B. **Wind Turbine Height**: Total **Wind Turbine Height** for **on-site wind energy system** shall not exceed sixty-six (66) feet in Residential and Special and Unique zoning districts, or one hundred twenty (120) feet in Agriculture and Forestry and Rural Residential zoning district.
C. **On-site wind energy system** Exception: **on-site wind energy system** mounted to existing structures (such as a roof or pole) that extend eight (8) feet or less above the highest point of the structure are exempt from this zoning ordinance.
D. Property Setback: The horizontal distance between the base of an **on-site wind energy system** and the owner's property lines shall be no less than 1.1times **Wind Turbine Height**. No part of the **WES** structure, including guy wire anchors, may extend closer than twenty-five (25) feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in a greater setback.
E. Sound Pressure Level: The audible sound from an **on-site wind energy system** shall not exceed 45**dBALeq**/ 52 **dBCLeq** (10 minutes) at the property line closest to the **WES**.

F. Construction Codes, Towers, and Interconnection Standards: **on-site wind energy system** towers shall comply with all applicable state construction and electrical codes and local building permit requirements. An interconnected **on-site wind energy system** shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.
G. Aviation and Airports: Where applicable, **on-site wind energy system** shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431*et seq*.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations.
H. Safety: An **on-site wind energy system** shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a **Wind Turbine Height** of at least six feet above the guy wire anchors.
I. Ground Clearance: The minimum vertical blade tip clearance from grade shall be 20 feet for a **horizontal axis wind turbine**. Vertical axis **wind turbine**s are exempt from this ground clearance provision, but sufficient clearance should be maintained for the safety of people, animals, machinery, or others that may traverse under or near the vertical turbine.

1073. Temporary Towers (temporary anemometers for wind and bat testing)

A. **Wind Turbine Height**: Temporary anemometers or other temporary testing towers (such as for bat studies) shall not exceed 200 feet or the anticipated **Wind Turbine Height** of the **Utility Scale Wind Energy System**.
B. Setback: The horizontal distance between the base of a temporary **anemometer tower** and the owner's property lines shall be no less than 1.1 times **Wind Turbine Height**. No part of the tower structure, including guy wire anchors, may extend closer than 25 feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in a greater setback.
C. Construction Codes, Towers, and Interconnection Standards: Temporary towers shall comply with all applicable state construction and electrical codes.
D. Aviation and Airports: Where applicable, temporary anemometers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations.
E. Performance Guarantee: The Planning Commission shall obtain a performance guarantee for a temporary anemometer or other temporary tower in an amount sufficient to guarantee removal of the tower at the end of three years. The performance guarantee shall be obtained in compliance with Section 8612 of this ordinance.
F. Personal-Scale Solar Energy Systems.

1074. Personal-Scale Solar Energy Systems shall meet the following requirements.

Purpose and Intent: The purpose and intent of this section is to establish additional standards for the sitting Personal-Scale Solar Energy Systems as a permitted land use.

A. Ancillary Solar Equipment: Ancillary solar equipment shall be located inside of a **building** or

screened. All ancillary solar equipment shall be screened consistent with Article 1613B sub-section D Sight Barriers.

B. Battery Use and Storage: If the **Personal-Scale Solar Energy System** will utilize batteries or the storage of batteries, adequate design must be provided to show compliance with all applicable state and federal requirements regulating the outdoor storage of batteries.
C. Installation and Maintenance: A **Personal-Scale Solar Energy System** shall be installed, maintained and used only in accordance with the manufacturer's specifications.
D. Compliance with Additional Codes: A **Personal-Scale Solar Energy System** and the installation and use thereof shall comply with the building code, electrical code and any other applicable State codes. The installation of a **Personal-Scale Solar Energy System** shall not commence until all necessary permits have been issued.
E. For Ground Mounted Personal Scale Solar Energy Systems
    1. **Setback**s: A ground mounted **Personal-Scale Solar Energy System** shall follow **setback** guidelines for each **district**.
    2. Height: A ground mounted **Personal-Scale Solar Energy System** shall not exceed a height that if tower failed would fall on adjoining property and the height shall be measured from the ground at the base of such equipment to the highest point of the system and compared to distance from tower center to property border.
F. **For Building-Mounted** Personal-Scale Solar Energy Systems
    1. **Setback**s: A **building**-mounted **Personal-Scale Solar Energy System** shall comply with all applicable areas, height and placement requirements for principal **buildings** or **accessory buildings** for the **district** in which it is going to be located.

1080. Dwelling/Residential Standards

1081. Dwellings

No **person** shall use, occupy, permit the use or occupancy of a **structure** as a **dwelling**, or duplex, which does not comply with **dwelling** standards of this Ordinance, or standards of the State of Michigan and United States Department of Housing and Urban Development, whichever is applicable, within any **district**, except in a designated mobile home park, and except as hereinafter provided. All **dwelling structur**es shall comply with the following minimum standards:

A. No **Dwelling** or duplex shall hereinafter be **erected** which shall have a minimum core area of less than twenty by twenty feet, exclusive of porches, and other add-ons, unless it is licensed exclusively for the use of seasonal or migrant agricultural workers in which case it shall comply with the requirements of such licensor.
B. **Dwelling** or duplex shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under provisions of Public Act 230 of 1972, as amended, being M.C.L. 125.1501*et. seq.,* including minimum heights for habitable rooms. Where a **dwelling** is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan building code, then and in that event such federal or state standard or regulation shall apply. In addition, it shall comply with the following:
    1. Foundations: It shall be firmly attached to a permanent foundation constructed on site in accordance with said State Construction Code and shall have the same perimeter

dimensions of the dwelling, except cantilevers, and constructed of such materials and type as required in the said State Construction Code for dwellings, or, in the case of mobile homes, that dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission or said State Construction Code, whichever is stricter, and with the wheels removed and shall not have any exposed towing mechanism, undercarriage or chassis;

2. Framing, structural, insulation shall comply with the said State Construction Code, or in the case of mobile homes, shall comply with the "mobile home construction and safety standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended, and which bears a HUD seal or certification by a certified inspector signifying inspection and compliance with the same;
3. Final finished; shall comply with the said State Construction Code;

C. The **dwelling** complies with all pertinent buildings and fire codes. In the case of a **mobile home**, all construction and all plumbing, electrical apparatus and conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards maybe amended. Additionally, all **dwelling**s shall meet or exceed all applicable roof snow load and strength requirements.
D. It shall contain only additions or rooms or other areas which are constructed with similar or better workmanship as the original **structure**. Further, it shall include permanent attachment to the principal **structure**s long as such attachment does not include a bearing load on a **mobile home**.
E. The foregoing standards shall not apply to a **mobile home** located in a licensed mobile home park except to the extent required by State or Federal law or otherwise specifically required in this Ordinance pertaining to such parks.
F. All construction required by this section shall be commenced only after a construction permit has been obtained in accordance with the applicable construction code provisions and requirements.

1082. Guest house or Second Dwelling on a Parcel

A second **dwelling** or **Guest House** may be placed on the same **parcel** where a **dwelling** or other principal **use** already exists if all of the following conditions are met:

A. The application for a Land **Use** Permit shall include a Medium Site Plan pursuant to Section 9401 *et seq.*
B. **Dwelling**s are permitted **use** in the **district**
C. The second **dwelling** shall comply with all applicable construction, **parcel** size, height, **and yard** and **setback** regulations of this Ordinance.
D. The **Appeals Board** shall not grant variances to the construction, minimum size, height, **yard** and setback regulations of this Ordinance to the principal and second **dwelling** when both are located on the same **parcel**.
E. The **dwelling** is on a **parcel** with frontage on a public **road** with a **driveway** containing a minimum of three parking spaces.

1083. Temporary Dwellings

Purpose and Intent: A trailer/temporary dwelling may be used without permit or permit application subject to this section.

A. No **person** shall have any **temporary dwelling** as defined in the Ordinance as a principal or seasonal **dwelling** on any site, **lot**, field, **parcel,** or tract of land for except for one of the following:
   1. As a **temporary dwelling** quarter or job-site office or tool shed during the construction and installation of a **structure** conforming to the ordinance and specifically to Section 1080 of this ordinance for **dwelling**s when each of the following conditions are met:
      a. The location of the **temporary dwelling** shall comply with all **setback** requirements of this ordinance.
      b. The use of the **temporary dwelling** shall not be contrary to the public health, safety or welfare.
      c. The **temporary dwelling** is only on the land when there is an open permit for the construction of a **structure** or as part of the permit for the construction of the **structure**.
      d. The use of the **temporary dwelling** shall be limited to the duration of the building permit.
   2. As part of a campground licensed by the Michigan Department of Public Health.
   3. On one's own land which meets each of the following conditions.
      a. Its use is restricted to temporary recreation or storage on a non-commercial/no rental basis.
      b. Set back to the required distance for the respective **district**.
      c. Unoccupied parking or storage of temporary **dwelling** on **the road** is **prohibited**.
   4. If the temporary dwelling becomes blight, it shall be removed from the parcel or it shall be treated as a nuisance per se. pursuant to the Brown Township Junk Storage and Disposal Ordinance of 2002.

1084. Home Based Occupation

Home Based Occupation - Within Dwelling Unit. A home occupation may be conducted in a dwelling unit, provided that:

A. Only the residents of the dwelling unit may be engaged in the Home Occupation.
B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
C. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in its given district, and any need for parking shall be accommodated on the property.
D. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
E. There shall be no outside storage of any item related to the home occupation.

Home Based Occupation – Within an Accessory Structure. A home occupation may also be conducted within an accessory structure on the same property with an existing principal dwelling provided that the following standards are met:

A. There is an existing occupied single-family dwelling (principal residence) on the same property.
B. The use of the accessory structure for a home occupation must meet all of the same performance standards applicable to the dwelling, itself, in Section 1084 A. except that the use within an accessory structure may include up to 1,000 square feet of contiguous space for the home occupation.

Home Occupation Prohibitions. The following uses are prohibited as a home occupation; however, considerations may be given by means of application for a special use permit as part of a Home-Based Enterprise under Section 1608:

A. Animal hospitals, veterinarians, and kennels.
B. Uses which involve medical or dental procedures.
C. Manufacture or repair of any vehicle, machine, tool, apparatus, or device involving the use of an internal combustion engine of any type or size.
D. The repair of boats, trailers, recreational vehicles, or similar equipment or vehicles, whether motorized or non-motorized.
E. Lawn care, snow plowing, tree services, refuse, and property maintenance businesses.
F. Welding, machine shop operations, or metal fabricating.
G. Dismantling, junk, scrap, recycling operations, refuse collection, or storage yards. Sale of antiques or second-hand goods.
H. Restaurants.
I. Uses similar to those listed as determined by the Zoning Administrator in a written opinion.
J. Other uses may be permitted upon review by the Planning Commission during its regular meetings.

1085. Family Day Care Home

The intent of this section is to define the standards for the location and operation of Family Day Care Homes in order to support access to safe and reliable child care within the community.

A. A family child care home is a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

B. Appropriate licenses with the state shall be maintained.

1090. Other Special Purpose

1091. Vacation Rentals

A. Vacation Rentals (where all of a **dwelling** is rented out for short term vacation stays) are a commercial use and not permitted **accessory use,** within a **dwelling,** or within a second dwelling on a parcel.
B. Vacation Rentals are not a permitted or possible special use in any district.
C. Vacation Rental may be a home occupation, pursuant to, and in compliance with, section 1084 of this Ordinance with the owner occupying the dwelling during the period guests are present.

D. Vacation Rental may be a home-based enterprise, pursuant to, and in compliance with, section 1084 and 1608 of this Ordinance and one of the dwellings is occupied by the owner during the period guests are present.

ARTICLE 12: DEVELOPMENT STANDARDS

1201. Purpose

When **development** of vacant land or the redevelopment of land takes place there are certain standards which are considered minimum development standards necessary to implement the *Brown Township Master Plan* of 2024, as amended. The requirements of this Article are in addition to other requirements of this Ordinance.

1202. Scope

This Article applies to land divisions pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101*et. seq.*); subdivisions pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101*et. seq.*); condominium of vacant land pursuant to P.A. 59 of 1978, as amended, (being the Condominium Act; M.C.L. 559.101*et. seq.*); leasing for any length of time land, **single-family dwellings**, **two family dwellings**, and **multi-family dwellings**; easements (for, but not limited to, septic tank drain field, **road**s, access); eminent domain; voluntary conveyance to utility company with eminent domain powers; municipal corporation's splitting of land; and any other lawful method of developing land.

1203. Regulation Applicable to all Developments

Provisions of this section apply to all types of **development** found in Article 12 of this Ordinance.

A. A minimum of one (1) or twenty percent (20%), whichever is greater, of the housing units in the **development** shall be offered for sale through a standard mortgage at current competitive interest rates and fees such that the total annual payment by the homeowner is equal to or less than one third (⅓) of the annual median Manistee County household income as established by the most recent release of information by the United States Bureau of the Census.

1204. Parcel Divisions: Subdivisions and Site Condominiums

Provisions of this section apply to all new subdivisions, site condominiums, and any other form of splitting land into new **parcel**s for purposes of **development** not covered elsewhere in Article 12 of this Ordinance. **This type of development would be special use professionally engineered to follow state, county and township laws and regulations.**

A. Application and Site Plan Review Process:
   1. A pre-application conference between the applicant, the site designer, and the administrator to discuss the applicant's objectives and how these may be achieved under this Ordinance is encouraged for all **parcel**s to be split under these provisions and the Regulations and Standards section of the respective **district** of this Ordinance. Engineering, site plans, or surveys, shall not be required for the pre-application conference and shall not be accepted or reviewed at the pre-application conference.
   2. If necessary, a site visit may be scheduled during the pre-application conference. A pre-

application conference between the applicant, the site designer, and the administrator to discuss the applicant's objectives and how these may be achieved under this Ordinance shall be mandatory for all **parcel**s to be split under these provisions and the Regulations and Standards section of the respective **district** of this Ordinance. Engineering, site plans, or surveys, shall not be required for the pre-application conference and shall not be accepted or reviewed at the pre-application conference.

3. If necessary, a site visit may be scheduled during the pre-application conference. The application shall then be processed under the Special **Use** Permit, section 8601*et. seq.* of this ordinance, and Planned Unit Development section 8801*et. seq.* of this ordinance. The township shall simultaneously approve the land division splits as part of the review.

ARTICLE 16 – SPECIAL USE SPECIFIC STANDARDS

1601. Purpose:

Specific Special **Use** Standards, in addition to the general standards found in Section 8608 *et. Seq.,* for particular prospective special **use**s additional requirements apply as follows:

1602. Big Manistee River Corridor District

For all special **use**s in the Big Manistee River Corridor District:

A. Shall be located more than two hundred (200) feet from the Big Manistee River or Big Bear Creek, or associated wetlands; or from the top (crest, rim) of the sides of the **river valley**: whichever is greater.
B. For **Dwelling**s:
   d. Shall be located on land which was not owned by the United States, State of Michigan, or Consumers Power Company as of June 13, 2001.
   e. Shall be on a **parcel** of land which is the same size, or larger, than the size of the **parcel** as of June 13, 2001.
   f. Shall comply with all regulations set forth in Section 1081 of this Ordinance.
C. Any parking, camping, playground, or other **structure**s shall be located on existing dry land within portions of the **district**.
D. The proposed **use** shall not require fill in wetland portions of the **district** but may include fill on dry land portions of the **district**.
E. Minimum land area for the **use** is large enough, and under one ownership, to accommodate the proposed **use**s and **structure**s without endangering or compromising the intent and purpose of this **district**.
F. Adequate measures have been taken in design and site plans to ensure protection of the wetland area for the purposes and intent of this **district**.

1603. Educational and School Support Services

Educational and School Support Services are subject to the following specific standards in addition to the general standards listed in this Ordinance:

A. The property shall have frontage on a **road**, or a county primary **road**, or a paved county local **road** with no outlet other than to a primary **road**.
B. Instead of **setback** requirements of each **district** in this ordinance, the **setback** shall be 200 feet

from all property boundaries of the **parcel**. Within the 200-foot**setback**area shall be maintained in natural vegetation and as open space except for entrance and exit drives. If lights are installed on the site the lights shall be shaded and/or screened by the vegetation berm and/or by apparatus on the light fixture so direct glare of the light is not visible beyond the **parcel** boundary.

C. No **building** shall be within 0.25 miles of Big Bear Creek or Big Manistee River. The distance shall be measured from the crest or top of the **river valley**.
D. Prior to issuing a special **use** permit the owner/applicant shall deliver to the township:
   a. An agreement which provides the township with the right to inspect the site from time to time.

1604. Campgrounds

For Campgrounds, the location of a campground shall front or have public access to a public **road**.

A. the campground shall conform to all applicable regulations of any rules promulgated by the Michigan Department of Health under authority of sections 1201 *et. seq.* of P.A. 368 of 1978, as amended, (being the Michigan Health Code, M.C.L. 333.1201*et. seq.).*
B. the application for a zoning Special **Use** Permit for a campground shall contain all the elements and parts which are required by the Health Department for a campground license under authority of sections 12501 to 12516 of P.A. 369 of 1978, as amended, (being the Michigan Health Code, M.C.L. 333.12501*et. seq.),* in addition to the Special **Use** Permit application requirements presented in this Ordinance.
C. the minimum **parcel** area shall not be less than *(X)* square feet, where *(X)* equals 2,000 times the number of proposed campsites.
D. management headquarters, recreation facilities, toilets, showers, laundry facilities and other **use**s and **structure**s customarily incidental to the operation of a campground are permitted as **accessory uses** provided:
   a. such establishments and the parking area primarily related to their operations shall not occupy more than ten (10) percent of the campground.
   b. such establishments shall be restricted in their use to occupants of the campground and their guests.
   c. such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the campground and their guests.
E. No space shall be so located so any part intended for occupancy for sleeping purposes shall be within one hundred (100) feet of the right-of-way line of any **road**. **Setback** spaces may be reduced if occupied by plant material and/or a berm. In no case shall the **setback** be less than 40 feet and allowed only in instances when screening is an opaque fence or berm. In all cases, plant materials shall be maintained in a **setback** area. Plant materials shall be of sufficient size when installed to assure immediate and effective screening of the campground from adjacent **road**s and properties. The plans and specifications for a campground shall include the proposed arrangement of such plantings.

1605. Mobile Home Parks

For Mobile Home Parks:

A. The location of a mobile home park shall front or have public access to an existing paved or black-topped surfaced county **road**, existing state trunk line, or existing county primary **road**.
B. The mobile home park shall conform to all applicable regulations of the Michigan Mobile Home Commission Rules promulgated by the Michigan Mobile Home Commission under authority of, P.A. 96 of 1987, as amended, (being the Mobile Home Commission Act, M.C.L. 125.2301 et. seq.), and thus **mobile home**s which locate within said mobile home park shall be exempt from **Dwelling** Regulations, above.
C. The mobile home park shall provide at least two (2) 'entrances/exits' to a state trunk line or county **road**.
D. The application for a zoning Special **Use** Permit for a mobile home park shall contain all the elements and parts which are required by the administrative rules of the Michigan Mobile Home Commission promulgated pursuant to P.A. 96 of 1987, as amended, (being the Mobile Home Commission Act,M.C.L. 125.2301 et. seq.), for an application for license to operate a mobile home park in addition to the Special **Use** Permit application requirements presented in this Ordinance.
E. The minimum **parcel** area shall not be less than (X) square feet; where (X) equals 6,000 times the number of **mobile home** sites.

1606. Golf Courses and accessory activities

The golf course design, operation, and maintenance shall be conducted in compliance with the Michigan Department of Environment, Great Lakes, and Energy published Best Management Practices Guidance “Natural Resource Protection Strategy for Michigan Golf Courses” v 1995.

[Annotation: https://www.michigan.gov/egle/0,9429,7-135-3313_71618_3682_3714-118554--,00.html.]

1607. For oil and gas processing or sweetening facilities

A. No oil and gas processing or **sweetening facility**, except access **road**s and pipelines, shall be located within 1,300 feet of an existing **dwelling**, commercial or other non-residential **building** or **structure**, wetlands, or surface water and a **setback** of 100 feet from all property lines. Access **road**s and pipelines, not including residential distribution pipelines, shall be located not closer than 450 feet to an existing **dwelling**, commercial or non-residential **building** or **structure**s, wetlands, or surface water.
B. No oil and gas processing or **sweetening facility**, except access roads and pipelines, shall be located less than 2,600 feet from an existing subdivision, apartment **buildings**, residential developments, mobile home parks, residential **use**s whose occupants are relatively immobile and which are hard to quickly and efficiently evacuate such as hospitals, nursing homes, residential care facilities, or other land **use**s that result in a dense population; access roads and pipelines shall be located not closer than 650 feet to such **use**s and **structure**s.
C. Oil and gas processing or sweetening facilities shall not be located within four miles of another oil and gas processing or **sweetening facility**.
D. An oil and gas processing or **sweetening facility** shall be designed to a capacity to service all oil and gas wells that are anticipated to need such service over the maximum life expectancy of the project, within a two-mile radius of the proposed project site, except that upon a showing by the applicant that:
    1. an existing oil and gas processing or **sweetening facility** within the same section of land or

within a two-mile radius is being operated at capacity and cannot be feasibility expanded; or

2. the existing facility cannot be expanded or modified to accept oil or gas from the applicant's well(s); or
3. the owners of the existing facility, after reasonable offers and negotiations of terms, refuse to share their facility to service the applicant's oil or gas wells; then the **Commission** may act to waive the density standards of this subsection provided the **Commission**, in deciding whether to waive the density standards herein, may also consider whether there are suitable sites for the proposed oil and gas processing or sweetening facilities or other existing oil and gas processing or sweetening facilities having excess capacity which are more closely situated to the wells which will be serviced by the proposed oil and gas processing or **sweetening facility**, it being the policy of the Township that, subject to the density objectives set forth herein, and subject to the need to avoid areas of relatively greater population density, the hazards and inconvenience to neighboring properties of necessary oil and gas processing or **sweetening facility** operations shall, whenever possible, be associated with the areas where the wells being serviced are located, or with properly zoned industrial **district**s located inside or outside the Township.

E. Sweetening plants: shall be located on a parcel not less than ten (10) acres in size and all other oil and gas processing facilities, except sweetening plants, shall be located on a parcel not less than four acres in size, provided, however, that in all cases the minimum parcel size shall not be less than the minimum parcel size established for the district in which the project is proposed to be located.
   1. All oil and gas processing or sweetening facilities having buildings, plant, equipment, and/or machinery located above ground, will be screened from view from all nearby roads, dwellings and commercial uses by vegetation or berm, or a combination of both, placed near or at the perimeter boundary of the project site.
   2. In the case of a bulk storage facility, all tanks or other storage facilities, pumps and other equipment are completely enclosed in a berm.
   3. All lights or other illumination devices shall be shaded and/or screened by the vegetation, berm and/or by other apparatus such that direct glare is not visible beyond the perimeter boundary of the property.
F. The project site shall be secure to prevent pedestrians and other unauthorized persons from gaining access to the project site.
G. All emissions and/or effluent from the oil and gas processing or sweetening facility shall meet or exceed all applicable state and federal air pollution, surface, and groundwater quality standards. All solid waste from the site shall be transported by a Michigan licensed industrial waste hauler to a licensed Type I or Type II landfill. Steel, or other approved material, tanks shall be used for storage of all liquid materials, including brine, except that earthen pits may be allowed for emergency backup purposes. Sulfur, once separated from natural gas, shall not be incinerated. Technology which chemically changes the sulfur to its elemental form, or other form suitable for resale, or more advanced technology approved by the Commission, shall be used.
H. Sweetening plants shall be fitted with a warning siren audible for one mile in all directions on a calm (no wind) day, which is triggered to sound when concentrations of hydrogen sulfide exceed

200 parts per million within the project site. The siren shall be periodically tested on a regular basis during the life of the plant.

I. Odors shall not be detectable by normal human senses under normal operating conditions at a distance of 1,300 feet from oil and gas processing or sweetening facility.
J. Noise shall comply with this Ordinance and the Brown Township Noise Ordinance.
K. The applicant's reclamation plan shall be capable of being completed within one year of the cessation of operations of the project.

1608. Home-Based Enterprise

The **use** and associated activity is located on the same property as the business operator's **dwelling**.

A. The activities and carrying on of the enterprise shall be operated in such a manner that, under normal circumstances, will not create a nuisance.
B. **Buildings erected** for the business shall be designed to be in keeping with the character of the surrounding area.
C. The **home-based enterprise** shall not involve
   1. The generation of any hazardous waste as defined in Article II Chapter 3 Part 111 of P.A. 451 of 1994, as amended, (being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11101*et. seq.),* or
      [Annotation: M.C.L. 324.11101 *et. seq.* is formerly P.A. 64 of 1979 (being M.C.L. 299.501 to 299.551, the Hazardous Waste Management Act).]
   2. The use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910(2), except this provision shall not apply to material purchased retail over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, art and craft supplies or heating fuel.
D. The enterprise shall employ on site no more than three full-time equivalent employees per year in addition to those who live in the **dwelling**.
E. "Home-based enterprise "is listed as a possible special **use** in the respective **district**.

1609. Manufacturing, Trucking and Warehousing

For Manufacturing and Trucking and Warehousing:

A. The **use** and associated activity is carried on entirely within an enclosed **building**, and, if there is a **yard** work area and storage area, it shall be enclosed as specified below. Whenever the Manufacturing and Trucking Warehousing property boundary is contiguous to a **road**, a water body, and another type of land **use**, then along that property boundary there shall be:
   a. a solid wall six (6) feet, or more, high or
   b. a berm six (6) feet, or more, high or
   c. a buffer area of one hundred (100) feet back, or
   d. a proportionately adjusted combination of the above.
B. Odor shall not be detectable by normal human senses under normal operational circumstances at a distance of six hundred (600) feet from the manufacturing and trucking and warehousing establishment.
C. Noise shall comply with this Ordinance and the Brown Township Noise Ordinance.
D. A pollution incident prevention plan, if required by state or federal regulation, and fiscal

impact study may be required by the **Commission** to obtain additional information needed to make a determination of compliance with the standards, requirements, and purposes of this Ordinance.

1610. Wireless Communication

Wireless Communication Facilities may be permitted by special **use** permit pursuant to section 8601 of this Ordinance provided said **use**:

A. Shall be located centrally on a contiguous **parcel** of not less than one (1) times the height of the tower measured from the base of said tower to all points on each property line. The **setback** standard may be reduced by up to fifty (50%) percent, if the construction plan, the tower, and its guying/anchoring systems are certified by a Registered Professional Engineer as being safe from the hazard of falling onto public **road**s or adjoining properties.
B. All guy wires/cables and anchors shall meet the zoning **setback** standards of the **district**.
C. No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.
D. The following standards will be required for all Wireless Communication Facilities:
    a. **Wireless Communication** Facilities may be permitted if it is found that there is no reasonable opportunity to be built as a permitted **use** and complies with section 1071of this ordinance. Information must be submitted to show efforts made to screen, co-locate or place such facilities on an existing **structure**.
    b. The proposed height meets FCC and FAA regulations so that the tower does not have lights, or the Planning Commission finds that it is more desirable to have a single taller tower to avoid multiple unlit towers.
    c. Towers must be equipped with devices to prevent unauthorized climbing, or the base enclosed by a fence to prevent unauthorized access to the tower.
    d. All reasonable measures are taken to blend the tower into the landscape, including greenbelt planting and/or screening, painting and/or concealing the tower in a "stealth" design.
    e. New towers should be engineered as appropriate for future co-location of at least five (5) additional antennae. Depending on tower height, additional co-located antennae may be required by the Commission. These antennae sites shall be made available at a fair market value on a need or basis to anyone wanting to mount commercial communication equipment. This commitment shall be reflected as a condition in the special use permit for the tower. No new construction will be approved unless it can be demonstrated that space on existing towers is unavailable or unsuitable.
    f. Protective fencing and screening may be required to be placed around all guy wire anchor points as appropriate to the site.
    g. A tower shall not be located closer than two miles from another tower. Lighted towers shall not be located closer than ten miles from another lighted tower. However, in no case shall this standard result in denial of a communication tower facility which prevents the provision of any personal wireless services in a given geographic area.
    h. All **Wireless Communication** facilities shall be removed and the site restored to its original condition by the property owner or lessee within ninety (90) days of being abandoned (no longer used).

i. Action on a Special use permit application shall take place within 90 days of a complete application being received with a fee (that is less than $1,000) and such action shall not include any consideration of health impacts or concerns of radio frequency emissions if such emissions comply with FCC regulations on emissions, or property value concerns not documented by expert testimony and study done specifically for the site and area.

1611. Utility-Scale Wind Energy System (including permanent Anemometer Towers accessory to the project)

A. Setbacks:
   1. An **Anemometer Tower** shall be setback a distance equal to 1.1 times height from a property line or road right-of-way.
   2. A **wind turbine** setback shall be measured from the closest point of the base of the **wind turbine** to the property line or inhabited structure, whichever results in a greater setback:
      a. Road right of way: A horizontal distance equal to 1.1 times the height from the edge of the road right-of-way;
      b. **Non-participating parcel**s: A horizontal distance equal to 3 times height from the property line or dwelling, whichever results in a greater setback;
      c. **Participating parcel**s: A horizontal distance equal to 1.1 times height from the property lines and dwellings.

B. A **Wind Turbine** is not subject to property line setbacks for common property lines of two or more **participating parcel**s, except road right-of-way setbacks shall apply.

C. Accessory Uses: An Operations and Maintenance Office building, a sub-station, or ancillary equipment shall comply with property setback requirements of the respective zoning district. Overhead transmission lines and power poles shall comply with the setback and placement requirements applicable to public utilities.

D. **Lay down Area**: A centralized temporary **lay down area** for **wind turbine** component parts and other related equipment shall comply with property-setback requirements of the district and be detailed in the application.

E. Sound Pressure Level (SPL): The SPL measured at peak activity, shall not exceed the following:
   1. Non-participating property: SPL from a **WES** shall not exceed 40**dBALeq**/ 47**dBCLeq** (10-minutes) measured at the property line of a non-participating property. If the average **background SPL** exceeds 40**dBALeq**/ 47**dBCLeq** (10-minute) the standard shall be **background SPLdBA** plus 5**dBA**.
   2. Participating property: SPL from a **WES** shall not exceed 45**dBALeq**/ 52**dBCLeq** (10-minute) measured at the property line of a participating property. If the average **background SPL** exceeds 45**dBALeq**/ 52**dBCLeq** (10-minute) the standard shall be **background SPLdBA** plus 5**dBA**.
   3. Sound measurement methodology: SPL measurements shall be performed by a third party, qualified professional selected by the developer and approved by the Planning Commission. Testing shall be performed according to the procedures in the most current version of **ANSI** S12.18 and **ANSI** S12.9 Part 3. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of **ANSI** S1.4 specifications for a Type II sound meter.
   4. Post-construction sound survey: A post-construction sound survey shall commence within

the first year of operation to document levels of sound emitted from **wind turbine**s. The study will be designed to verify compliance with sound standards applicable to this ordinance. The **WES** owner shall provide SCADA data during the testing period to the sound consultant completing the study.

F. Safety: **utility-scale wind energy system** shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the **WES**. A sign shall be posted near the tower or Operations and Maintenance Office building that will contain emergency contact information. A sign shall be placed at the road access to a **wind turbine** to warn visitors about the potential danger of falling ice. The minimum vertical blade tip clearance from grade shall be 20feet for a **WES** employing a horizontal axis **rotor**.

G. Construction Codes, Towers, and Interconnection Standards: **utility-scale wind energy system** shall comply with all applicable state construction and electrical codes and local building permit requirements.

H. Pre-Application Permits: **utility-scale wind energy system** shall comply with applicable utility, Michigan Public Service Commission, Federal Energy Regulatory Commission interconnection standards, FAA requirements, and tall structures requirements, including but not limited to:
   1. Aviation and Airport
      a. Federal Aviation Administration (FAA) requirements. The minimum FAA lighting standards shall not be exceeded. The lighting plan submitted to the FAA shall include an Aircraft Detection Lighting System (ADLS) for the **utility-scale wind energy system**. The tower shaft shall not be illuminated unless required by the FAA.
      b. Michigan Airport Zoning Act (Public Act 23 of 1950 as amended, MCL 259.431 et seq.).
      c. Michigan Tall Structures Act (Public Act 259 of 1959 as amended, MCL 259.481 *et seq*.).
      d. Local jurisdiction airport overlay zone regulations.

I. Environment: The application will demonstrate mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities, as identified in the Environmental Analysis. The application shall demonstrate compliance with:
   a. Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101*et seq*.) (including but not limited to: Part 31 Water Resources Protection (MCL 324.3101*et seq*.),
   2. Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101*et seq*.)
   3. Part 301 Inland Lakes and Streams (MCL 324.30101*et seq*.)
   4. Part 303 Wetlands (MCL 324.30301*et seq*.)
   5. Part 323 Shore land Protection and Management (MCL 324.32301*et seq*.)
   6. Part 325 Great Lakes Submerged Lands (MCL 324.32501*et seq*.)
   7. Part 353 Sand Dunes Protection and Management (MCL 324.35301*et seq*.)

J. Avian and Wildlife Impact: Site plan and other documents and drawings shall provide mitigation measures to minimize potential impacts on wildlife, as identified in the Avian and Wildlife Impact analysis.
   a. The application shall demonstrate consultation with the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines.

b. Applicants must comply with applicable sections of the Federal Endangered Species Act and Michigan's endangered species protection laws (NREPA, Act 451 of 1994, Part 365).
c. The applicant or the applicant's impact assessment must show consultation with the U.S. Fish and Wildlife Service regarding federally listed species and the Michigan Department of Natural Resources for state listed species. Early coordination with state and federal agencies is recommended.

K. Performance Security: Performance security, pursuant to Section 8612 of this Ordinance, shall be provided for the applicant to make repairs to public roads damaged by the construction of the **WES**. In lieu of a performance security agreement with Brown Township, the applicant may enter into a road use agreement with the Manistee County Road Commission to cover the costs of all road damage resulting from the construction of the **WES**.

L. Utilities: Electric transmission lines extending from a **wind turbine** to a sub-station should be placed underground to a minimum depth of 3 feet to allow for continued farming and existing land use operations in the vicinity of the **WES**, and to prevent avian collisions and electrocutions. All other above-ground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee (APLIC) published guidelines to reduce avian mortality.

M. Visual Impact: **utility-scale wind energy system** in a project shall be finished in a single, non-reflective, matte finish, color approved by the Planning Commission. A project shall be constructed using **WES** components (tower, nacelle, and blade) of similar design, size, operation, and appearance throughout the project. An area of 33percent of the side of the nacelle on one or two sides may be used for a sign, such as for turbine identification or other insignia. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's Master Plan.

N. **Shadow Flicker**: **Shadow flicker** shall not exceed 30hours per year and 30 minutes per day measured to the exterior wall of a dwelling or other occupied building on a **non-participating parcel**. Mitigation measures to minimize or eliminate potential impacts from **shadow flicker**, as identified in the **Shadow Flicker** Impact Analysis for human-occupied structures, shall include, but not be limited to:
1. Change the proposed location of the wind energy tower; or
2. The **utility-scale wind energy system** shall be turned off by manufacturer approved automated system during the period of time an inhabited structure receives **shadow flicker**; or
3. The **utility-scale wind energy system** shall be turned off during flicker events after 20 hours per year of **shadow flicker** on an inhabited structure; or
4. There is screening (forest, other building(s), topography, window treatments/blinds) which shields the inhabited structure from a direct line of sight to the **rotor**s causing **shadow flicker**.

O. Signal Interference: No **utility-scale wind energy system** shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the **WES**. No **utility-scale wind energy system** shall be installed in any location

within the line of sight of an existing microwave communications link where operation of the **WES** is likely to produce electromagnetic interference in the link's operation.

P. Decommissioning: A planning commission approved decommissioning plan shall be provided indicating
   1. the anticipated life of the project,
   2. the estimated decommissioning costs net of salvage value in current dollars,
   3. the method of ensuring that funds will be available for decommissioning and restoration,
   4. the anticipated manner in which the project will be decommissioned and the site restored, and
   5. the review of the amount of the performance guarantee based on inflation and current removal costs to be completed every three years, for the life of the project, and approved by the township board.

Q. Complaint Resolution: A complaint resolution plan shall be presented to the planning commission and approved prior to approval of a special land use permit. The complaint resolution program will describe how the developer receives, responds, and resolves complaints that may arise from the operation of the **WES**. The complaint resolution plan shall include appropriate timelines for response and other detailed information (such as forms, and contact information). As a condition of filing a complaint, a landowner must allow the township staff or designated agents and **WES** owner or agents on the subject property for further investigation.

R. Annual Maintenance Review: The **WES** shall be maintained and kept in a safe working condition. The **WES** owner shall certify on an annual basis that all turbines are operating under normal conditions. Non-operational turbines at the time of the annual review shall be identified and provided an expected date to resolve the maintenance issue. A **wind turbine** generator that has not been operational for over 12 months shall be considered abandoned and violations of the special land use permit.

S. **End of Useful Life**: At the end of the useful life of the **WES**, the system owner:
   1. Shall follow the decommissioning plan approved by the Planning Commission under Section 8608 of this Ordinance and remove the system as indicated in the most recent approved plan; or,
   2. Amend the decommissioning plan with Planning Commission approval and proceed with subsection Q.1 above; or,
   3. The township reserves the right to approve, deny, or modify an application to modify an existing **WES** at the **end of useful life**, in whole or in part, based on ordinance standards at the time of the request. Expenses for legal services and other studies resulting from an application to modify or repower a **WES** will be reimbursed to the township by the **WES** owner in compliance with established escrow policy.

T. Liability Insurance: All operators shall be required to carry personal injury and property damage insurance while any un-reclaimed or un-rehabilitated areas exist, in the amount of not less than one million ($1,000,000) dollars for each person or property injured or damaged and not less than three million ($3,000,000) dollars for injury or damage to more than one person or one person's property, arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be filed

with the township clerk. Added by Amendment 98-1. Adopted June 26, 1998.

1612. Salvage yards

Must comply with one of the following:

a. Shall be set back 300 feet from a **road** right-of-way or 333 feet from the centerline of a **road**, whichever is greater.
b. Shall be set back 100 feet from a **road** right-of-way or 133 feet from the centerline of a **road**, whichever is greater with a further buffer area to screen it from view from a **road** and from adjacent **parcel**s by means of an opaque fence, vegetation, earth berm, or another form of screening, or a combination of the above; or
c. Shall be set back 100 feet from a **road** right-of-way or 133 feet from the centerline of a **road**, whichever is greater and shall not be visible from a **road** or from adjacent **parcel**s.
d. Shall comply with, but not limited to, Section 1012 of this Ordinance.
e. Noise shall comply with this Ordinance and the Brown Township Noise Ordinance.
f. Shall comply with P.A. 219 of 1966, as amended, (being the Control of Junkyards Adjacent to Highways Act, M.C.L. 252.201*et. seq.);*P.A. 350 of 1917, as amended, (being the Second-Hand Junk Dealers Act, M.C.L. 445.401*et. seg.);* Article II Chapter 3 Part 115 of P.A. 451 of 1994, as amended, (being the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501*et. seq.)* and if applicable Township licensing of junk yards.

[Annotation: M.C.L. 324.11501 *et. seq.* is formerly P.A. 641 of 1978, as amended, (being the Solid Waste Management Act, M.C.L. 299.401 *et. seq.*)]

g. Shall not operate a landfill, as defined in Article II Chapter 3 Part 115 of P.A. 451 of 1994, as amended, (being the Solid Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11501*et. seq.),* as an accessory function to a junkyard.

[Annotation: M.C.L. 324.11501 *et. seq.* is formerly P.A. 641 of 1978, as amended, (being the Solid Waste Management Act, M.C.L. 299.401 *et. Seq.*)]

h. Shall be more than 1,000 feet from a school, campground, or **park**.

1613. Special Land Use for Natural Resource Extraction

Note that more details to 1613. Special Land Use for Natural Resource Extraction can be found in the APPENDIX

A. Extraction of Natural Resources - The extraction of natural resources shall include earth removal, quarrying, gravel processing, water extraction and mining procedure and standards for review and approval of applications in accordance with the provisions of MCL 125.3205 (3)-(7), enacted by Act 113, PA 2011 ("Act 113"). The following items shall require special land use approval based on the ultimate determination on whether the proposed extraction operation would result in "very serious consequences" as that term is understood in Act 113. It is understood that seasonal agriculture may, for irrigation purposes, draw significant amounts of water and release or apply the same water without additives, not including those allowed for farming applications, at the same temperatures as drawn from the well, to replace the amount that the plant consumes or loses to the atmosphere. With regards to water extraction for commercial or industrial purposes (for example, refer to Data Centers in section 1617); pumping over 5,500 gallons of water per day (over 2 million gallons per year)or releasing the

water with different quality or temperature as from its extraction is considered a very serious consequence to existing land use, local wells, rivers, farms and landowners.

1. If an approval is granted under this Section to use property for the extraction, by mining, or pumping of valuable natural resources, such approval shall be subject to the operation and permit requirements specified in Section 1613 B. of the Zoning Ordinance, as amended.
2. In conformance with Act 113, the review process under this Section shall be organized so that the Planning makes findings in two parts at a single hearing.
    a. First, the Planning Commission under **Part 1**, will determine the extent of **Need** for and public interest in the natural resource(s) sought to be extracted on the applicant's property, including the quantity and quality of the natural resource located on the property. This part of the process is required as explained by the Michigan Court of Appeals in order to determine the precise calibration for the standard of review under the "Very Serious Consequences" test (as explained in greater detail below in this Section).
    b. Second, following the determination on Need, the Planning Commission, under **Part 2**, shall determine whether the extraction of natural resources proposed in the application would result in "**Very Serious Consequences**." (or "**VSC**"). The predicate determinations on Need will then be applied to the VSC.

B. General Application Requirements - The following are required when applying for this Special Land Use.
    1. Name, address, contact information and land survey- The application shall include the name, address and other contact information for the owner as well as the operator of the proposed site, along with a boundary survey of the property proposed to be mined, sealed by a registered land surveyor or engineer, and a general description of the materials, methods, and techniques that will be utilized for the mining operations.
    2. Site Plan - The application shall include a site plan, at a scale of at least one (1) inch per two hundred (200) feet, drawn on a topographic map with the same scale, showing the location of the perimeter of the site, buildings, equipment, processing area, parking for equipment, area for truck stacking and loading, stockpiles, roads, berms, or other features necessary to the mining operations.
    3. The site plan shall also include an aerial photograph showing the property in substantially the condition as on the date of the application, enlarged to a scale of one inch equals 200 feet, from original photograph flown at a negative scale no smaller than one inch equals 660 feet. The date of the aerial photograph shall be shown and shall have been flown at such time as the foliage shall be off the on-site trees.

C. Site Plan Review - The site plan shall include and/or show or demonstrate all of the following, [and the applicant shall disclose whether it will object to one or more elements (which may otherwise be relied on by the Township in determining no very serious consequences)]:[1]

1. North point, scale, and date.
2. Location, width and grade of all easements or rights-of-way on or abutting the property along with any proposed fencing, gates, parking, signs, and berms.
3. Location of all existing and proposed structures on the property.
4. A soil erosion and drainage plan shall be submitted as provided by the Manistee County Soil Erosion Officer under Michigan Public Act No. 347 of 1972.
5. Site drainage features and flow directions indicated. Areas to be used for pending as well as depth to groundwater. Location of any bodies of water and wetlands on the proposed site or within (one thousand five hundred) 1,500 feet.
6. Existing and proposed ingress-egress roads, plus on-site roads, and proposed surface treatment, and means to limit dust. Processing, loading and storage areas.
7. Setback lines for all activities of the site.
8. The approximate commencement date of the excavation and duration of the operation along with the amount and type of material or resource to be removed. Method of extracting and processing equipment proposed to be used in the operation of the excavation, including the description of and disposition of overburden or topsoil removal and/or storage plans.
9. Location and type of processing plants, temporary and permanent.
10. Proposed hours and days of operation
11. Description and location of each type of natural resources deposits proposed to be extracted, along with description showing the sequence of mining, including proposed phasing, if applicable.
12. A description of the minimum and maximum depth from grade level, and from the surface level of a water body from which each type of natural resource will be excavated, with each location and depth shown on the site plan referenced above.
13. An estimate of the maximum period of time to complete operations. All mining operation areas shall be shown at a minimum of five hundred feet from any lake, stream or wetland.
14. All mining operation areas and all ingress and egress roads shall be shown at a minimum of fifty (50) feet from any adjoining property line.
15. All mining operation areas shall be shown at a minimum of five hundred (500) feet from any church or public park.
16. All mining operation areas shall be a shown at a minimum of one thousand (1,000) feet from schools, hospitals, or nursing homes.
17. All mining operation areas and all ingress and egress roads shall be shown at a minimum of three hundred (300) feet from any existing house. All ingress and egress roads shall show the most direct route to a public right-of-way and meet site plan approval. All

ingress and egress roads will require a legal driveway permit not including ingress and egress roads contained within the mining operation.

18. The site plan shall show the following minimum setbacks of equipment used for screening and crushing:
    a. Not less than 300 feet from the nearest public roadway.
    b. Not less than 200 feet from the nearest adjoining non-residential property line [property not containing a single-family home],
    c. Not less than 400 feet from the nearest residential property line, and
    d. Not less than 450 feet from an existing single family or other residence.
19. A description of all proposed haul routes to be used to transport natural resources from the mining area to all freeways or state trunk line highways proposed to transport natural resources to destinations, other than for local deliveries. All extraction operations shall be located near an all-season primary road, and best efforts shall be made to minimize the increase in truck traffic through areas developed primarily for residential purposes. In this regard trucks used to transfer the natural resources shall follow a route that poses the least interference with other traffic, minimizes traffic through residential areas, and uses public streets constructed for high volumes of heavy truck traffic. Truck traffic shall comply with any truck route ordinances and all road commission regulations.
20. A description and location of berms or other equivalent screening and buffering of the active mining area shall be established along the boundary lines of the premises where such lines abut a public highway, abut privately owned property which is improved for residential or commercial purposes, and at such places as are necessary to screen or buffer processing equipment from the view and impact of a person standing at ground level on any parcel of land improved for residential purposes located adjacent to or which fronts on any of the roads forming the boundaries of the mining site. When constructed along public highways, the berm shall be of a sufficient height to screen processing equipment from the view of the general public using the highway.
21. Text stating the approximate average, as well as the maximum number, of trucks leaving the extraction property on any one day shall be certified by the applicant in the application.
22. Text describing the processing activities including, but shall not limited to, washing, screening, transporting, crushing, and blending of stone, sand, gravel, and other materials. In describing the wash plant, the design and other specifications, including depth and water transportation facilities, and the amount, depth, and source of water to be utilized in processing, and the anticipated means and location of disbursement of such water following use.
23. A plan indicating any proposed structures to be built on the site, the final grade, i.e., post mining topography of the excavation, any water features included in the reclamation and methods planned to prevent stagnation and pollution, landscaping, or vegetative planting, and areas of cut or fill.
24. The method of disposing of any equipment or structures used in the operation, upon completion of the excavation.
25. The average and maximum number of loaded trucks per day anticipated to leave the proposed operation on a full business day during the operating season.

26. A Use Plan, which shall provide a plan reflecting the intended location and use of the property which is the subject of the application.
27. A plan showing the location of all proposed haul routes.
28. A description of each type of natural resource proposed to be mined, including the quantity and quality of the natural resources for the intended market.
29. A description of the names and locations of all places anticipated to create the need that is the demand, for the natural resources from the property within the foreseeable future, including the type of use to be made by the resources, such as building construction, road building, and the like.
30. A description of the names and locations of all properties and operations which exist, or have been approved, for the extraction of any of the natural resources proposed to be extracted on the property, along with a specification with regard to each property of the type of natural resource extracted, and an estimate of the remaining useful life for the particular natural resource on each of such other properties and operations.
31. Calculations and facts leading to a conclusion on the extent of need which is not being met, and could not be met, from the existing sources for each type of natural resource proposed to be extracted on the property. This calculation must apply past experience and take into account that new properties and operations will likely to be approved in the foreseeable future on other properties within the market area.
32. A fact-based estimate of the expected duration of the proposed extraction operation on the property.
33. A map or plan disclosing the final grades, elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities. Such plan shall be submitted to the Manistee County Planning Department and Conservation District for recommendation to the Brown Township Planning Commission.
34. Operating practices proposed to be used to minimize noise, dust, air contaminants and vibration.
35. Amount and source of water to be utilized in processing.
36. Methods to prevent:
    a. Pollution of surface water or groundwater.
    b. Adverse effects on the quantity and quality of surface water and ground water off the property and
    c. Adverse effects on wetlands both on and near the property.
37. A detailed **Reclamation Plan** for the post-mining reclamation of the property. The Reclamation Plan shall include:
    a. A general plan shown on an aerial photograph.
    b. A reclamation contour map.
    c. A text description of reclamation methods and materials proposed for renewal of topsoil and replanting, including a proposed sequence of reclamation, indicating the time sequence within which each area to be mined will be reclaimed as mining operations progress.

d. A series of drawings showing the conditions before commencing operations and also showing the alterations to be made. The drawings shall have the same scale as the vertical aerial photograph showing:
   i) the acreage for each item
   ii) each phase of reclamation, reflecting the sequence of each phase in relation to all others,
   iii) location and boundaries of all permanent water areas and
   iv) distances of all reclamation areas and water areas from property boundaries.

e. A restoration contour map shall be prepared to the same base as site plan required above to indicate the grade and slopes to which excavated areas shall be reclaimed, and a general indication of the distance of such reclaimed areas from the property boundaries. Such grade and slope designations shall be included with respect to areas proposed to be beneath the surface of permanent water areas. Side slopes around the active extraction-area perimeter shall have a grade not exceeding one (1) vertical foot per three (3) horizontal feet. The banks adjacent to any submerged areas shall have a grade not exceeding one (1) vertical foot per five (5) horizontal feet, out to a depth of five (5) feet.

f. A description of the methods and materials proposed for reclamation shall include topsoiling and the amount and type of plantings.

g. A description showing how reclamation shall be implemented in a manner that prevents washout and erosion, using appropriate grading, turf, vegetation, soil, overburden, shrubs, and trees, as necessary, and performed in accordance with the approved reclamation plan. Topsoil shall not be removed from the site unless authorized in the permit.

h. Text, drawings, and plans addressing all of the Act 113 Very Serious Consequence standards, shall be included in a report format, with factual presentation and reference to exhibits where appropriate. The applicant shall describe and explain how the mining activity will not cause very serious consequences under each of the Act 113 standards identified in Subsection 6. C.

D. Review process to determine whether there is a complete application -Prior to conducting a public hearing on the application, the Township staff shall review the application and documentation submitted in support of the application and report any deficiencies to the applicant and the Planning Commission within a reasonable time. The public hearing on the application shall not be noticed until the applicant has cured the deficiencies found to exist in accordance with this procedure. The Planning Commission may request a preliminary presentation for informational purposes prior to conducting a public hearing.

E. Expert Review Protocol: Prior to the Public Hearing, as part of the Township's review of the Need determination and the standards as part of the "very serious consequence" determination under Act 113, the Township may retain its own various experts for the purpose of reviewing all aspects of the proposed mining operation in the context of the Act 113 standards.
   1. Under a protocol for the hiring of experts, the Township Supervisor, Township Zoning Administrator and Chairperson of the Planning Commission, in conjunction with the

Township Attorney, as necessary, shall consult about the possible need for such experts, which could include, but not be limited to, land use planners, sound engineers, mining engineers, property appraisers, traffic engineers, and others.

2. These Township officials can then make a recommendation to the Township Board about the need to enter contracts with the foregoing experts. The Township Board may then enter contracts with these experts at its discretion.
3. The applicant shall be informed of these contracts and shall deposit in the escrow account sufficient funds to pay for the costs of these experts in accordance with the escrow deposit provisions of this Zoning Ordinance.

F. Public Hearing on the need and very serious consequences determinations

1. The Planning Commission shall conduct a public hearing on the application first to determine the extent of Need for the natural resource, and the based on the extent of the Need for the natural resource, in the context of the sliding scale analysis articulated in *Silva v. Ada Township* and *American Aggregates v. Highland Township*, and then to determine whether the applicant can and does satisfy the applicant's burden of proof that "no very serious consequences" shall result from applicant's use of the property and haul route(s) based on the Act 113 standards above.
2. The hearing shall begin with an introduction by the Planning Commission chairperson, or a person designated by the chairperson. The applicant shall then be given the opportunity to make the showings required in this ordinance. At the completion of the applicant's presentation, either at the same meeting or at a subsequent meeting if additional time is needed in order to thoroughly address the subject matter, the Township, through its representatives, may address and offer evidence or argument on the issues, including the expert's reports received under the protocol in this Section.
3. Members of the public shall then have the opportunity to address and offer evidence or argument on the issues. If requested, the applicant shall be provided with an opportunity to rebut evidence and argument presented, but for efficiency purposes shall not be permitted to duplicate evidence on matters included in applicant's earlier presentation. Likewise, any new matters addressed by the applicant may be rebutted by representatives of the Township and members of the public. The public hearing shall then be closed.
4. After the public hearing has been closed, either at the same meeting at which the public hearing was completed, or at a later meeting held within a reasonable time, the Planning Commission shall, based on the evidence presented, adopt findings on the extent of Need and then on whether the applicant has made a sufficient showing on whether there would be "no very serious consequences" as a result of the proposed use applying the Act 113 standards, below, as interpreted in accordance with applicable principles and law. Township representatives may assist the Planning Commission with the articulation of such findings and conclusions.

G. Determination of need: In **Part 1** of the hearing, either at the same meeting at which the hearing was held, or at a later meeting, the Planning Commission shall, based on the record made, adopt findings on the extent of Need demonstrated by the applicant. Township representatives may assist the Planning Commission with the articulation of its findings and recommendations.

H. Determination of whether the proposed extraction of natural resources would result in very serious consequences. Once the Planning Commission has determined the extent of need for the natural resources under **Part 1** of the hearing, the Township Board shall determine whether the proposed extraction of natural resources would result in very serious consequences under **Part 2** of the hearing of the standards for determining whether the proposed extraction of natural resources would result in "very serious consequences" shall be the *Silva* standard, as articulated in Act 113. (See APPENDIX to 1613.Special Land Use for Natural Resource Extraction for details)

I. Planning Commission decision on special land use application
   1. A decision on the special land use application shall be made based on the Act 113 standards, above.
   2. The decision may consist of an approval, an approval with conditions, or a denial.
   3. A decision of approval, with or without conditions, shall be deemed to incorporate the site plan and associated specifications in the record approved by the Planning Commission, including the applications materials submitted (as modified in the approval), and all representations made by the applicant in the review proceedings.
   4. A decision of approval shall state a termination date for the effect of the approval consistent with the application and proceedings conducted in response to the application.
   5. The decision shall include a statement of reasons why the applicant has been approved, or why it has failed to satisfy its burden of proof based on the standard of "no very serious consequences."

J. Fees - The applicant for a special land use under this Section 1613 A. shall pay as a fee the Township's costs and expenses incurred in the review and evaluation of and action on the application. An escrow shall be established in an amount specified by Township Board resolution, and additional reasonable amounts shall be contributed as required in order to complete the process of review and approval. Any unexpended amounts from such escrow shall be returned to the applicant

K. Effect of Approval
   1. Approval of a special land use under Section 1613 A. shall authorize the property owner to apply for a permit for construction and operation of the use under Section 1613 B.
   2. The approval under this Section 1613 A. shall expire following a period of two (2) years from the date of the minutes in which the approval is granted, unless:
      a. The period for securing permits and commencing bona fide construction is extended by the Township Board for good cause within the effective period; or
      b. Approved bona fide development for the approved operation pursuant to building and other required permits and permit issued by the Township under this Section 1613 A. and Section 1613 B. commences within such two (2) year period and proceeds diligently and in good faith as required by ordinance to completion.
   3. If bona fide development has not commenced within the permissible period of time calculated under this Subsection, the special land use shall be void and of no effect.

1613B. Regulations for the Operation and Permitting of Uses Approved for the Extraction of the Mining of Natural Resources

A. General Intent

Upon the approval of a use for the extraction by mining of natural resources under Section 1613 A of the Zoning Ordinance, a person shall then have the right to seek approval of a permit to operate the use under this Section 1613 B. A person shall not have the right to begin constructing or operating the use of extraction by mining of natural resources unless and until a permit for the operation of such use is granted under this Section 1613 B. This Section 1613 B is not intended to establish standards for determining whether the use of extraction by mining of natural resources shall be permitted or denied. Rather, this Section 1613 B is solely intended to regulate the specifications for the operation of the use. The specifications for the operation of the use of extraction by mining of natural resources shall be as follows, as administered and approved by the Planning Commission:

B. Specific Performance Standards for Earth Removal, Quarrying, Gravel Processing Mining Operations:

1. **Maximum depth of excavation** shall not be below existing ground water table.
2. **Location**: Where necessary, the applicant may be required to construct and/or improve a road to accommodate the truck travel necessitated by the operation as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the deterioration of existing roads, which are not "all weather" roads. An "all weather" road is a state highway or road that does not require seasonal weight and speed restrictions. It is further our intent that all access roads shall be considered part of the operation.
3. **Stockpiling.** Stockpiling is the component of a mining operation that allows the operator to have a ready supply of extracted material. No stockpile shall be higher than 25 feet above the grade of the area situated between the stockpile and adjoining property; provided, the height of a stockpile and the nature of the materials stockpiled shall not result in materials recurrently blowing from a stockpile onto adjacent property.
4. **Setbacks:** for above listed operations are as follows:
    a. All operations shall be a minimum of fifty (50) feet from any public right-of-way, not including ingress and egress roads.
    b. All operations shall be a minimum of five hundred (500) feet from any lake, stream or wetland.
    c. All operations and all ingress and egress roads shall be a minimum of fifty (50) feet from any other property line.
    d. All operations shall be a minimum of five hundred (500) feet from any church or public park.
    e. All operations shall be a minimum of one thousand (1,000) feet from schools, hospitals, or nursing homes.
    f. All operations and all ingress and egress roads shall be a minimum of three hundred (300) feet from any existing house or adjacent property or such larger setback as may be required by the Planning Commission to adequately protect adjoining properties.
    g. All ingress and egress roads shall be by the most direct route to a public right-of-way

and meet site plan approval.

h. All ingress and egress roads will require a legal driveway permit and be blacktopped from the public right-of-way into the mining operation a minimum distance to be specified by the Brown Township Planning Commission.

i. All operations shall maintain no greater than a 1:3 gradient on perimeter excavations.

Note that setbacks and other dimensional or other standards shown in this Section 1613 B are **minimum** standards which remain subject to whatever setbacks or other standards may have been imposed by the Planning Commission under the process and authority provided for in the approval process within Section 1613 A of this Zoning Ordinance, and otherwise reflective of the conditions available as part of special land use permit approval under the Zoning Enabling Act (Public Act 110 of 2006). In fact, the applicant should **expect** that many of the standard setbacks and other minimum standards under this Section 1613 B may be modified (i.e. exceeded) to protect the health, safety and welfare of neighboring property owners, and others, based upon the review under Section 1613 A. In the event the standards have been modified under Section 1613 A, those standards shall **replace** and **supersede** the standards in this Section 1613 B. The minimum standards cannot be made less restrictive without a variance from the Zoning Board of Appeals.

C. Permanent Processing Plant.

The permanent processing plant and/or processing equipment: shall be located not less than 300 feet from the nearest public roadway or property line; Not less than 200 feet from the nearest adjoining non-residential property line, and not less than 400 feet from the nearest residential property line and not less than 450 feet from the nearest residential structure. Further, it shall, where practicable, be located at a lower level than the surrounding terrain, to lessen visual and noise impact. In addition, the foregoing shall apply to the stockpiling or loading of materials, and to the location of transportation equipment.

D. Sight Barriers**.**

Sight Barriers shall be provided along road rights-of-way and the Brown Township Planning Commission may require barriers along other boundaries where the operation is proposed, which lack natural screening. The following minimum standards shall apply:

1. Screening: A continuous screen at least six (6) feet in height is required to provide maximum screening of the site. The six (6) feet in height requirement will be waived if specified planted trees are the choice.
   a. This landscape buffer may consist of either earthen berms and/or living material such as existing vegetation and/or specified planted trees, to be approved by the Brown Township Planning Commission.
   b. Berms shall be constructed with slopes not to exceed a 1: 3 gradient with sides sloped, designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm.
   c. The applicant shall maintain such screen in a healthy condition free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death, or the next appropriate planting period, whichever comes first.

E. Nuisance Abatement.

1. All equipment shall be maintained and operated in such a manner as to eliminate, as far as

practicable, excessive noise and vibrations, which are not necessary in the operation of such equipment.

2. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of equipment and methods of operations designed to avoid any excessive dust or dirt or other air pollution injuries. Interior roads used in the operation shall have their surface treated to minimize any such nuisance.
3. Hours. Hours of operation shall be as follows:
   a. Activities involving the extraction, stockpiling, processing, on-site movement, sale of earth materials and/or any other activity involving ingress and egress by commercial/industrial vehicles and/or equipment, shall be carried on exclusively between the hours of 7:00 a.m. and 7 p.m. Monday – Saturday. No activity is allowed on Sunday.
   b. Equipment maintenance and repair may be carried on at any time between the hours of 7:00 a.m. and 7:00 p.m.; however, emergency repairs may be made during other hours with the condition that the Township Supervisor, or the Supervisor's designee shall be given advance notice of, and shall approve that such activities qualify under this provision;
   c. No activities on the property shall occur on Sunday with the exception of emergency repair activity required to permit the commencement of operations on the following Monday morning; however, this exception shall not apply in the event that such activities shall involve the operation of vehicles and equipment earlier than 7:00 a.m. or later than 7:00 p.m.;
   d. The use of explosives of any kind shall only be permitted if authorized in the permit issued under this article, and in addition, shall only be authorized upon 14 days' advance written notice to the Supervisor; and
   e. The limitation of operations on legal holidays shall be the same as the limitation applicable to Sundays.
   f. Crushing and screening shall limited to the period from 8 a.m. to 6 p.m. Monday – Friday and 8 a.m. to noon on Saturday.
4. Sound Pressure Level (SPL): The SPL during peak activity shall not exceed the following:

Zoning District of Receiving Property	Daytime(8:00 am to6:00 pm)	Evening/Night (6:01 pm to 7:59 am)
All Zoning Districts	45dB(A) / 52dB(C)	40dB(A) / 47dB(C)
All noise levels are otherwise measured at the lot line of all properties adjoining the property containing the mining operation.		

Evening and Night - SPL from mining operation shall not exceed 40**dBALeq**/ 47**dBCLeq** (10-minutes) measured at adjacent properties. If average **background SPL** exceeds 40**dBALeq**/ 47**dBCLeq** (10-minute) the standard shall be **background SPL dBA** plus 5**dBA**.

Daytime: SPL from any mining operation shall not exceed 45**dBALeq**/ 52**dBCLeq** (10-minute) measured at adjacent properties. If average **background SPL** exceeds 45**dBALeq**/ 52**dBCLeq** (10-minute) the standard shall be **background SPL dBA** plus 5**dBA**.

Sound measurement methods: Sound pressure level (SPL) tests are to be performed by

third party, qualified professionals selected by the developer and approved by the Planning Commission. SPL Testing shall be performed according to procedures in the most current version of ANSI S12.18 and ANSI S12.9 Part 3. SPL to be measured by a sound meter that meets or exceeds the current version of ANSI S1.4 specifications for Type II sound meters.

Post-construction sound survey: A post-construction sound survey shall commence within the first year of operation to document levels of sound emitted any mining operation. The study will be designed to verify compliance with sound standards applicable to this ordinance. The mining operation owner shall provide access to complete a data comparison of pre and post mining operation during the testing period to the sound consultant completing the study.

F. Reclamation of excavated or mined areas:
   1. Earth removal, quarrying, gravel processing and mining, shall be considered temporary uses. It is our intent to provide for the proper and timely reclamation of excavated or mined sites.
   2. A performance guarantee shall be posted with the Brown Township Board to cover the estimated costs of reclamation. "Performance Guarantee" as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit, acceptable to the Township. The amount of guarantee shall be not less than two thousand ($2,000) dollars per acre proposed to be excavated or mined in the following twelve (12) month period, in accordance with this ordinance and the applicant's filed plan. The guarantee shall remain in effect until the reclamation is completed and the site is approved by the Brown Township Board.
   3. Reclamation shall be completed as agreed upon by the Brown Township Planning Commission and applicant in an approved site plan.
   4. Inactivity at a site for a continuous twelve (12) month period shall constitute, for this purpose termination of the operation's activity and require that reclamation of that site begin.
   5. Upon the failure of any applicant to perform reclamation of the operations site in a proper and timely manner, as agreed to in the approved site plan, the performance guarantee will be forfeited. The Brown Township Board shall use the funds to cover the cost of restoring the site and administrative costs incurred in so doing. Any costs in addition to those covered by the "performance guarantee" shall remain the responsibility of the applicant.
   6. Standards controlling reclamation:
      a. The reclamation process shall not include a landfill, dump, recycling center, or any other refuse center.
      b. The excavated areas shall not collect stagnant water and not permit the same to remain therein.
      c. The surface of such area which is not permanently submerged be graded or backfilled with non-noxious, non-flammable and noncombustible solids as necessary to produce a surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
      d. The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope which shall not be steeper

than one (1) foot vertical to three (3) feet horizontal.

e. Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches or other planned improvements are to be completed within a one-year period. Where used, topsoil shall be applied to a minimum depth of four inches, sufficient to support vegetation.

f. Vegetation shall be restored within one (1) year by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.

g. Maintenance:

i. Slopes and surfaces shall be maintained as agreed in the site plan.

ii. Erosion shall be filled, and the surface restored.

iii. All unhealthy and dead material shall be replaced within one (1) year of damage or death, or the next appropriate planting period, whichever comes first.

iv. Upon cessation of operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed twelve (12) months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.

G. Liability Insurance.

All operators shall be required to carry personal injury and property damage insurance while any un-reclaimed or un-rehabilitated areas exist, in the amount of not less than one million ($1,000,000) dollars for each person or property injured or damaged and not less than three million ($3,000,000) dollars for injury or damage to more than one person or one person's property, arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the township clerk. Added by Amendment 98-1. Adopted June 26, 1998.

1614. Marijuana Facilities

A. A marijuana facility in accordance with the provisions of state law and township Ordinance(s), may be permitted through the issuance of a special use permit pursuant to Article 86 of this Ordinance. The following standards shall be met to approve a special use permit:

1. Any uses or activities found by the state of Michigan or court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by Brown Township. In the event that a court with jurisdiction declares some or this entire article invalid, then Brown Township may suspend the acceptance of applications for special use permits pending the resolution of the legal issue in question.
2. At the time of application for a special use permit the owner of the proposed marijuana facility must:
   a. Possess documentation showing it pre-qualifies for a state license.
   b. Next the special use permit shall be considered.
   c. If approved, then the township may issue a license issued under the terms of the

Brown Township Ordinance 2019-1(being an ordinance to authorize and regulate medical marijuana establishments, effective March 20, 2019), as amended; and Brown Township Ordinance 2020-2 (being an ordinance to authorize and regulate marijuana establishments, effective April 10, 2020), as amended: or must have the Township license concurrently in process with the special use permit and site plan approval. If approved, then the owner of the proposed marijuana facility may proceed to obtain a state license.

3. The use or facility must be at all times in compliance with all other applicable laws and ordinances of the Brown Township and Manistee County.
4. A **marijuana facility**, or activities associated with it may not be permitted as a home occupation, home-based enterprise, or accessory use.
5. A **marijuana facility** shall not be located within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, and educational and school support services.
6. A **marijuana facility** with stacked marijuana grower licenses is considered as a single grower for the purposes of facility separation distances.
7. Signage requirements for **marijuana facilities**, unless otherwise specified, are as provided in article 1061.
8. Minimum **parcel** size shall be 10 acres.
9. Minimum Yard Depth/Distance from **parcel** Lines. **Setback** apply to **structures** and the fence around outdoor grow facilities. In addition to **setbacks** required elsewhere in this Ordinance (e.g., from **water's edge** and in respective zoning districts) **setbacks** shall also be a minimum100 foot **setback** from all property lines.
10. The fence around a grow facility shall be opaque along a **road** and **private road** (**front yard**).
11. Lighting: Lighting shall be regulated as follows:
    a. Light cast by light fixtures inside any building shall not be visible outside of the building from 7:00pm to 7:00am the following day.
    b. Outdoor lighting shall comply with section 1061 of this Ordinance.
12. If the **Marijuana Facility** is for indoor production, it shall meet the following standards:
    a. It shall be located entirely within one or more completely enclosed buildings.
    b. Odor. As used in this subsection, building means the building or portion thereof, used for marijuana production or marijuana processing.
        i. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building though an exhaust vent first passes through the activated carbon filter.
        ii. Negative air pressure shall be maintained inside the building. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
        iii. An alternative odor control system is permitted if the special use permit applicant submits and the municipality accepts a report by a mechanical engineer licensed in the state of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The municipality may hire an outside expert to review the alternative

system design and give advice as to its comparability and whether in the opinion of the expert it should be accepted.

13. The applicant shall submit a detailed security plan that surveillance, access, lighting, and safety measures for employees, and adjacent properties.
14. The applicant shall provide a detailed waste disposal plan specific to Marijuana, Marijuana plant waste, and Marijuana infused products. If the Marijuana Facility is for the transportation of marijuana (secure transporter) it shall be subject to the special regulations and standards applicable in Section 1609. of this Ordinance.
15. A special use permit for a marijuana facility shall not be issued for any marijuana facility in excess of any limits on numbers of marijuana facilities in the township established by Brown Township Ordinance 2019-1 (being an Ordinance to Authorize and Regulate Medical Marijuana Establishments, effective March 20, 2019), as amended; and Brown Township Ordinance 2020-2 (being an Ordinance to Authorize and Regulate Marijuana Establishments, effective April 10, 2020), as amended.

1615. Large Solar Energy Systems

Purpose and Intent: The purpose and intent of this section is to establish additional standards for the sitting, installation, operation, repair, decommissioning and removal of **Large Solar Energy System**s as a special land **use**.

A. Ocular Impacts from Glare or Glint. A **Large Solar Energy System** shall meet all of the following glare and glint standards as demonstrated by the Solar Glare Hazard Analysis Tool or other approved tool or program:
   1. No more than “low potential for after image” ocular effects from glint or glare on any residential **structure** caused by the **Large Solar Energy System**.
   2. No potential for after image ocular effects from glint or glare on any existing or planned airport traffic control tower.
   3. No potential for glare or glint or “low potential for after-image” ocular effects along the final approach path for any existing landing threshold or future landing thresholds as shown on the current Federal Aviation Authority-approved Airport Layout Plan for any airport within five (5) miles of the **Large Solar Energy System**. The final approach path is defined as two (2) miles from fifty (50) feet above the landing threshold using a standard three (3) degree flight path.
   4. Ocular impacts shall be analyzed over the entire calendar year in five (5) minute intervals from when the sun rises above the horizon until the sun sets below the horizon.
B. Compliance with the State Building Code and the National Electric Safety Code: Construction of a Large Solar Energy System shall comply with the National Electric Safety Code and the current State of Michigan building code as administered as a condition of any special land use permit under this section. In the event of a conflict between the state building code and National Electric Safety Code (NESC), the NESC shall prevail. The design and construction of the Large Solar Energy System shall not produce electrical emissions that would interfere with aircraft communications systems or navigation equipment.
C. Height: Maximum height of a solar array, other collection device or components of the Large Solar Energy System, excluding substation, buildings and electrical transmission equipment, shall not exceed twenty (20) feet as measured from the actual grade at the base of

improvements, at any time or location on the property. Substation, building and electrical transmission equipment shall not exceed thirty-five (35) feet.

D. Parcel Size: A Large Solar Energy System shall meet the underlying district minimum parcel size.
E. Setbacks: A minimum setback distance of thirty-five (35) feet from all exterior property lines (front, side and rear) of the Large Solar Energy System and existing public roads and railroad rights-of-way shall be required for all buildings and solar arrays, provided that a minimum setback of seventy-five (75) feet from an exterior property line shall be required where there is an existing residential structure located on property adjacent to the Large Solar Energy System property.
F. Parcel Coverage: Large Solar Energy System is exempt from maximum parcel coverage limitations.
G. Signage: No advertising or non-project related graphics shall be on any part of the solar arrays or other components of the Large Solar Energy System. This exclusion does not apply to entrance gate signage or notifications containing points of contact or any and all other information that may be required by the Commission and other authorities having jurisdiction for electrical operations and the safety and welfare of the public.
H. Lighting: All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be shielded, down directed lighting with full cut-off lenses, and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
I. Distribution, Transmission, and Interconnection: All collection lines and interconnections from the solar array(s) to any electrical substations shall be located and maintained underground inside the Large Solar Energy System, except in areas where technical or physical constraints make it preferable to install equipment above ground. This requirement excludes transmission equipment meant to connect the project substation to the local transmission system.
J. Abandonment and Decommissioning: Following the operational life of the project, the applicant or then current owner or operator shall perform decommissioning and removal of the Large Solar Energy System and all its components. Decommissioning shall include removal of all structures, concrete, piping, facilities, and other project-related materials above grade and any structures up to three (3) feet below the existing-grade, and all such materials shall be removed offsite for disposal. Any solar array or combination of photovoltaic devices that is not operated for a continuous period of twelve (12) months shall be considered abandoned and shall be removed under the decommissioning plan. The applicant or then current owner or operator shall provide written notice to the Zoning Administrator after the first thirty (30) days of continuous non-operation. The ground must be restored to topography consistent with the surrounding properties as approved by the Commission within three hundred sixty-five (365) days of abandonment or decommissioning.
L. Inspection: The applicant shall agree in writing that officials of the township shall have the right, at any reasonable time, following notice to the applicant, to inspect within 30 days the premises on which any Large Solar Energy System is located. The Township may hire one or more consultants, to assist with inspections at the applicant's or project owner's expense. Inspections must be coordinated with, and escorted by, the applicant's operations staff at the Large Solar Energy Facility to ensure compliance with the Michigan Occupational Safety and Health Administration (MIOSHA), NESC and all other applicable safety guidelines.

M. Maintenance and Repair: Each Large Solar Energy System must be kept and maintained in good repair and condition at all times. If the Zoning Administrator determines that a Large Solar Energy System fails to meet the requirements of this ordinance and the special land use permit, or that it poses a safety hazard, the Zoning Administrator, or his or her designee, shall provide notice to the applicant of the violation. If, after a reasonable cure period (not to exceed 60 days), the violations are not corrected, the applicant is entitled to a hearing before the Commission. If the Commission determines that the violation requires that the Large Solar Energy System must be shut down because the System fails to meet the requirements of this ordinance and/or the special land use permit, or that it poses a safety hazard, the applicant shall immediately shut down the Large Solar Energy System and not operate, start or restart the Large Solar Energy System until the violations have been resolved. The Applicant shall keep a maintenance log on the solar array(s), which shall be available for the Township's review within 48 hours of such request.

N. Housekeeping. Applicants shall keep all sites within the Large Solar Energy System neat, clean and free of refuse, waste or unsightly, hazardous, or unsanitary conditions.

O. Roads: Any material damage to a public **road** located within the Township resulting from the construction, maintenance or operation of a **Large Solar Energy System** shall be repaired at the applicant's expense. In addition, the applicant shall submit to the Manistee County Road Commission and/or Michigan Department of Transportation a description of the routes to be used by construction and delivery vehicles and any **road** improvements that will be necessary to accommodate construction vehicles, equipment, or other deliveries. The applicant shall abide by all county and state requirements regarding the use and/or repair of county and state **road**s. Access to the **Large Solar Energy System** shall be gated.

P. Continuing Security: If any Large Solar Energy System is approved for construction under this section, the applicant shall post decommissioning security prior to the start of construction in a mutually agreed-upon form for an amount necessary to accomplish the work specified in the decommissioning plan as agreed upon by the Township and the applicant. The amount shall be reasonably sufficient to restore the property to its previous condition prior to construction and operation of the Large Solar Energy System. Such financial security shall be kept in full force and effect during the entire time that the Large Solar Energy System exists or is in place, and such financial security shall be irrevocable and non-cancelable.

Q. Continuing Obligations: Failure to keep any required financial security in full force and effect at all times while a **Large Solar Energy System** exists or is in place shall constitute a material and significant violation of the special land **use** permit and this ordinance, unless cured within sixty (60) days of notice from the Township, and will subject the **Large Solar Energy System** applicant, owner and operator to all remedies available to the Township, including civil action, enforcement action, request for injunctive relief, and revocation of the special land **use** permit.

R. Periodic Review. Not less than sixty (60) days after every five (5) year anniversary of the issuance of the special **use** permit for a **Large Solar Energy System**, the applicant or then current owner or operator, shall submit to the **Commission** an updated decommissioning plan meeting the requirements of subsection M, with current cost estimates for decommissioning the entire **Large Solar Energy System**. The amount of the financial security shall be adjusted by the **Commission** following review of the updated decommissioning plan, and the applicant or owner shall fulfill the new financial security requirement within sixty (60) days of the

adjustment. Notice of Change of Owner/Operator. The applicant or owner of the **Large Solar Energy System** shall give written notice to the Zoning Administrator at least ten (10) business days prior to any change in ownership or change in the operator of the Large Solar Energy System.

S. Other Requirements: Each Large Solar Energy System shall also comply with all applicable federal, state and county requirements, in addition to other applicable township ordinances.
T. Noise levels: Noise from any part of the Large Solar Energy System shall not exceed noise levels established in the Brown Township Noise Ordinance. As part of the application proposal, the applicant shall provide confirmation at the completion of the System, that it meets this noise requirement.

1616. Rental storage area and building:

Rental storage area and building will be fenced and gated and outside storage and buildings shall be within fenced area.

1617. Data Centers

A. Data Centers are classified as either Light or Heavy Industrial Land Use based on their size. Generally, Data Centers are prohibited in Agricultural, Forestry or Rural Residential districts unless a successful rezoning or map amendment is approved by the Brown Township Planning Commission as well as the Township Board (refer to Commercial and Industrial Districts section 1802). In other districts, Data Centers are classified as special land uses which would require discretionary approval and rigorous site plan review consistent with that noted in Article 86 Special Uses. This type of development would be special use professionally engineered to follow state, county and township laws and regulations.
B. Typically a **Data Center use** and associated activity is carried on entirely within an enclosed **building**, and, if there is a **yard** work area and storage area, it shall be enclosed as specified below in subparagraph F.
C. Data Centers typically require high energy loads and uninterruptible power supplies. Consistent with general Michigan guidance, public services and facilities must be capable of accommodating the increased loads. The electrical grid should not be impacted, but if it is, then all impacts shall be offset by new renewable energy production. If energy offset is to be made within Brown Township then the following Articles may apply:
    a. If energy is offset by means of solar power generation, then it must comply with Article 1615 Large Solar Systems.
    b. If energy is offset by wind energy generation, then it must comply with Article 1611 Utility Scale Wind Energy Systems.
D. Data Centers typically require large cooling systems to dissipate heat generated by the electrical equipment. Sustainable cooling technologies should be utilized. If water is intended to be a cooling medium to transfer heat, then the applicable sections of Article 1613 Extraction of Natural Resources (specifically water) must be followed. To not be considered a very serious consequence to existing land use, local wells, rivers, farms and landowners, (as

referenced in Article 1613), a means to limit water extraction and to purify and cool water released must be implemented. For example, a closed loop heat transfer system such as a geothermal heat pump, etc. could be implemented to eliminate massive amounts of water consumption. In addition, a cooling and purification system could be implemented to purify and cool the water back to the same quality and temperature as it was at its extraction point before release. Water extraction from deep wells may be cooler than water extracted near the surface, therefore release water must be cooled to at least one (1) deg. below ambient surface temperatures prior to release. Continuous monitoring or at least one random monthly lab test, with published data accessible to the public, would be required to verify water extraction amounts, purity and temperature at extraction as well as purity and temperature upon release for each center. Nonconformance would result in further investigations and possible shut down until proper readings can be maintained. If a refrigerant or heat transfer medium other than water is used, then Federal, State and local codes must also be followed regarding proper handling, detection and containment of any spilled or released refrigerants or fluids.

E. Air pollution reduction considerations must be taken into account regarding lighter than air refrigerant leaks and/or combustion fumes such as those from backup generators. Ground pollution reduction considerations must also be taken into account regarding heavier than air refrigerant leaks and/or hazardous fluid leaks. In addition, odor shall not be detectable by normal human senses under normal operational circumstances at a distance of six hundred (600) feet from the Data Center. A pollution incident prevention plan, if required by state or federal regulation, and fiscal impact study may be required by the Commission to obtain additional information needed to make a determination of compliance with the standards, requirements, and purposes of this Ordinance.

F. Noise shall comply with this Ordinance and the Brown Township Noise Ordinance. Nuisance Abatement. All equipment shall be maintained and operated in such a manner as to eliminate, as far as practicable, excessive noise and vibrations, which are not necessary in the operation of such equipment. Sound Pressure Level (SPL): The SPL measured at peak activity shall not exceed the following:

Zoning District of Receiving Property	**Daytime (8:00 am to 6:00 pm)**	**Evening/Night (6:01 pm to 7:59 am)**
All applicable Zoning Districts	45dB(A) / 52dB(C)	40dB(A) / 47dB(C)
All noise levels are otherwise measured at the lot line of all properties adjoining the property containing the Data Center.		

Evening and Night - SPL from data center operations shall not exceed 40**dBALeq** / 47**dBCLeq** (10-minutes) measured at adjacent properties. If average **background SPL** exceeds 40**dBALeq** / 47**dBCLeq** (10-minute) the standard shall be **background SPL dBA** plus 5**dBA**.

Daytime: SPL from any data center operations shall not exceed 45**dBALeq** / 52**dBCLeq** (10-minute) measured at adjacent properties. If average **background SPL** exceeds 45**dBALeq** /

52**dBCLeq** (10-minute) the standard shall be **background SPL dBA** plus 5**dBA**.
Sound measurement methods: Sound pressure level (SPL) tests are to be performed by third party, qualified professionals selected by the developer and approved by the Planning Commission. SPL Testing shall be performed according to procedures in the most current version of ANSI S12.18 and ANSI S12.9 Part 3. SPL to be measured by a sound meter that meets or exceeds the current version of ANSI S1.4 specifications for Type II sound meters.
Post-construction sound survey: A post-construction sound survey shall commence within the first year of operation to document levels of sound emitted any mining operation. The study will be designed to verify compliance with sound standards applicable to this ordinance. The mining operation owner shall provide access to complete a data comparison of pre and post mining operation during the testing period to the sound consultant completing the study.

G. Sight Barriers shall be provided along road rights-of-way and the Brown Township Planning Commission may require barriers along other boundaries where the operation is proposed, which lack natural screening. The following minimum standards shall apply:
   1. Screening: A continuous screen at least six (6) feet in height is required to provide maximum screening of the site. The six (6) feet in height requirement will be waived if specified planted trees are the choice.
      a. This landscape buffer may consist of either earthen berms and/or living material such as existing vegetation and/or specified planted trees, to be approved by the Brown Township Planning Commission.
      b. Berms shall be constructed with slopes not to exceed a 1:3 gradient with sides sloped, designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm.
      c. The applicant shall maintain such screen in a healthy condition free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death, or the next appropriate planting period, whichever comes first.

H. Maintenance and Repair: Each Data Center or System must be kept and maintained in good repair and condition at all times. If the Zoning Administrator determines that a Data Center fails to meet the requirements of this ordinance and the special land use permit, or that it poses a safety hazard, the Zoning Administrator, or his or her designee, shall provide notice to the applicant of the violation. If, after a reasonable cure period (not to exceed 60 days), the violations are not corrected, the applicant is entitled to a hearing before the Commission. If the Commission determines that the violation requires that the Data Center must be shut down because the System fails to meet the requirements of this ordinance and/or the special land use permit, or that it poses a safety hazard, the applicant shall immediately shut down the Data Center and not operate, start or restart the Data Center until the violations have been resolved. The Applicant shall keep a maintenance log on the electronic equipment and HVAC system, which shall be available for the Township's review within 48 hours of such request.

I. Housekeeping. Applicants shall keep all sites within Data Center neat, clean and free of refuse, waste or unsightly, hazardous, or unsanitary conditions. All hazardous fluids and/or electronic waste shall be handled by licensed recycling firms.

J. Continuing Obligations: Failure to keep any required financial security in full force and effect at all times while a **Data Center** exists or is in place shall constitute a material and significant violation of the special land **use** permit and this ordinance, unless cured within sixty (60) days of notice from the Township, and will subject the **Data Center** applicant, owner and operator to all remedies available to the Township, including civil action, enforcement action, request for injunctive relief, and revocation of the special land **use** permit.

K. Periodic Review. Not less than sixty (60) days after every five (5) year anniversary of the issuance of the special **use** permit for a **Data Center**, the applicant or then current owner or operator, shall submit to the **Commission** an updated decommissioning plan meeting the requirements of subsection K below, with current cost estimates for decommissioning the entire **Data Center**. The amount of the financial security shall be adjusted by the **Commission** following review of the updated decommissioning plan, and the applicant or owner shall fulfill the new financial security requirement within sixty (60) days of the adjustment. Notice of Change of Owner/Operator. The applicant or owner of the **Data Center** shall give written notice to the Zoning Administrator at least ten (10) business days prior to any change in ownership or change in the operator of the Data Center.

L. Abandonment and Decommissioning: Following the operational life of the project, the applicant or then current owner or operator shall perform decommissioning and removal of the Data Center and all its components. Decommissioning shall include removal of all structures, concrete, piping, facilities, and other project-related materials above grade and any structures up to three (3) feet below the existing-grade, and all such materials shall be removed offsite for disposal. Any wind energy system or solar array or combination of photovoltaic and/or energy storage devices that is not operated for a continuous period of twelve (12) months shall be considered abandoned and shall be removed under the decommissioning plan. The applicant or then current owner or operator shall provide written notice to the Zoning Administrator after the first thirty (30) days of continuous non-operation. The ground must be restored to topography consistent with the surrounding properties as approved by the Commission within three hundred sixty-five (365) days of abandonment or decommissioning.

1618: Group Day Care Home

The intent of this section is to establish standards for the location and operation of Group Day Care Homes in order to support access to safe and reliable child care within the community. The purpose of these regulations is to ensure that Group Day Care Homes are compatible with surrounding land uses, maintain the residential character of the area, and provide a safe environment for children, neighbors,

and staff. These standards are designed to balance the need for child care services with the responsibility to protect public health, safety, and welfare while minimizing potential impacts on nearby properties

A. Group Day Care Home allowable as special use subject to a-f of Section 125.3206 of MZEA.

1619: Child Care Center

The intent of this section is to provide standards for the placement and operation of Child Care Centers to help meet community needs for accessible and high-quality child care. The purpose of these regulations is to ensure that Child Care Centers are located and designed in a way that supports safe circulation, protects public health and safety, and limits adverse impacts on surrounding properties. These standards aim to maintain compatibility with neighboring land uses while allowing Child Care Centers to function effectively as essential community services.

A. A safe means of drop-off and pick-up of children shall be provided on site, separated from a public street and an internal parking access lane, and shall be of sufficient size so as to not create congestion on the site or within a public roadway;
B. Off-street parking shall be provided at a rate of one (1) space per employee plus one (1) space for every five (5) children based upon enrollment in the facility;
C. The outdoor play area shall not be located within the required front setback area. This requirement may be waived by the Planning Commission if public open space is available five hundred (500) feet from the subject parcel;
D. All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing. Appropriate licenses with the state shall be maintained.

1620: Special Use Specific Standards –Inspection, Non-compliance, Remedies

The Zoning Administrator, or his or her designated agent, shall be responsible for inspections and compliance under this Ordinance. In addition to discretionary inspections, the Zoning Administrator shall make regular inspections during operations and reclamation with such frequency as shall be necessary to ensure and monitor compliance under all of the circumstances, and, further, shall utilize the services of such experts as the Township Board shall authorize for such purpose. The Zoning Administrator shall make quarterly [OR OTHER FREQUENCY] reports to the Township Board concerning compliance with this Ordinance.

A. Notice of Violation; Remediation Period; Hearing
    1. Should the Zoning Administrator, or his designate, and/or his agent, discover any noncompliance with the terms and conditions of this Ordinance and/or the permit issued under this Ordinance, and/or with any other applicable law, ordinance or regulation, the Zoning Administrator shall prepare a notice of this fact detailing the violations, and shall send copies of same to the Operator and to the Township Board.
    2. Within 15 days following such notice, the Operator shall advise the township, in writing, whether or not it concurs that a violation exists; and, if it is agreed that a violation does exist, the Operator shall immediately commence steps to remedy the violation, and

continue such action without delay. If the Operator does not agree, it shall, within the same period of time, state the reasons for such lack of agreement. For good cause, the Zoning Administrator may shorten the period to less than 15 days for the Operator's response.

3. The Operator shall correct any and all violations on an immediate basis (to the extent feasible considering the nature of the violation). Corrections shall be made as soon as possible, and in all events corrections shall be made within a period not to exceed 60 days from the date of the violation notice unless, due to circumstances beyond Operator's control, completion of the corrective measures are not possible within such period, in which event the Operator may, upon approval of the Township Board, sought within the 60-day period, be given reasonable additional time by the Board within which to make the correction.
4. In the event of a dispute with respect to the existence of a violation, the Township Board shall set a reasonable time for a hearing, either before the Township Board or before a hearing officer designated by the Township Board, and shall notify the Operator of the time, date and place of the hearing. After a review of the reasons stated by the Operator for its position that no violation exists, the township may, in its discretion, include in the notice of hearing responsive allegations with respect to the claimed violation.
5. In the event the Operator has concurred that a violation exists, but has not remedied the same in a timely manner as provided for in this Section, a notice of violation shall be sent and a hearing thereon established utilizing the same form and procedure as set forth in subsections above of this section with respect to the notice and hearing on a violation.
6. At the hearing, the disputed violation, or the failure to timely cure a violation, shall be considered, which consideration may be adjourned from time to time. Such consideration shall include a hearing conducted at the meeting or meetings, and shall further include the opportunity of the Operator to appear in person, or by a duly authorized representative to present argument, witnesses and other evidence on behalf and in the defense of the Operator, or, in addition to or in lieu thereof, to file a written presentation prior to the initiation of the meeting.
7. The Operator shall also be afforded the opportunity to examine individuals who have made statements or submitted other evidence supporting the existence of a violation or the failure to timely cure a violation; provided, such examination shall be limited in scope to matters relating directly to the statements made and evidence submitted. The Township Board, or the hearing officer appointed by the Board, shall likewise have the opportunity to examine witnesses who present evidence favorable to the Operator. The hearing shall also include an attempt to ascertain whether the Operator made a reasonable effort to prevent the occurrence of the violation, or to cure the same in a timely manner.

If a hearing officer conducts the hearing, a detailed report shall be submitted to the Township Board, along with a record of the hearing officer proceedings. The report may include a recommendation.

B. Suspension; Emergency Suspension; Revocation

1. In the event the Township Board shall determine that a violation of this Ordinance exists, or that the Operator has failed to cure a violation in a timely manner, the Township Board is authorized to take the following action, considering whether the Operator made a reasonable effort to prevent the occurrence of a violation and/or cure the same in a timely manner:
    a. If the violation constitutes the first uncured violation, and/or the first failure to cure a violation in a timely manner, and the same has not resulted in damage to person or property, the board is authorized to suspend the permit for a period of up to one month;
    b. If the Operator has previously had one uncured violation and/or one failure to cure a violation in a timely manner, and there is an additional uncured violation and/or failure to cure a violation in a timely manner, and/or if any violation or failure to cure a violation results in property damages, the board is authorized to suspend the permit for a period of up to three months; or
    c. If the Operator is found to be in violation of this Ordinance on a third occasion, and/or if the Operator is found to have failed to cure a violation in a timely manner for the third time, or any combination of these, and/or if there are violations and/or failure to cure in excess of three, and/or if a violation has resulted in personal injury of one or more individuals, the Township Board may, after a further hearing proceeded by a notice of grounds to the Operator, suspend the permit for a period of up to one year, or revoke the permit permanently.
2. In the event the Township Board shall determine, in its discretion, that serious and irreparable harm and damage is likely to occur to person or property, or that an impairment or pollution of the environment is likely to occur, the township board may order an emergency summary suspension of the permit, which shall become effective upon service of same upon the Operator. The township board shall thereafter, as soon as is practical, conduct a hearing with the same notice and procedural standards set forth in the above subsections of this section pertaining to violation hearings, to determine whether:
    a. To revoke the suspension order; or
    b. To continue the suspension order for a fixed period of time. or
    c. To revoke the permit permanently.
3. The board shall state reasons for its determination. If the Operator wishes to expedite the hearing procedure, the Operator may waive the advanced notice requirement and proceed immediately to a hearing. Following the entry of a determination by the Township Board to suspend the permit under this subsection, the institution of a lawsuit in the circuit court, or other court, shall not, without the order of the court, constitute a stay of the suspension. The procedures and remedial action authorized under this section shall be in addition to, and not in lieu of, additional actions the Township may seek, including the institution of district court or circuit court proceedings.

ARTICLE 18 – LAND USE DISTRICTS

1801. Districts

For the purpose of the Ordinance the Township of Brown is divided into five (5) **district**s as follows:

A. Special and Unique Districts
    1. Big Manistee River Corridor
B. Rural Districts
    1. Agricultural, Forestry and Rural Residential
C. Residential Districts
    1. Crawford Residential
    2. Chief Lake Residential
    3. Bialik residential
D. Commercial Districts
    1. (None)
E. Industrial Districts
    1. (None)

1802. Commercial and Industrial Districts

No commercial or industrial land **use district**s are established by this ordinance for the following reasons: (1) that no such **use**s currently exist in the township in sufficient number or concentrations to warrant the creation of a separate **district**; (2) the Manistee County Land Use Plan of August 1997 documents the existence of commercial and industrial zoned areas, which exceed existing commercial and industrial land area needs, within the same sphere of economic influence in which Brown Township is located and (3) Brown Township intends to comply with the Manistee County Land Use Plan Map, 1997, which proposes commercial and industrial areas, which exceed projected commercial and industrial land area needs, within the same sphere of economic influence in which Brown Township is located. The county has adopted subsequent plans which are not of enough detail or rigor for this purpose, thus the 1997 plan shall be followed. Further, (4) Brown Township intends to comply with the Brown Township Master Plan of 2012 (revised 2024) as amended. In accordance with M.C.L. 125.3207the Municipality will create such **district**s or add specific special **use** to a **district** when the presence of a demonstrated need for such **use**s is established.

1803. Districts

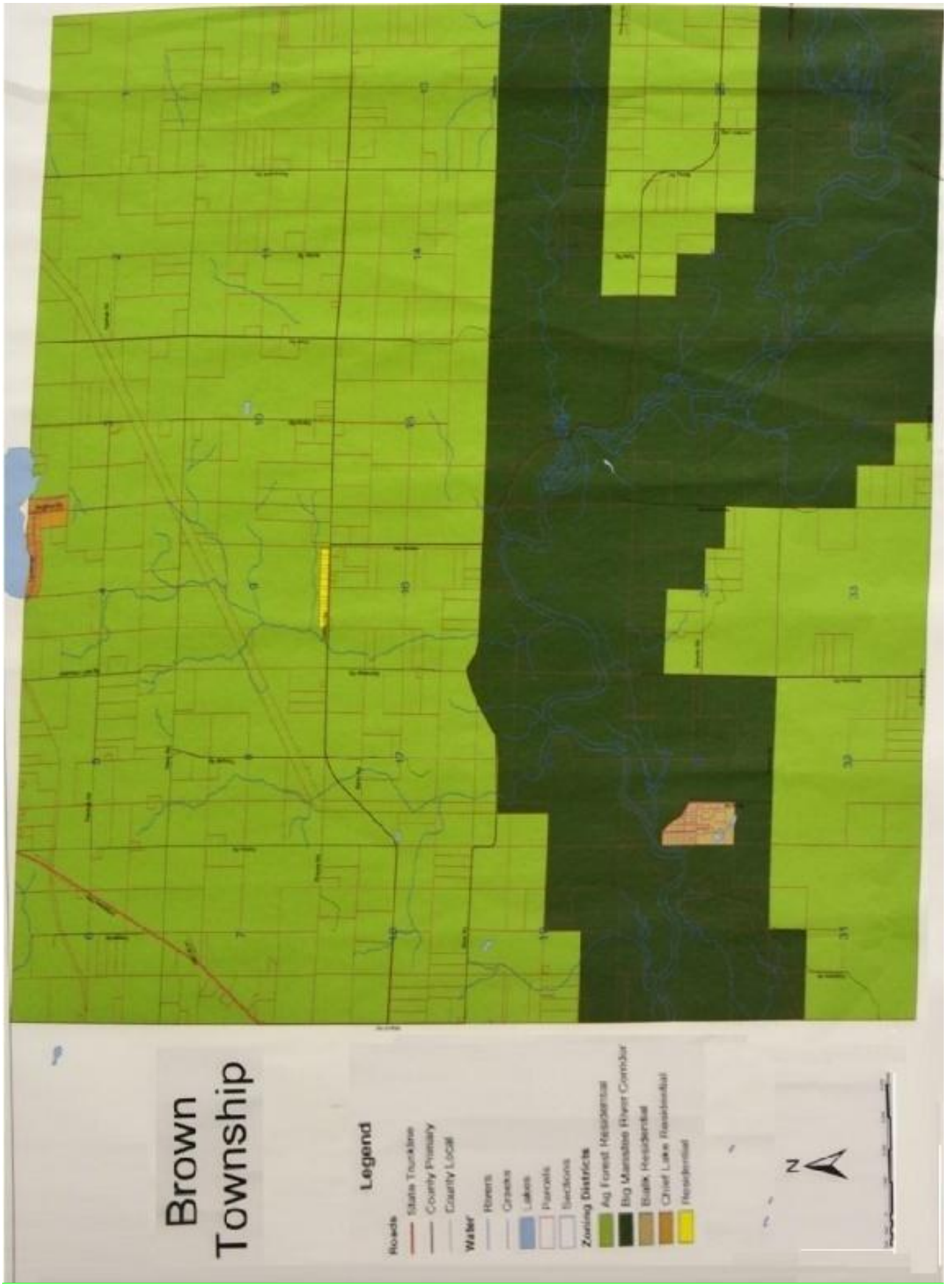
The **district** into which each **parcel** of land in the township is placed is shown on the map entitled "Brown Township Zoning Map, dated 2021, as amended" which accompanies and is hereby made a part of this ordinance. Said map, or an exact copy thereof, shall be available for examination at the Office of the Township Clerk at all reasonable times, and shall be kept with the records of the Township Clerk. Unless otherwise indicated, the boundary lines of said **District**s shall be interpreted as following along section lines or customary division lines of sections, such as quarter or eight lines, or the centerline of **road**s waterways, or the **water's edge** of water bodies, or the boundaries of incorporated areas, recorded plats of subdivisions, or property lines of legal record on the date of enactment of the Ordinance, or the extension of any said lines. All questions concerning the exact location of boundary lines of any **district** not clearly shown on the map shall be determined by the **Appeals Board** consistent with the purpose of this Ordinance.

1804. Maps

Maps provided for herein shall be revised from time to time at the direction of the Board to reflect any change in **district**s as the result of amendments to this zoning ordinance or as the result of any other lawful action causing change, such as judicial decisions.

1805. Exact Locations

The **Appeals Board** shall determine, when required, the exact location of **district** boundaries that otherwise may be in question.


Brown Township
Legend
Roads
State Trunkline
County Primary
County Local
Water
Rivers
Creeks
Lakes
Parcels
Sections
Zoning Districts
Ag Forest Residential
Big Manistee River Corridor
Bluff Residential
Chief Lake Residential
Residential
N

ARTICLE 23 – BIG MANISTEE RIVER CORRIDOR DISTRICT

2301. Purpose

It is the intent of this **district** to protect the free flowing conditions of the Big Manistee River and Big Bear Creek, to preserve the values of a natural river and its valley for present and future generations, to prevent economic and ecological damages, to prevent unwise **development** patterns, to prevent flood damages due to interference with the natural flood plain, to prevent **development** of land which is unsuited for building purposes, to coordinate river management in a compatible manner with nationally designated Wild and Scenic River, while at the same time to provide for residential and other permitted **use**s that complement the natural characteristics of the Big Manistee River and Big Bear Creek and their valley corridors.

2302. Uses

Only the following **use**s shall be permitted, by permit as specified in Section 8401 *et seq*. of this Ordinance. Uses similar to those listed as determined by the Zoning Administrator in a written opinion. Other uses may be permitted pending review by the Planning Commission during its regular meetings.

A. **Single Family Dwellings**, including:
    1. **Accessory buildings** to the **dwelling**.
    2. On waterfront **parce**ls: One **dock** for private use.
    3. **Home occupation**.
    4. **Family Day Care Home**
B. Agricultural, including but not limited to:
    1. Farmer's home,
    2. Farm employee living quarters,
    3. Farm buildings (e.g., barns, etc.),
    4. Farmer's market,
    5. Farm product production, warehousing, and storage,
    6. **Home occupation**,
    7. Greenhouses and **agricultural** nurseries.
    8. A single dock per parcel
    9. Private wind energy systems and temporary towers
    10. Personal Scale Solar Energy Systems
    11. Signs as accessory use to the above.

2303.Special Uses

Only the following uses shall be permitted, by special **use** permit as specified in Section 8601 *et seq*. of this Ordinance:

A. Campgrounds.
B. Outdoor Recreation that alters the natural settings - **Park**s.
C. **Accessory buildings**, **structure**s and **use**s for principle **use**s which are not **dwelling**s
D. **Marijuana facilities**
E. Group Day Care Home
F. Signs as accessory use to the above.

2304. Regulations and Standards

The following regulations shall apply to permitted uses and special uses in all the Big Manistee River Corridor District.

A. Parcel Area - No building or structure shall be established on any parcel less than ten (10) acres in area.

B. Buildable Area - Each parcel shall have a minimum buildable area per building unit as permitted by Manistee County Health or 15,000 square foot buildable area per principal unit, which shall not include:
   1. beach contiguous to a lake or stream,
   2. wetland,
   3. area which is not accepted by the Manistee-Mason District Health Department for on-site sewage disposal unless an alternate system of sewage disposal is approved by the District Health Department,
   4. that part of a flood plain where flood waters are expected to have a destructive current and area shown as expected to be submerged on the Hodenpyl Dam Failure Inundation Map flood failure water level on maps prepared for Consumers Power in 1993 (incorporated by this reference as part of this Ordinance),
   5. existing public utility easements,
   6. existing public rights-of-way, and
   7. waterfront setback areas (including setbacks specified in section 2304.D.4).

C. Parcel Width - The minimum parcel width shall be three hundred thirty (330) feet and it shall front on a public road, or be served by a driveway or private road which provides direct access to a public road. The ratio of depth to width of a parcel shall be four to one (4:1) or squarer.

D. Yard and Setback Requirements - The following requirements shall apply to every parcel, building or structure:
   1. Front Yard: The minimum setback shall not be less than seventy-five (75) feet from front property line, or one hundred eight (108) feet from the centerline of a road, whichever is greater.
   2. Side Yards: The minimum width of either yard shall not be less than forty (40) feet.
   3. Rear Yard: The minimum setback shall not be less than forty (40) feet.
   4. Waterfront Yard: The minimum setback shall not be less than
      a. two hundred (200) feet from the normal water line of the Big Manistee River, Big Bear Creek, and their tributaries, associated valley floor side channels, lakes and bayous; and
      b. one hundred (100) feet from the crest of the hillside of the river's valley (being crest of the hill which is at least five (5) feet above the Hodenpyl Dam Failure Inundation Map flood failure water level, as shown on maps prepared for Consumers Power in 1993, and incorporated by this reference as part of this Ordinance); whichever is greater. Annotation: Section 2304.D.4 changed by amendment, effective DATE 2005.]

E. Dwelling Area: No dwelling shall be constructed in this district which contains less than four hundred (400) square feet of floor area.

F. Vegetation Belt – Footpath, Boardwalk, Dock, Stairway and Mowing/Vegetation Removal Restrictions- These regulations are designed to protect the environmental, scenic and recreational value of the Manistee River, including, but not limited to, that portion of the River, called the Big Manistee River, extending westward from the DNR boat ramp below the Tippy Dam to the Michigan State Highway Bridge at M-55, designated a Wild, Scenic and Recreational ("WSR") River and under the Michigan Scenic Rivers Act of 1991 (federal Public Law 102-249), which amended the federal Wild and Scenic Rivers Act. Consistent with the federal designation of the Big Manistee as a WSR River, these regulations reflect the Ecosystem and Visual Quality goals of the Manistee National Recreational River and Bear Creek National Scenic River Management Plan.

These regulations further reflect the state administrative zoning rules, dated September 19, 2013 that are applicable to the Upper Manistee River under Michigan's Natural Rivers Act, the Natural River Plan adopted by the Michigan Department of Natural Resources Fisheries Division, dated September 12, 2003, and the zoning regulations of other townships along the Big Manistee River.

1. "Vegetation Strip" - A 100-foot wide natural vegetation strip shall be maintained on each side of the Manistee River, Big Bear Creek and their tributaries, associated valley floor side channels, lakes, and bayous (not wetlands). Mowing and/or brush hogging are absolutely prohibited within the natural Vegetative Strip (belt). The exception is made for the selective individualized removal, (by hand), of any dead, diseased tree, non-native invasive plant or poisonous plant such as poison ivy. Any removal of vegetation in a wetland must also comply with Part 303, Wetlands Protection
2. "Footpath" - Selective cutting of low growing vegetation and placement of wood chips on uplands within the natural Vegetation Strip is allowed to create a single footpath of not more than 4 feet in width leading to a single point on the river's edge within the Vegetative Strip. The footpath is to be a direct path leading perpendicular to the single point at the water's edge, not parallel to the water or with deviations from a straight path. Its length shall be of the shortest distance from its start to the single point.
3. "Boardwalk" - A wooden boardwalk may be used, in lieu of, and as an alternative to, the Footpath within the Vegetation Area provided that the area for its placement is generally too wet to be traversed without significant disturbance of the soils. A boardwalk and all supports shall be constructed of natural materials. A boardwalk shall not be more than 4 feet wide. A boardwalk requires a zoning permit. A property's Vegetation Strip may contain one Footpath or one Boardwalk, but not both.
4. "Dock" - means a seasonal or permanent platform located at the water's edge or extending into the river channel, intended for securing and facilitating access to watercraft or to facilitate access to deeper water for swimming, fishing, or other water-oriented recreational activity and does not include a wall, railing, a storage locker, an attached bench, or any similar structure attached thereto. One private dock is allowed per parcel. A dock a shall conform with the following:
    a. A dock shall not be more than 48 square feet in area, with not more than 4 feet of the dock extending over the water's edge.

b. A dock shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.
c. If a dock is used, it can be accessed by either the Footpath or Boardwalk described above within the Vegetation Strip.

5. "Stairway"
   a. A stairway is not permitted unless no other reasonable and safe access to the river exists.
   b. A stairway shall be low-profile, not more than 4 feet wide, and constructed without stairs being recessed into the ground surface, except if site and soil conditions dictate that a recessed stairway is appropriate, for example given natural variation in soils, foundations and slope stability, then it may be appropriate for a portion of a step or more to be recessed.
   c. Not more than 1 handrail shall be associated with a stairway.
   d. A stairway shall be constructed using natural materials.
   e. A stairway shall be located and maintained to blend with the natural surroundings, and where removal of vegetation in the natural vegetation strip can be minimized.
   f. If a stairway is used, it can be accessed by either the Footpath or Boardwalk described above within the Vegetation Strip.

G. Horizon Line - At the crest of the hillside of the river's valley (being crest of the hill which is at least five (5) feet above the Hodenpyl Dam Failure Inundation Map flood failure water level, as shown on maps prepared for Consumers Power in 1993) in as much as possible:
   1. if there are existing trees, then there shall be a sufficient number of mature trees left in place around structures, or trees shall be re-established, and
   2. the height of structures shall be lower than the surrounding trees left in place pursuant to of this Ordinance so that the visual horizon line along the top of trees, as seen from the river valley floor, remains with an appearance of being unbroken. This is not intended to prevent the trimming on trees to be left in place, removing of vegetation below top of trees to be left in place, and trimming and removal of other trees.

H. Hillside of the River's Valley - On slopes over 33 percent enough natural vegetation shall be retained in place to insure long term soil stabilization and a natural appearance of the hillside of the river's valleys.

I. Artificial Lights - Outdoor lights shall be shaded so there is not a direct line of sight from the light source into the river valley.

ARTICLE 37 – AGRICULTURE, FORESTRY, AND RURAL RESIDENTIAL

3701. Purpose

The intent of this **district** is to provide areas in the township where home **development** can take place in conjunction with other land **use**s such as **agriculture**, forestry, and recreational activities. This **district** is intended to preserve the rural atmosphere of the township by preserving large open spaces between residences. The open areas behind the **dwelling**s and away from highways will support agricultural and forestry practices by providing large enough **parcel**s for economic use.

3702. Permitted Uses

Only the following **use**s shall be permitted by permit as specified in Section 8401 *et. seq*. of this Ordinance. Uses similar to those listed as determined by the Zoning Administrator in a written opinion. Other uses may be permitted pending review by the Planning Commission during its regular meetings.

A. **Single-Family Dwelling**, including but not limited to:
    1. **Home occupation**.
    2. On waterfront **parce**ls: One **dock** for private use.
    3. Family Day Care Home
B. Forestry
C. Agriculture, including but not limited to:
    1. Farmer's home,
        a. Farm employee living quarters,
        b. Farm buildings (e.g., barns, etc.),
        c. Farmers market,
        d. Farm products production, warehousing and storage
        e. **Home occupation**,
        f. Greenhouses and **agricultural** nurseries.
        g. Fruit and vegetable markets
D. Health services
E. Accessory buildings to the above
F. Private wind energy systems and temporary towers
G. Personal Scale Solar Energy Systems
H. Signs as accessory use to the above.

3703. Special Uses

Only the following **use**s shall be permitted, by special **use** permit, as specified in Section 8601 *Et Seq*. of this Ordinance:

A. **Two-Family Dwelling**, **Multi-family Dwelling**;
B. Oil and gas processing or sweetening facilities.
C. Campgrounds
D. Churches
E. Mobile home park
F. Lumber and wood products manufacturing (including saw mill and wood product production)
G. Forestry enterprise office, depot and service provider
H. Mining
I. Home Based-Enterprise
J. Recreational facilities
K. Education and school support services
L. Communication Tower Facilities
M. Utility Scale Wind Energy System and Permanent Anemometer Towers
N. Large Solar Energy Systems
O. Manufacturing, Trucking and Warehousing
P. Salvage yards

Q. Temporary mining
R. Topsoil removal (not as part of construction project)
S. Planned Unit Development.
T. Rental Storage Units provided they are located within 500 feet of the right-of-way of US-31.
U. Communication tower facilities
V. Marijuana Facility
W. Group Day Care Home
X. Child Care Center
Y. Accessory buildings to the above
Z. Signs as accessory use to the above.

3704. Regulations and Standards

The following shall apply to all permitted **use**s and special **use**s in the **district**:

A. Minimum **parcel** area: No **building structure** or **use** shall be established on any **parcel** less than **ten (10) acres**. Each **parcel** shall have a **buildable area** as determined by Manistee County Health department, which shall not include:
   1. Beaches contiguous to lake, river or stream,
   2. Wetlands,
   3. Parts of the flood plain where flood waters are expected to have a destructive current.
B. **Parcel Width:** The minimum parcel width shall be three hundred thirty (330) feet (or the proportion of the width of the quarter of the quarter of a public survey section in which the parcel is located) and it shall front on a public road, or be served by a driveway or private road which provides direct access to a public road. The ratio of depth to width of a parcel shall be four to one (4:1) or squarer.
C. **Minimum setback requirements:** The following requirements shall apply to every building or structure:
   1. Front **Yard**: The minimum **setback** shall not be less than seventy-five (75) feet
   2. Side **Yard**s: The minimum **setback** of either side **yard** shall not be less than forty (40) feet from a property line
   3. Rear **Yard**: The minimum **setback** shall not be less than forty (40) feet from the property line.
   4. Waterfront **Yard**: The minimum **setback** shall not be less than required by section 1011 of this ordinance.

ARTICLE 40 – CRAWFORD RESIDENTIAL DISTRICT

4001. Purpose

The intent of this **district** is to provide dense residential **use**s in areas where it already exists. It will allow continued use of existing subdivisions and groups of small **parcel**s of land where concentrated residential **development** has already occurred.

4002. Permitted Uses

Only the following **use**s shall be permitted by permit as specified in Section 8401 *et. seq.*: of this Ordinance. Uses similar to those listed as determined by the Zoning Administrator in a written opinion.

Other uses may be permitted pending review by the Planning Commission during its regular meetings.

A. **Single-family Dwelling**
    1. Home occupation
    2. Accessory buildings to the above.
    3. Private wind energy systems and temporary towers
    4. Personal Scale Solar Energy Systems
    5. Family Day Care Home
    6. Signs as accessory use to the above.

4003. Special Uses

Only the following **use**s shall be permitted, by special **use** permit, as specified in Section 8601 e*t seq.* of this Ordinance:

A. None;

4004. Regulations and Standards

The following shall apply to all permitted **use**s and special **use**s in the **district**:

A. The measured parcel area shall have a buildable area determined by Manistee County Health Department which shall not include:
    1. Beach not contiguous to lake river of stream
    2. Wetlands
    3. The part of the flood plain where flood waters are expected to have destructive current
B. **Parcel Width:** The minimum parcel width shall be one hundred fifty (150) feet and it shall front on a public road or be served by a driveway or private road which provides direct access to a public road. The ratio of depth to width of a parcel shall be four to one (4:1) or squarer.
   Minimum setback **requirements: The following requirements shall apply to every** building **or** structure**:**
    1. Front **Yard**: The minimum **setback** shall not be less than seventy-five (75).
    2. Side **Yard**s: The minimum **setback** of either side **yard** shall not be less than ten (10) feet.
    3. Rear **Yard**: The minimum **setback** shall not be less than twenty (20) feet from the property line.
    4. Waterfront **Yard**: The minimum **setback** shall not be less than (100 feet) required by section 1011. of this ordinance.

ARTICLE 42 – CHIEF LAKE RESIDENTIAL DISTRICT

4201. Purpose

The intent of this **district** is to provide dense residential **use**s on small lakefront **parcel**s along the south shore of Chief Lake, where it already exists. It will allow continued use of the existing subdivisions and groups of small **parcel**s of land where concentrated on the shore of Chief Lake.

4202. Permitted Uses

Only the following **use**s shall be permitted by permit as specified in Section 8401 *et. seq.*: of this Ordinance. Uses similar to those listed as determined by the Zoning Administrator in a written opinion. Other uses may be permitted pending review by the Planning Commission during its regular meetings.

A. **Single-Family Dwelling**
   1. **Home occupation**
   2. On lake front parcels: One seasonal dock for private use per parcels allowed from April 15 to November 1, while permanent docks are prohibited.
   3. Accessory buildings to the above.
   4. Private wind energy systems and temporary towers.
   5. Personal Scale Solar Energy Systems
   6. Family Day Care Home
   7. Signs as accessory use to the above.

4203. Special Uses

Only the following **use**s shall be permitted, by special **use** permit, as specified in Section 8601 e*t seq.* of this Ordinance:

A. None;

4204. Regulations and Standards

The following shall apply to all permitted **use**s and special **use**s in the **district**:

A. The minimum building area will be determined by Manistee County Health Department which shall not include:
   1. Beach not contiguous to lake, river, or stream.
   2. Wetlands
   3. The part of the flood plain where flood waters are expected to have destructive current.
B. Parcel Width: The minimum **parcel** width shall be one hundred fifty (150) feet and it shall front on a public **road** or be served by a **driveway** or **private road** which provides direct access to a public **road**. The ratio of depth to width of a **parcel** shall be four to one (4:1) or squarer.
C. Minimum setback requirements: The following requirements shall apply to every **building** or **structure**:
   1. Front **Yard**: The minimum **setback** shall not be less than twenty-five (25)feet
   2. Side **Yard**s: The minimum **setback** of either side **yard** shall not be less than ten (10) feet
   3. Rear **Yard**: The minimum **setback** shall not be less than twenty (20) feet from the property line.
   4. Waterfront **Yard**: The minimum **setback** shall not be less than-required by section 1011.of this ordinance.

ARTICLE 44 – BIALIK RESIDENTIAL DISTRICT

4401. Purpose

The intent of this **district** is to provide dense residential **use**s at the north end of Bialik Road, where it already exists. It will allow continued use of existing subdivisions and groups of small **parcel**s of land where concentrated residential **development** has occurred at the north end of Bialik Road.

4402. Permitted Uses

Only the following **use**s shall be permitted by permit as specified in Section 8401 *et seq*.: of this Ordinance. Uses similar to those listed as determined by the Zoning Administrator in a written opinion.

Other uses may be permitted pending review by the Planning Commission during its regular meetings.

A. Single-Family Dwelling

1. Home occupation
2. On waterfront parcels: One dock for private use.
3. Accessory buildings to the above.
4. Private wind energy systems and temporary towers
5. Personal Scale Solar Energy Systems
6. Family Day Care Home
7. Signs as accessory use to the above

4403. Special Uses:

Only the following **use**s shall be permitted, by special **use** permit, as specified in Section 8601 *Et Seq*. of this Ordinance:

A. Campgrounds
   1. Signs as accessory use to the above.

4404. Regulations and Standards

A. The following shall apply to all permitted uses and special uses in the district: The minimum building area will be determined by Manistee County Health Department which shall not include:
   1. Beach not contiguous to lake, river or stream.
   2. Wetlands
   3. The part of the flood plain where flood waters are expected to have destructive current

B. Parcel Width: The minimum parcel width shall be one hundred fifty (150) feet and it shall front on a public road robe served by a driveway or private road which provides direct access to a public road. The ratio of depth to width of a parcel shall be four to one (4:1) or squarer.

C. Minimum setback requirements: The following requirements shall apply to every building or structure:

1. Front **Yard**: The minimum **setback** shall not be less than twenty-five (25) feet.
2. Side **Yard**s: The minimum **setback** of either side **yard** shall not be less than ten (10) feet
3. Rear **Yard**: The minimum **setback** shall not be less than twenty (20) feet from the property line.
4. Waterfront **Yard**: The minimum **setback** shall not be less-required by section 1011. of this Ordinance.

ARTICLE 80 – NONCONFORMITIES

8001. Purpose

Within the **district**s established by this Ordinance or by amendments thereto, there exist buildings and **structure**s and **use**s of **parcel**s, **lot**s, **buildings**, and **structure**s which were lawful before this Ordinance was adopted or amended and which would be prohibited, regulated, or restricted under this Ordinance. These **use**s are referred to as **nonconformities.** It is further the intent of this Ordinance that such **nonconformities** shall not be enlarged, expanded, or extended except as provided herein nor to

be used as grounds for adding other **buildings** and **structure**s and **use**s of **parcel**s, **lot**s, buildings and **structure**s prohibited elsewhere in the same **district**.

8002. Regulations

No such **nonconforming use** of land shall be moved in whole or in part to any other portion of such land, or to a different **parcel**, not occupied on the effective date of adoption of amendment of this Ordinance, except as provided in Section 8003.

8003. Extensions

A nonconforming **structure** and **use** may not be added to, extended, reconstructed, structurally **altered** or expanded during its life; and a **parcel** may not be used or built upon; except for any one or combination of the following and subject to the following restrictions:

A. If the nonconformity is a **use** which is not otherwise allowed in the **district**; then the **use** and the **structure**s upon which the **use** is associated shall not be expanded more than fifty (50) percent in size, hours of operation or level of service, or any other extension than what exists at the time of adoption of this Ordinance. Under no condition shall the **parcel** be expanded and the **use** be expanded to a contiguous **parcel**.

B. If the nonconformity is a commercial **use** on a **parcel** with frontage on Chippewa Highway (U.S.-31) which is not otherwise allowed in the Rural Residential Zoning District; then the **use** and the **structure**s upon which the **use** is associated shall not be expanded more than one hundred (100) percent in size, hours of operation or level of service, or any other extension than what exists at the time of adoption of this Ordinance. Under no condition shall the **parcel** be expanded and the **use** be expanded to a contiguous **parcel**.

C. If the nonconformity is that the **parcel** is too small and already has existing **use**s and **structure**s; then the **structure**s shall not be expanded more than one of the limitations given here:
    1. To add to or replace if the **structure** is a **dwelling** and its **accessory buildings**, or fifty (50) percent of the ground area if the **structure** is any other **structure**(s), and spatially possible while such expansion shall comply with all applicable **setback** regulations in this Ordinance. Any expansion of the **structure** shall comply with all other provisions of this Ordinance. Nothing here is intended to prevent the acquisition of adjacent land to bring the **parcel** into compliance, or to lessen the nonconformity if the **use** is permitted in the respective **district**.

D. If the nonconformity is that the **parcel** is too small, and the **parcel** is vacant; then a **use** or **structure** shall not be permitted unless contiguous land is added to the **parcel**, to make the **parcel** large enough, except:
    1. It is documented by the applicant that contiguous land, or enough contiguous land, cannot be purchased, and
    2. The **parcel** is large enough to accommodate required on-site sewage, if needed; well, with proper isolation; as determined by the District #10 Health Department, and
    3. The nonconforming **parcel** was not created by division, which does not comply with both the zoning ordinance in effect at the time of the division and this Ordinance, and
    4. If the nonconformity is that the **structure** is too small; then the **use** shall not be expanded more than fifty (50) percent in hours of operation or level of service, or other similar

extension than what exists at the time of adoption of this Ordinance. Nothing here is intended to prevent any amount of addition to the size of the **structure**, or replacement, if:

a. The size of the **structure** is the only nonconformity,
b. The addition results in the **structure** being in full compliance, or as a second choice, closer to compliance, and
c. No **structure** shall be replaced or reconstructed unless it results in being in full compliance except as provided in section 8005 of this Ordinance.

E. If the nonconformity is a **structure** that is not in compliance with **setbacks** then all additions shall be on the side of the **structure** that does not further infringe on the **setback**. Nothing here is intended to prevent the acquisition of adjacent land to bring the **parcel** and **setbacks** into compliance, or to lessen the nonconformity if the **use** is permitted in the respective **district**.
F. If the nonconformance is a setback, then the setback can be measured from the back addition to the structure, as allowed where the setback is not made smaller than called out in the ordinances.

8004. Repairs and Maintenance

A. If the building and **structures** are **dwellings** and **accessory structures** to **dwellings** nothing in this Ordinance shall prevent the repair, reinforcement, improvement, rehabilitation, or replacement of nonconforming **buildings**, **structure**s, or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the P.A. 230 of 1972, as amended, (being the State Construction-Code Act, MCL 125.1501*et. seq*.), relative to the maintenance of **buildings** or **structure**s; provided, and provided, further, there shall be no change of **use** of said **building** or part thereof.
B. For all other **structures** and **buildings** nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming **buildings**, **structure**s, or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the P.A. 230 of 1972, as amended, (being the State Construction-Code Act, MCL 125.1501*et. seq*.), relative to the maintenance of **buildings** or **structure**s; provided, and provided, further, there shall be no change of **use** of said **building** or part thereof.

8005. Building Damage

A. No **building** damaged by fire, act of God or other causes to the extent that the damage is total (i.e., the insurance coverage, if it existed, would pay the full amount insured) shall be repaired or rebuilt, except
   1. in conformity with the non-**use** provisions of this Ordinance; and in conformity with the permitted and/or special **use** provisions of this Ordinance, or
   2. reconstruction, repair or restoration of the original **use** shall be completed within two (2) years following the damage and resumption of **use** takes place within ninety (90) days of completion. The two (2) years may be extended by the Administrator if it finds one of the following conditions to exist:

a. The delay was not avoidable due to weather;
b. The delay was a result of a criminal investigation;
c. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance, or
d. Property held in probate.

8006. Completion

Nothing in this Ordinance shall require any change in the construction or intended **use** of a **building** or **structure**, the construction of which shall have been diligently prosecuted prior to the passage of this Ordinance or any amendment thereto, and the construction of which shall have been completed within twelve (12) months after said date of adoption.

8007. Non-Use

A. Any **building**, **structure** or land that has been used for nonconforming purposes, but which has not intended to be continued as a **nonconforming use** by the owner shall not thereafter be used unless it conforms to the provisions of this Ordinance. The owner's intent to no longer continue use of the **nonconforming use** shall be established by a preponderance of the following points of physical evidence:
   1. Utilities have been disconnected
   2. If there were **sign**s, the **sign**s have been removed or have fallen into disrepair,
   3. Fixtures within and outside the **building** have been removed,
   4. The property falls into disrepair,
   5. U.S. Mail delivery has been terminated, or mail is forwarded to another address,
   6. The classification of the property for tax purposes has been changed to reflect another **use**, and
   7. Other similar changes to the nonconforming **building** or **use**.
B. Action to find a **nonconforming use** was intended to be discontinued by the owner may be delayed if any of the following is ongoing:
   1. Property held in Probate;
   2. Insurance settlement in dispute; or
   3. Criminal investigation; or
   4. Other reasonable cause shown.

8008. Historic Buildings

A variance to Section 8003 of this Ordinance to expand and replace nonconforming **buildings** may be granted by the **Appeals Board** if any one of the following conditions is met:

A. The proposed expansion or replacement is an enhancement of an historic district, **building**, or adjacent historic **building**.

8009. Change of Tenancy or Ownership

There may be change of tenancy, ownership, or management of an existing **nonconforming use**, b**uilding** or **structure**, provided there is no change in the nature or character of such **nonconforming use**, **building** or **structure**.

8010. Nonconforming Special Uses

A. There are **use**s which were permitted by right under the Brown Township Zoning Ordinance in effect immediately prior to this Ordinance which are not permitted **use**s under this Ordinance. Of those **use**s, there are some which are listed as potential special **use**s in this Ordinance. Those existing **use**s which were permitted **use**s, and are listed as special **use**s in this Ordinance, shall not be considered **nonconforming use**s.

B. Those **use**s, or parts of **use**s, which exist as a permitted **use** immediately prior to this Ordinance, and are listed as special **use**s in this Ordinance shall be considered to be an approved existing special **use** with the configuration shown on a site plan drawn to reflect how the **use** exists at the time of adoption of this Ordinance. Parts of **use**s which are nonconforming immediately prior to the adoption of this Ordinance shall continue to be nonconforming under this Ordinance. A permit in existence pursuant to this subsection shall be known as a Pre-existing Special **Use** Permit.

C. An owner of a Pre-existing Special **Use** Permit may, at no charge to the owner, obtain from the **Commission** a certification of a site plan reflecting how the **use** exists at the time of adoption of this Ordinance with identification of nonconforming parts, if any. In the case of a dispute over facts on what existed at the time of adoption of this Ordinance, aerial photographs flown in Spring, 2021 by Manistee County or other aerial photographs, flown to the same or greater standards for mapping as the county's photos, taken after the County photos but before the adoption of this Ordinance, shall be given the greatest weight as evidence to establish a certified site plan. For purposes of this section, the above-mentioned photo(s) may be accepted as the site plan for the Pre-existing Special **Use** Permit

D. When a special **use** owner applies to amend the unwritten Special **Use** Permit for expansion or change, a written Special **Use** Permit shall be prepared for the entire **use** and **parcel**. In review of the Special **Use** Permit amendment application for expansion or change, the **Commission** shall only review and act on the expansion or change portion of the Special **Use** Permit. If the application for amendment of the Special **Use** Permit is approved, approved with conditions, denied or denied in part, the action shall not change or alter those parts of the special **use** that are shown on the Pre-existing Special **Use** Permit.

8011. Nonconforming Uses

The determination of when a **nonconforming use** may be replaced, extended, substituted or substandard **parcel**s used, shall be determined in the first instance by the administrator. Any determination concerning **nonconformities** may be appealed to the **Appeals Board**.

ARTICLE 82 – ZONING ADMINISTRATOR

8201. Purpose

It is the purpose of this Article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violations and enforcement of the provisions of this Ordinance and amendments thereto.

8202. Zoning Administrator

A. The provisions of this Ordinance shall be administered by the Brown Township Zoning

Administrator (administrator).

1. Applicants for the office of administrator shall be interviewed by the **Commission**. The **Commission** shall make its recommendations to the Board regarding the qualifications of the applicants. The Board shall appoint, from the list of applicants recommended by the **Commission**, an administrator who shall serve for such term, subject to such conditions, and at such rate of compensation as the Board shall determine.
2. The administrator shall have at least sixteen hours of training designed specifically for zoning administration, including but not limited to the zoning administrator certification provided by Michigan State University Extension or equivalent which shall be considered sixteen hours of training or (2) year (s) of experience. If a person is hired without such training that person shall successfully complete such training within one year of hire or employment shall be terminated. If an administrator function is provided by contractual arrangement the contractor shall provide such a trained person to perform the functions in Brown Township.
3. The duty of the enforcement of this Ordinance shall rest with the administrator as shall be authorized by law.
4. The administrator's immediate supervisor shall be the **Commission** or a committee of the **Commission** who shall provide a job performance evaluation at least once every two years and shall have authority to discipline, terminate, or seeks to recognize excellent performance of the job. The **Commission** shall base its evaluation on an administrator job description prepared and adopted by the **Commission**.

B. Eligibility.

1. Members of the **Commission** and **Appeals Board** shall be ineligible for appointments to the office of administrator, except as otherwise provided in Section 8202.C.

C. Interim Administrator.

1. In the event of the resignation, death, disability, vacation or disqualification of the administrator, the following shall serve as interim administrator until a new administrator shall be appointed by the Board, or the existing administrator again assumes his or her duties.
   a. In the first instance the interim administrator shall be a zoning administrator from another municipality with which Brown Township has a reciprocal agreement for coverage of zoning administrator duties.
   b. If no reciprocal agreement in effect the secretary of the Commission shall be interim administrator, so long as they are not a member of Board of Appeals.

D. If the secretary is not available, or not able, the member of the Commission who has held office the longest, except secretary shall be interim administrator, so long as that person is not on Board of Appeals.

1. In issuing an order, requirement, decision or determination on any discretionary matter referred to the zoning administrator or upon which he or she is required to pass under this Ordinance, it shall be sufficient for the administrator to reasonably conclude that in addition to the standards set forth in this Ordinance, the proposed order, requirement, decision or determination is compatible with the present uses of adjacent land, is consistent with and promotes the intent and purposes of this Ordinance, is compatible with the natural environment, is consistent with the capabilities of public services and facilities affected by such order, requirement, decision or determination and protects the public health, safety and welfare, and is consistent with constitutional requirements of due process and equal protection of the law.

8203. Duties

The administrator shall submit to the **Commission** annual reports fully explaining the type and nature of **use**s permitted by right; the nature and extent of violations of this Ordinance; and the type and nature of **nonconforming use**s, **building**s, and **structure**s. The administrator shall submit a zoning permit and zoning administration report to the **Commission** at least four times a year, if not at each monthly meeting of the **Commission**. The administrator shall perform such other duties as outlined in an administrator's job description.

8204: Permit Fees

A. The Board shall from time-to-time establish and publish a schedule of fees for the operation of this Ordinance, including but not limited to permits, conditional **use** permits, special **use** permits, planned unit developments, site plan reviews, demands for appeals, requests to consider amendments to this Ordinance, exhibited service by request or due to after-the-fact processing.

B. The fees shall have different categories for different types and shall be designed within each category to cover up to, on average, all or some of the costs associated with the processing of the service provided for the fee.

C. When the Administrator first receives an application which may be of such a nature and complexity that review will be more involved than normal and that additional fees may be required, the Administrator shall act to declare that is the case and refer the issue to the Commission. The Commission, by motion, may find the application requires the assistance of experts in review of specified aspects or issues of the application.

1. Additional costs are when:
    a. The complexity of reviewing the application, in the judgment of the Commission, requires hiring expertise beyond that of the Commission or zoning administrator, such as but not limited to hiring the services of an attorney; professional planner; engineer; architect; land surveyor; environmental, traffic, marketing, and economic development experts.
    b. The complexity of reviewing the application requires an abnormal amount of

additional time by the zoning administrator.

c. The complexity or controversy of the application results in the Commission being in session (holding meetings, reconvened meetings, hearings) that is more than two times on the application, or holding any special meetings on the application.
d. The additional review of the application is exclusively for the proposed development, and if not, then the additional fee shall reflect the proportion amount for the proposed development and other items.

2. Upon adoption of the motion requiring additional fee, review of the application shall stop until the applicant has paid a minimum additional fee of one thousand (1,000) dollars. The township shall deposit the additional fee with the Township Treasurer who shall keep an accurate accounting of the funds in a separate fund. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under section 8608 of this Ordinance.
3. The **Commission** shall use the additional fee to contact and select necessary experts, receive a work proposal, and estimate from the experts on their fees and costs for the application, and for the services of the expert(s).
4. At the next meeting of the Commission, or prior to the next meeting of the Commission the zoning administrator in consultation with the Chair of the Commission, shall:
   a. establish a budget for the services of the expert(s), meeting costs, zoning administration expenses;
   b. send an invoice to the applicant, with an explanation the applicant shall provide the township within ten (10) days, in writing, that He or She will withdraw the application, or will proceed and pay the balance of the additional fees based on the budget.
   c. The township shall deposit the additional fee with the Township Treasurer who shall keep an accurate accounting of the funds in the same fund established in this section of this Ordinance. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under section 8608 of this Ordinance.
   d. The **Commission** shall use the additional fee to pay for the services of the expert(s), meeting costs, and zoning administration expenses.
5. Any additional actual costs incurred in processing such an application shall be paid before the permit is issued, and may be required to be payable in increments as review of the application progresses. The additional costs shall be for no more than the actual cost (so not additional revenue is generated) of processing the application. No part of such actual cost shall be returnable to the applicant. If there are any remaining monies in the account upon conclusion of the application, those monies shall be returned to the applicant.

D. The deposit required by this section is in addition to any security required elsewhere in this Ordinance.
E. Other than provided for additional costs provided for above, no part of the fee shall be refundable.
F. On a case-by-case basis the Board may waive part or all of any fee if the applicant is found to be indigent, an agent of the township, or a non-profit civic, service, or volunteer organization in the township.

8205. Planner

If the **Brown Township Board** hires a Planner, or contracts with a Planner, that Planner will be hired based on recommendation of Planning Commission. It's recommended that this person have at least a BA in planning from an accredited university and a planning certification would be a plus.

ARTICLE 84 – PERMITS

8401. Land Use Permits

No land shall be occupied or used, and no **building** or **structure** shall hereafter be **erected**, **altered**, relocated or demolished under the provisions of this Ordinance until a permit authorizing the same shall be issued by the administrator. No site excavation of the new land **use** shall occur until after the land **use** permit has been issued.

8402. Land Use Applications

A. If a **use** is listed in a respective **district** as a permitted **use**, anyone with an interest in a **parcel** may apply for a zoning permit under this section. The design and layout of the Zoning Permit applications and related documents which may be prepared by the administrator and presented to the Commission for approval, or otherwise prepared and presented to the Commission for approval. Nothing in this Ordinance is intended to prohibit an applicant from having a preapplication meeting with the administrator.
B. The administrator shall require that the application include three (3) copies of the form, copies of plans, specifications and such other information as he or she may deem necessary. Such other information shall include, but not be limited to:
    1. A site plan, drawn to the specifications of section 9404 or 9405 of this Ordinance and is prepared showing all the requirements, as approved and permitted, for all other applicable permits except for the **building**, mechanical, electric, and plumbing permits pursuant to the Michigan State Construction Code, issued pursuant to P.A. 230 of 1972, as amended, (being the State Construction Code Act, MCL 125.1501*et. seq*.).
    2. The legal seating and/or sleeping capacity of all **buildings** and **structure**s, if applicable.
    3. A concise statement of all operations and **use**s which will be conducted on the land and **buildings**.
    4. A concise statement of the services, if any, to be offered to the public, if applicable.
    5. Any other information required by this Ordinance.
    6. A non-refundable fee.
    7. A staked survey if the application is for construction on a non-conforming **parcel**.
C. The application, and all the supporting documents, shall be kept by the Township as part of the

Administrator's permanent records.

D. The application and site plan, if applicable, shall show the proposed use and structures which will be developed in compliance with all aspects of this Ordinance.
E. Upon receipt of a zoning permit application, the zoning administrator shall review the application to ensure it is complete, to coordinate its review with other agencies, if required, and act on the application within ten (10) days:
    1. If the application is not complete, the administrator shall return the application with a letter that specifies the additional material required.
    2. If the application is complete, but is found not to conform with this Ordinance, a permit denial shall be sent to the applicant, in writing, listing the violations of the Ordinance, and what changes would be necessary to obtain a permit, if any changes made would make it possible for a permit to be issued.
    3. If the application is complete and the proposed land **use** and **structure**s are found to comply with this Ordinance, a zoning permit shall be issued. Three (3) copies shall be made available, one for the zoning administrator, one for the township clerk and one for the planning commission.
F. A zoning permit shall be required prior to the issuance of a Michigan State Construction Code permit, issued pursuant to P.A. 230 of 1972, as amended, (being the State Construction Code Act, MCL 125.1501 et. seq.)

8403. Permit Exemptions

Section 8402 notwithstanding, a zoning permit or fee is not needed under this section for the following **use**s. Nothing in this section exempts or requires construction permits, other than required by P.A. 230 of 1972, as amended, (being the State Construction Code Act, MCL 125.1501 et. seq.)

A. Only exterior or interior repair and improvement which does not change the exterior shape or form of any **building** in any manner, and the **use** of the land remains one of those listed as permitted in the respective **district**.
B. Relocation or replacement of machinery or equipment within a **building** located in a commercial or industrial zone, conforming to the provisions of this Ordinance and used for commercial or industrial purposes, nor for any modification to such **building** in connection with said relocation or replacement, unless said modification structurally alters the premises or changes the exterior shape or form in any manner.
C. The erection, construction, alteration, or maintenance by **public utilities** or municipal departments or commissions of over ground or underground gas, electrical, water, communication, or sewer systems, for the local distribution and/or collection systems via pipes, drains, sewers, wires, cables, traffic signals, hydrants, towers, pools, electrical substations, gas regulation stations, and similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service to individual customers/clients, but not including regional, long distance, interstate distribution or collection systems.
D. Open Space.
E. Individual recreation **use**s such as boating, hiking, hunting, fishing, and trapping.
F. Plowing and planting cash crops, row crops, orchards, or **use** of land as pasture or fallow when part of a permitted agricultural operation on one or more **parcel**s of land.

G. Harvesting of timber which is not in the Big Manistee River Corridor District.
H. Hedges, arbors, trees, gardens, plants, shrubs, fences.
I. Sidewalks, **driveway**s to **dwellings**.
J. Domestic animal shelters.
K. Accessory **structure**s to **dwelling**s and duplexes which are constructed by minors or children for purposes of play by the same minors and children including, but not limited to, playhouses, dollhouses, tree houses, forts, hideouts, and so on.
L. Personal property sales.
M. Gardens.
N. Replacement of docks in a lake or river.
O. **Structure**s less than 100 square feet (such as but not limited to deer blind, garden shed, greenhouse).
P. **Home Occupation**.

8404. Start Work Deadline

A permit issued under this Article is void if construction of the **use** is not commenced within one (1) year. A single renewal may be granted by the Administrator after a re-study of the permit at no cost to the applicant, and the applicant continues to meet all requirements for a permit.

8405. Void Permits

A. A violation of any condition or specification in a permit issued under this Article shall void the permit.
B. Any improper or incorrect information contained in the application for the permit issued under this Article shall void the permit until properly corrected upon the permit application; provided that, as corrected, the applicant continues to meet all requirements for a permit.

ARTICLE 86 – SPECIAL USES

8601. Purpose

This zoning ordinance is based upon the division of the unincorporated portions of the Township into **district**s in permitted specified **use**s which are mutually compatible. In addition to such permitted **use**s, however, it is recognized there are certain other and additional land and/or **building us**es which may be necessary or desirable, in certain **district**s but which on account of their actual or potential impact on neighboring **use**s or public facilities be carefully regulated with respect to their location and method of operation for the protection of the Township residents. Such **use**s, on account of the nature of the service offered, may have to be established in a **district** in which they cannot be reasonably allowed as a permitted **use**. If a special use permit is required, then no related building or changes to the landscape shall commence related to the special use permit until after the special use permit is granted.

8602. Authority to Grant Permits

The **Commission** shall have the authority to approve and issue special **use** permits, in accordance with required standards, subject to the placement of such conditions on design and operation as it may determine are necessary based upon the standards herein provided.

8603. Application and Fee

Application for any special **use** permit permissible under the provisions of this Ordinance shall be made to the Zoning Administrator by filling in the official special **use** permit application form, submitted required data, exhibits and information, and depositing the required fee. Such application shall be accompanied by a fee as established from time to time by the Board. Any additional costs incurred in processing such an application shall be paid before permit is issued. No part of such fee shall be returnable to the applicant.

8604. Pre-Application Conference and Neighborhood Meetings:

A. The applicant, at his or her option, may request a meeting with the Administrator and not more than two members of the **Commission** before submitting an application. The purpose of the meeting is to discuss special **use** permit processing procedures, explanation of this zoning ordinance, what has been required of similar applications in the past, and to assist the applicant and township with understanding of general concepts and design parameters prior to investment in preparation of a site plan or special **use** permit application. Township officials at this meeting shall not indicate or otherwise commit the township to any particular action regarding the application.
B. The applicant, at his or her option, may sponsor a neighborhood meeting for those who live near the proposed special use permit site. The purpose of the neighborhood meeting is for the applicant to learn residents' concerns and to be able to design the special use permit application and site plan to mitigate those concerns prior to submitting the same to the township. If a neighborhood meeting is held, minutes of the meeting shall be prepared by the applicant and a copy provided to the Commission with the application.

8605. Information Required in Application

An application for Special **Use** Permit shall include:

A. An Application form which includes, at a minimum:
    a. The applicant's name and address.
    b. A signed affidavit **that** the applicant is the owner, or has an ownership interest, or is acting on the owner's behalf.
    c. The address and legal description of the property.
    d. A specific statement and supporting information regarding the required findings for the Special **Use** Permit, as stated in Section 8609.
    e. A complete description of the proposed development including: The number of parcels or units; and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, and related material as applicable.
    f. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to groundwater reserves or community system capacity, change in traffic volume on adjacent roads and other factors that may apply to the particular development.
    g. Statements relative to the impact of the proposed **development** on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and

the scale of **development** in terms of the surrounding environment.

h. A detailed site plan as specified in Section 9406 of this Ordinance and is prepared showing all the requirements, as approved and permitted, for all other applicable permits except for the building, mechanical, electric, and plumbing permits pursuant to the Michigan State Construction Code, issued pursuant to P.A. 230 of 1972, as amended, (being the State Construction Code Act, MCL 125.1501 et. seq.) and the state license for non-medical **Marijuana Facilities**. The Planning Commission may grant conditional site plan approval followed by final site plan approval after all required permits are obtained.

B. In addition, the applicant may be required to furnish: [The township's attorney may advise that criteria be included in the ordinance as to when, and if, these additional things are required.]
   1. Elevations on all **buildings**, including **accessory buildings**.
   2. An environmental assessment.

C. Measures which will be undertaken to control soil erosion, shoreline protection, excessive noise, or adverse impacts of the **development** on the surrounding properties.

D. The applicant shall certify that the information included is correct and that measures proposed to mitigate adverse impacts will be completed in a timely fashion, if the Special **Use** Permit is approved.

8606. Application Review for completeness

Upon receipt of a special **use** permit application, the zoning administrator shall review the application to insure it is complete, and includes all the elements specified in Sections 8603 and 8604 of this Ordinance.

A. If the application is not complete, the zoning administrator shall return the application within 14 days with a letter that specifies the additional material required.

B. If the application is complete, the zoning administrator shall confer with the chairman of the **Commission** to establish a date to hold a meeting and/or hearing on the special **use** permit application.

8607. Notice of Consideration or Public Hearing

A. If the application is complete, the administrator shall notify the following **person**s of the application being considered, so the notice is sent not less than 15 days before the date that the application will be considered, and the notices sent to:
   1. The applicant.
   2. The owner of the property, if different.
   3. The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in Brown Township or not.
   4. Occupants of any **structure**s within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in Brown Township or not.
   5. The general public by publication in a newspaper which circulates in Brown Township
   6. The members of the **Commission**.
   7. Other governments (city, township, village, county, Indian tribal government) which are located within one mile of the proposed special **use**;

8. The county road commission and county planning commission for where the proposed special **use** is located within;
9. Utility providers;
10. Michigan Department of Transportation if the property fronts on a state highway;
11. Michigan Department of Environment Great Lakes and Energy if the proposed special **use** is on property with surface water or wetlands.

B. All notices shall:
1. describe the nature of the special land **use** request,
2. indicate the property which is the subject of the special land **use** request,
3. list of all existing street addresses within the property(ies) which is(are) subject of the special **use**. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)
4. indicate the location where the application documents can be viewed and copied prior to the date the application will be considered
5. list the date, time and location of when the hearing on application will take place.
6. Indicate the address at which written comments should be directed prior to the consideration
7. for members of the **Commission** only, provide a complete copy of the special **use** permit application and supporting documents in the record
8. A township, village, city, county, utility, and road agency which receives notice pursuant to this section of this Ordinance may choose to submit material to the Commission. Such submissions shall be delivered to the Village at or before the hearing on the issue. Such submissions shall be considered advice to the Commission. The Commission may give extra deference to those comments as long as it does not abdicate the Commission's authority. The applicant may wish to present his application to the township, village, city, county, utility, and road agency which receives notice pursuant to this section prior to the hearing, or prior to submitting the application to the Commission.

8608. Hearing and Decision

A. The **Commission** shall hold a public hearing to receive input on the Special **Use** Permit application.

B. Within forty-five (45) days following the receipt of a complete application (unless a formal extension is mutually agreed to between the applicant and **Commission**), the **Commission** shall either grant, grant with conditions, or deny the application. The decision shall be in writing and reflect the reasons for the decision. At a minimum, the record of the decision shall include:
1. A summary of public comments made at the hearing,
2. Formal determination of the facts,
3. The conclusions derived from the facts (reasons for the decision), and
4. The decision which shall be one of the following:
    a. grant the Special **Use** Permit,
        i. grant with conditions the Special **Use** Permit (including a written list of all conditions upon which issuing a permit is issued or occupancy is allowed),
        ii. in the case of a preliminary Special **Use** Permit application only, pursuant to

section 8606.B. of this ordinance, issue a Special **Use** Permit with a written list of conditions, which at a minimum shall include final approval of the site plan, pursuant to section 9414 of this ordinance within one year,

b. Deny the Special **Use** Permit,

C. A special **use** permit and site plan shall be approved simultaneously, or a special **use** permit is issued prior to approval of a site plan and conditioned upon approval of the site plan.

8609. Special Use Permit Standards

A. The standards for determining if a Special **Use** Permit is to be granted or not are:
   1. The **use** is reasonable and designed to protect the health, safety, and welfare of the community,
   2. The **use** is consistent with the intent and purpose of the **district**,
   3. The **use** is compatible with adjacent land **use**s,
   4. The **use** is designed to ensure that public services and facilities, including energy and water, are capable of accommodating increased loads caused by the land **use** or activity and
   5. The **use** complies with other general and specific applicable standards in section 1201 *et seq. (*Article 12) of this Ordinance,
   6. The **use** complies with the applicable specific standards for particular special **use**s of 1601 *et seq. (*Article 16) of this Ordinance,
   7. The **use** complies with the standards of the respective **district**, and
   8. The **use** complies with the applicable general provisions of 1001 *et seq*. (Article 10) of this ordinance.

8610. Special Use Permit Conditions

A. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by said **Commission** in its decision and shall be filed with the zoning administrator of the Township. Any conditions, limitations or requirements upon which approval is based shall be:
   1. reasonable and designed to protect natural resources, the health, safety and welfare
   2. to protect the social and economic well-being of the owners and occupants of the land in question, of the area adjacent thereto and of the community as a whole;
   3. a valid exercise of the police power
   4. related to the purposes which are affected by the proposed **use** or activity;
   5. consistent with the intent and purpose of the zoning ordinance, generally and specifically, for the respective **district**;
   6. designed to insure compatibility with adjacent **use**s of land and the natural environment; and
   7. designed 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.

B. Duration: The **Commission** shall have the right to limit the duration of a Special Land **Use** where the same is for **mining**, and Sweetening Plant operation and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such **use**. Any

use failing to comply with such conditions and limitations may be terminated by action of said **Commission** after a hearing upon application of any aggrieved party.

8611. Record of Special Use Permit

The site plan and specifications and all conditions imposed by the **Commission** shall be recorded with the Township and shall be incorporated as a part of the special land **use** permit. Violations of any of these special land use permits will prompt enforcement action that may include the revocation of the permit**.** The township shall notify in writing the appropriate state licensing department that the township approved or did not approve a proposed **Marijuana Facility.**
[Annotation: The appropriate department, in 2021, is the Department of Licensing and Regulatory Affairs Marijuana Regulatory Agency, Licensing Division, P.O. Box 30205, Lansing, MI 48909.State law also requires the appropriate department is sent (a) an attestation that the municipality has adopted an ordinance concerning medical marijuana (recommended to do this for both medical and recreational) that authorizes marihuana facility(ies), (b) a description of any zoning regulations that apply to the proposed marihuana facility(ies) within the municipality, (c) the signature of the clerk of the municipality or his or her designee, and (d) any other information required by the department.]

8612. Security Requirement

A. To ensure compliance with the zoning ordinance and any conditions, limitations or requirements imposed by the **Commission** as 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, the **Commission** may require:
   1. A cash deposit,
   2. Certified check,
   3. Irrevocable bank letter of credit or
   4. Surety bond.

B. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the **Commission** may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

C. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to ensure compliance with.

8613. Amendment of Special Use Permit

An application may be considered to amend an existing special land **use** permit and shall be handled in the same manner for the initial special **use** permit application prescribed by Section 8601 Et. Seq. of this Ordinance. By mutual agreement between the township and applicant, minor non-substantive changes may be made to an existing special **use** permit if such change is sought prior to the issuance of an occupancy permit for work authorized by the special **use** permit.

8614. Transfer of Special Use Permit

In order to ensure continued compliance with the terms of this Ordinance and a special use permit issued under it, in cases where a cash deposit, irrevocable bank letter of credit, certified check, or surety bond is required, a special use permit shall specify reasonable terms for transfer of a valid

special use permit security from the present landowner or operator to a subsequent owner or operator. The responsibility for said transfer in accord with the terms of the special use permit shall be that of the permit holder of record with the Brown Township Zoning administrator. Failure of a special use permit holder to properly transfer a special use permit security shall not release the permit holder of record from ordinance penalties for any subsequent action undertaken on the land in violation of the terms of the special use permit. Proper completion of the transfer shall require documentation of assumption by the new owner of an interest in the land/operation in question and a written agreement that the new owner/operator will assume the obligations for the deposit of a bond or other performance guarantee when so required by the special use permit. When such a bond or other performance guarantee is deposited properly with the Township by the new permit holder, any bond or performance guarantee on deposit with the Township by the previous permit holder shall be returned in accord with the terms of this Ordinance. A transfer of a special use permit security to a new owner shall not be required where there is no bond or other performance guarantee requirement.

8615. Construction Code Permit

A Special Use Permit shall be required prior to the issuance of a Michigan State Construction Code Permit, issued pursuant to P.A. 230 of 1972, as amended, (being the State Construction Code Act, M.C.L. 125.1501 et. seq.) and the state license for non-medical Marijuana Facilities.

8616. Start Work Deadline

A permit issued under this Article is void if construction of the use is not commenced within one (1) year. A single renewal may be granted by the Administrator after a re-study of the permit at no cost to the applicant, and the applicant continues to meet all requirements for a permit.

8617. Expiration of Special Use Permit

Under normal circumstances a special use permit is issued for an indefinite period, and travels with the land, except as follows:

A. A special **use** permit shall be valid for as long as the permitted **use** continues in accordance with the terms stated therein, unless otherwise stated in the special **use** permit.
B. If replaced or superseded by a subsequent Special **Use** Permit.
C. If replaced or superseded by a permitted **use**.
D. If the applicant requests the rescinding of the Special **Use** Permit.
E. The special **use** permit shall expire, and be of no effect, three hundred and sixty-five (365) days after the date of issuance thereof, unless within such time work authorized under the said permit has started.
F. If there is no compliance with the terms of the special **use** permit within six (6) months from the date of occupancy, then it shall automatically expire and be of no further effect or validity.
G. Approval of a special **use** permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by subsequent owner.
H. The Zoning administrator shall notify the applicant, in writing, mailed to the address listed on the application that such special **use** permit has expired.

ARTICLE 88 – PLANNED UNIT DEVELOPMENT

8801. Purpose

This section recognizes that it may be desirable to modify certain restrictions of this Ordinance in the context of an innovative, efficient, planned unit development. The rationale for this departure from normal policy is virtually the entire Ordinance is drafted in contemplation of regulating separate, individually proposed uses. Whenever it can be demonstrated the needs of the community will be better served by a private plan which combines multiple structures or uses on a single area, it may be possible to modify some of the regulations which inhibit such a plan without formal amendment of this Ordinance by issuing a Special Use Permit for a Planned Unit Development.

8802. Eligibility

No use shall be eligible for special treatment under this section unless all of the following are determined:

A. the application proposes a planned unit development as defined by this Ordinance;
B. planned unit development of the type contemplated is authorized by Special **Use** Permit in the relevant **District**;
C. Every **use** contemplated in the planned unit development in the respective **District**s are
    1. listed as permitted **use**s in that **District**, and
    2. listed as special **use**s in that **District**.
    3. If the planned unit development includes open space as specified in this section of this ordinance, then **uses** may also include lodging places, retail, service, sports venue, restaurant and drinking, fitness center establishments.
D. The proposed Planned Unit Development is on a parcel which shall have a minimum of (X) square feet determined by Manistee County Health Department buildable area per unit, (based on size of building and soil percolation) which shall not include:
    1. beach contiguous to a lake or stream,
    2. wetland,
    3. area which is not accepted by the District Number Ten Health Department for on-site sewage disposal unless an alternate system of sewage disposal is approved by the District Number Ten Health Department,
    4. that part of a flood plain where flood waters are expected to have a destructive current,
    5. existing public utility easements,
    6. existing public rights-of-way
    7. waterfront **setback** areas
E. The application is otherwise consistent with the legislative policy expressed in Section 8801.
F. The open space preserved from **development** (by preservation easement to the township, county, or land conservancy) shall be at least seventy (70) percent of the Gross acreage of the **parcel**.
G. The proposed Planned Unit Development is on a **parcel** which is the larger of:
    1. twenty (20) times the size of the minimum **parcel** size in a **District** where the minimum **parcel** size is one acre or less, or
    2. five (5) times the size of the minimum **parcel** size in a **District** where the minimum **parcel** size is one acre to 15 acres, or

3. the required minimum **parcel** size, or larger, in the respective **District**, or larger.
   Where P is minimum **Parcel** size in the **district**
   Where G is the minimum Gross **parcel** size for the Planned Unit Development.
   P 20 = G

If the Planned Unit Development is in two **District**s, then perform the calculation for that part of the Planned Unit Development in each **district** and multiply the result by the percent of the Planned Unit Development in each **District** and then sum the results;

where P is minimum **Parcel** size in the **district**.
where px is the percent of Planned Unit Development in each respective **district**.
where Rx is the Result.
where M is the Minimum Planned Unit Development **parcel** size.
P 20 p1 = R1
P 20 p2 = R2 --> R1 + R2 = M

8803. Procedure

A. Applications for planned unit development are essentially Special **Use** Permit applications which request a waiver of basic dimensional restrictions. Accordingly, they shall be processed by the **Commission** under Section 8601 *et. seq*., except that:
   1. the specific procedures of state zoning enabling statute shall be followed whenever they are inconsistent with Section 8601 *et.seg*. procedures; and
   2. any basic restriction relating to minimum **parcel** size, minimum usable floor area, maximum height or set-backs may be modified in accordance with Section 8804.; and
   3. In addition to all other information required to be submitted as part of a special **use** permit application under section 8601 *et. seq*., the applicant for a planned unit development shall submit, in writing, a statement outlining the steps the applicant proposes to take to insure the future non-development of the open spaces in the planned unit development, which steps may include, but are not limited to, placement of title or the **development** rights to such open spaces in a recognized land or nature conservancy, the township or other governmental body, recorded deed restrictions or other similar steps.

B. In addition to the procedure for reviewing site plans and special **use** permits, when the application is for a Planned Unit Development the **Commission** shall also consult with the following agencies prior to issuing a Planned Unit Development special **use** permit or approving the Planned Unit Development site plan:
   1. The Fire Department which services the site;
   2. The District Number Ten Health District sanitarian or DEQ, whichever is applicable, concerning onsite sewage disposal.

8804. Basic Restrictions and Modification Procedure

A. The **Commission** shall calculate the density (number of parcels/principal structures) of the site proposed for the planned unit development by dividing the gross acreage of the **development** by the density of principal **structure**s allowed in the **District**.
   1. When calculating the available land area, all the land involved in the proposed Planned Unit Development may be used for gross acreage, regardless if the land is all in one

District or not.

2. If the gross acreage is located in more than one **District**, then the density shall be calculated separately for each area in each respective **district**. The Product shall be added together to represent the density permitted for the total area of the proposed Planned Unit Development.
3. The product of that calculation shall be the density allowed in the Planned Unit Development.
    a. where G is Gross acreage (all of the land)
    b. where D is Density in the **District**
    c. where L is the number of Living Units allowed in the Planned Unit Development
    d. (G/D) x 1.25=L

B. The **District** in which most of the land is located shall be used to determine which **District** regulations dealing with parking, **setback**s, building height, maximum percentage of **parcel** coverage, minimum square feet of building area and **sign**s.

C. The density obtained in section 8804.A.2 represents the maximum number of **dwelling**s or principal **structure**s which may be permitted for **development**. The density shall be expressed as total number of living units in the Planned Unit Development. The following equivalents shall be used for density:
    1. One (1) living unit equals 1 dwelling unit (**single-family dwelling**).
    2. Two (2) living units equal1**two-family dwelling** (duplex).
    3. One (1) living unit equals 1 dwelling unit in a **multiple-family dwelling** (an apartment).

D. Following these calculations, the **Commission** then may:
    1. permit clustering of **development** and/or allow a reduction in the size of individual **parcel**s within the planned unit development below the minimum area required so long as the density for the entire available land area is not exceeded; and/or
    2. waive, wholly or in part, any minimum usable floor area requirement, **setback**, or maximum height, specified by the restrictions of the respective **District** if doing so results in:
        a. Additional public property in the **development** and/or public easement on property in the **development** that is acceptable to the Township and/or
        b. Lower costs for installation and/or maintenance of **public utilities** to be owned and operated by the Township, and/or
        c. Public **Park** land developed in or near the **development**, and/or
    3. Preservation of open space and environmental (wildlife habitat, unbroken areas of forested land, unusual or unique geographic features, streams and their valleys, wetland, high risk erosion area, flood plain, water **setback** areas, areas not suitable for on-site sewage disposal) or visual(historic or natural landmarks, unbroken skyline, natural or rural appearance) benefits to the township, and/or
    4. Enhanced recreation opportunities, and/or
    5. Provide a particular image or appearance at the entrance way, and/or
    6. Some other public value to the Township.

ARTICLE 94 – SITE PLAN

9401. Purpose

It is recognized by this Ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access roads; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this Ordinance requires site plan review by the Commission under the provisions of a Special Use Permit and provides for the option of site plan review by the administrator.

9402. Site Plan Review

Every application for a zoning permit shall include a site plan, drawn according to the specifications of this article. (A demand for appeal before the **Appeals Board** shall include a site plan drawn according to the specifications of this article.) The administrator shall review the site plan prior to issuing a zoning permit, or the administrator shall transmit the site plan to the **Commission** for their review.

A. There shall be three levels of site plans, for different complexities of proposed land **use**s:
    1. A Basic Site Plan (Section 9404), for **dwelling**s, additions to **dwelling**s and construction of accessory **structure**s to **dwelling**s. These site plans shall only be subject to review by the Administrator.
    2. A Medium Site Plan (Section 9405), for any permitted **use** --which is not a **dwelling**, addition to a **dwelling**, construction of accessory **structure**s to **dwelling**-- and for any matter before the **Appeals Board** which would not need a Detailed Site Plan. The **Commission** shall publish policy for when a Medium Site Plan --not drawn for purposes of appeal-- shall be required to be reviewed by the **Commission** and/or a committee of the **Commission**, or the Administrator.
    3. A Detailed Site Plan (Section 9407), for any Special **Use**, Planned Unit Development. These site plans shall only be subject to review by the **Commission**.
B. Whenever possible site plan review by the administrator and **Commission** shall be coordinated and done simultaneously with other reviews by the administrator and **Commission** on the same application.

9403. Optional Sketch Plan Review

Prior to submitting an application, or site plan, for a zoning permit an applicant may choose to submit a sketch plan for review by the administrator and/or **Commission**. The sketch plan shall be superimposed on an air photo of the **parcel** or shall be a scaled drawing of the **parcel** showing the location of existing and proposed **parcel**, **parcel** boundaries, all **structure**s, natural features, improvements, **road**s, sidewalks, easements, and drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting any type of permit. The review shall be done without cost to the applicant but must be scheduled as an item of business on the **Commission**'s agenda if the sketch plan is to be reviewed by the **Commission**.

9404. Required Data for a Basic Site Plan

The Basic Site Plan shall be a sketch; drawn to scale superimposed on an air photo, superimposed on a

survey, of the **parcel; or a simple sketch plan with dimensions indicated on drawing.** The following shall be shown on the Basic Site Plan:

A. The property, identified by **parcel** lines, location, and size.
B. Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
C. The scale, north point
D. Natural features such as woodlots, water bodies, wetlands, slopes over 25%, beach, drainage and similar features.
E. The location of proposed and main and **accessory buildings**, existing **structure**s, fences on the site, the height of all **buildings** and square footage of floor space.
F. The proposed **driveway**, if any.
G. Is prepared showing all the requirements, as approved and permitted, for all other applicable permits except for the **building**, mechanical, electric, and plumbing permits pursuant to the Michigan State Construction Code, issued pursuant to P.A. 230 of 1972, as amended, (being the State Construction Code Act, MCL 125.1501*et seq*.) and the state license for **Marijuana Facilities**. The Planning Commission may grant conditional site plan approval followed by final site plan approval after all required permits are obtained.

9405. Required Data for a Medium Site Plan.

The site plan shall be drawn to scale and shall be on paper which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the administrator can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed **use**.

A. All the data required for a Basic Site Plan, set forth in Section 9404 of this Ordinance.
B. The **parcel**'s legal description.
C. Boundary dimensions of natural features such as woodlots, water bodies, wetlands, slopes over 25%, beach, drainage, and similar features.
D. Location dimensions of existing and proposed man-made features such as **buildings**, **structure**s, utility easements, water, septic system, drain field, storm sewer and sanitary sewer lines, storm water drainage and retention lines,
E. Neighboring **driveway**s, and other vehicular circulation features within and adjacent to the site; also, the location, size and number of parking spaces in the off-**road** parking areas and the identification of service lanes, service parking and snow storage areas.
F. Any proposed alterations to the topography and other natural features shall be indicated.
G. Location and type of outdoor light fixtures including a description of the outdoor light fixture, supports, shading, baffling; and photometric data, such as that furnished by manufacturers, or similar, showing the angle of cut off of light emissions; and other information necessary so it can be determined the outside light requirements of this Ordinance are complied with.
H. Any proposed location of connections to existing utilities and proposed extensions thereof.
I. A description of the proposed **development**.
J. A vicinity map showing the location of the site in relation to the surrounding **road** system.

9406. Required Data for a Detailed Site Plan

A site plan which shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the **Commission** can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed **use**. The **Commission**, upon initial review of the site plan, may act to require any information specifically waived by the administrator to be submitted. Such a site plan shall be designed and prepared by a registered professional architect, landscape architect, engineer, land surveyor or community planner (or, if acceptable to the **Commission**, owner or other qualified individual). Unless so waived, all site plans shall include the following information:

A. All the data required for a Basic Site Plan, set forth in Section 9404 of this Ordinance and for a Medium Site Plan, spelled out in Section 9405 of this Ordinance.
B. The proposed location of any open spaces, landscaping, and buffering features such as greenbelts, fences, etc.
C. The location proposed finished floor and grade line elevations.
D. Site plans for residential **development** shall include a density schedule showing the number of **dwelling** units per acre, including a **dwelling** schedule showing the unit type and number of each unit type.
E. Any proposed **road**s, sidewalks, and other vehicular and pedestrian circulation features within and adjacent to the site;
F. Topography information based on USGS datum or selected on-site elevations. More detailed information may be required where the **Commission** determines that the site and **use** warrant a more critical review of topography.
G. Generalized soil analysis data from the modern progressive Soil Survey of Benzie and Manistee Counties prepared by the United States Natural Resources Conservation Service, 2002
H. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the **development**, when required.

9407. Required Data for a site plan involving special groundwater protection provision.

A. Applicability of this additional site plan content for groundwater protection: Facilities which **use** or generate **hazardous substance**s:
   1. in quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety-five (95) liters (approximately twenty-five (25) gallons) per month, whichever is less, or
   2. stores greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety-five (95) liters (approximately twenty-five (25) gallons), whichever is less shall be subject to site plan review requirements.
B. Site Plan Additions: In addition to all the data required for a Basic Site Plan, set forth in Section 9404, Medium Site Plan set forth in Section 9405, or a Detailed Site Plan set forth in Section 9406, whichever is applicable; the following shall also be shown in the site plan:
   1. Location and size of interior and exterior areas and **structure**s to be **use**d for storage, **use**, loading/unloading, recycling, or disposal of **hazardous substance**s.

2. all underground and above ground storage tanks for such **use**s as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated Storm water or wash water, and all similar **use**s.
3. Location of exterior and interior drains, on-site sewage systems, dry wells; catch basins; retention/detention areas; sumps and other facilities designed to collect, store or transport Storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
4. Location of all water wells on the site and within 150 feet surrounding the **parcel**'s property boundaries.
5. Delineation of areas on the **parcel** which are known or suspected to be contaminated, together with a report on the status of site cleanup.
6. Submission of the "**Hazardous Substance**s Reporting Form for Site Plan Review".
7. Submission of the "State/County Environmental Permits Checklist".
8. If the area covered by the site plan includes territory within a Wellhead Protection Overlay Zone submit a site plan review report prepared by a Manistee County Groundwater Staff Review Group (c/o Manistee County Planning Department). The site plan review report shall be a written document reporting on a county review of the same site plan prepared for this section. If the area covered by the site plan does not include territory within a Wellhead Protection Overlay Zone a site plan review report prepared by the Manistee County Groundwater Staff Review Group may be submitted at the option of the applicant or may be required at the option of the **Commission** or administrator, whichever is applicable?

9408. Required Data for Site Plan involving Utility-Scale Wind Energy System

All land **use** permits for a **utility-scale wind energy system** shall include a detailed site plan that details the following information, in addition to all the data required for a Basic Site Plan, set forth in Section 9404, Medium Site Plan set forth in Section 9405, and a Detailed Site Plan set forth in Section 9406:

A. Documentation that tower, interconnection (if applicable), and safety requirements have been reviewed, and the submitted site plan is prepared to show compliance with these issues as applicable:
   1. Proof of the applicant’s public liability insurance for the project.
   2. A copy of that portion of all the applicant’s lease(s) with the landowner(s) granting authority to install the **Anemometer Tower** and/or **utility-scale wind energy system**; legal description of the property(ies).
   3. The construction schedule including details of all phases.
   4. Participating and **non-participating parcel**s within the project area boundary and **non-participating parcel**s extending a quarter mile beyond the edge of the project boundary. The project boundary and **participating parcel**s are not confined to the zoning district(s) in which a **Utility Scale WES** and its accessory uses are located within.)
   5. The location, height, and dimensions of all existing and proposed structures and fencing.
   6. The location, grades, and dimensions of all temporary and permanent roads from the nearest county or state-maintained road.
   7. The location, grade, and dimension of all temporary or permanent **lay down area**s for

turbine component parts (if in a central location).

8. All new infrastructures above ground are related to the project.
9. A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

B. Sound Modeling Study: A copy of a predictive noise modeling and analysis report showing sound levels at various distances. The modeling must show compliance with sound standards applicable to this ordinance. The modeling study shall use turbine locations identical to the site plans submitted with this application. The analysis will show that the **WES** will not exceed the permitted sound pressure levels under any conditions. The noise modeling and analysis should utilize the methods outlined in ISO 9613-2 (or most recent version), including sound power levels determined using **IEC** 61400-11.

C. Transportation Plan: A detailed road modification plan to accommodate delivery of components of the **WES** along existing and proposed roads and return of those roads and adjacent lands to their original condition after construction.

D. Visual Impact Simulation and Materials: A visual impact simulation showing the completed **WES** from multiple angles, locations, and scales. The simulation should show the non-reflective, low-gloss finish of a finished turbine and be a neutral color such as white, off-white, or gray. The application shall include a sample of finished component materials to demonstrate the finish and color of **wind turbine** components.

E. Environment Analysis: An analysis by a third-party qualified professional shall be included in the application to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The analysis shall identify all appropriate measures to minimize, eliminate or mitigate adverse the impacts identified and show those measures on the site plan, where applicable. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

F. Avian and Wildlife Impact Analysis: The application shall include an Avian and Wildlife Impact Analysis by a third-party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall evaluate the significance of any net effects or concerns that will remain after mitigation efforts. The analysis must show consultation and evaluation based on applicable U.S. Fish and Wildlife Service Land-Based Wind Energy Guidelines (2012 or latest version).

1. At a minimum, the analysis shall include a thorough review of existing information regarding species, potential habitats, and sites requiring special scrutiny (such as endangered or threatened species habitats or other known special habitats) in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's endangered species protection laws (NREPA, Act 451 of 1994, Part 365).
2. The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted.

G. **Shadow Flicker** Study: The application shall include a **shadow flicker** analysis extending 5,280 feet or 20 times the **rotor** diameter (whichever is less) from proposed **wind turbine** generator locations. The study shall indicate all modeling assumptions. The site plan and study shall describe the predicted annual amount of flicker on inhabited structures on non-participating properties impacted by **shadow flicker**. The study shall detail one or more mitigation strategies to comply with the hour per year regulation in section 1611.L. of this Ordinance.
H. Decommissioning Plan: A decommissioning plan shall be included in the site plan application.
I. Complaint Resolution Plan: The application shall include a description of a complaint resolution process including forms, phone numbers, and timelines for complaint referral, response, and resolution. The plan must be approved by the Planning Commission.

9409. Required Data for Site Plan involving Solar Energy Systems

A. All land **use** permits for a **Personal-Scale Solar Energy System** shall include a site plan that details the following information in addition to all the data required for a Basic Site Plan, set forth in Section 9404, Medium Site Plan set forth in Section 9405, or a Detailed Site Plan set forth in Section 9406, whichever is applicable:
   1. The **parcel of** the **Personal-Scale Solar Energy System** is to be located upon with boundaries and **setback**s denoted.
   2. The location of all **structure**s and accessory **structure**s on the **parcel**.
   3. The location of **structure**s on adjacent property that are within a line of sight of the proposed location of the **Personal-Scale Solar Energy System**.
   4. The location of all existing and/or proposed screening with description of said screening.
   5. A description of the elevation and placement of the **Personal-Scale Solar Energy System**.
B. All land use permits for a Large Solar Energy System shall include a detailed site plan that details the following information. In addition to all the data required for a Basic Site Plan, set forth in Section 9404, Medium Site Plan set forth in Section 9405, and a Detailed Site Plan set forth in Section 9407:
   1. All **parcel** lines and dimensions, including a legal description of each **parcel** comprising the **Large Solar Energy System**.
   2. Names of owners of each **parcel** within the Township that is proposed to be within the **Large Solar Energy System**.
   3. Vicinity map showing the location of all **parcel**s and land **use**s within 300 feet of the **parcel** comprising the **Large Solar Energy System** and the distance to Manistee Blacker Airport.
   4. Location and height of all proposed solar array(s), **buildings**, **structure**s, electrical tie lines and transmission lines, security fencing, and all above-ground **structure**s and utilities associated with the **Large Solar Energy System**.
   5. Horizontal and vertical (elevation) to scale drawings with dimensions that show the location of the proposed solar array(s), **buildings**, **structure**s, electrical tie lines, substations and transmission lines, security fencing and all above ground **structure**s and utilities on the property.
   6. Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the **Large Solar Energy System** and within 100 feet of all exterior property lines of the **Large Solar Energy System**.
   7. Proposed **setback**s from the solar array(s) to all existing and proposed **structure**s within

the **Large Solar Energy System**.

8. Land elevations for the solar array(s) location and extending 100 feet beyond the **parcel** boundary of the **Large Solar Energy System**, and the relationship to the land elevations of all existing and proposed **structure**s within the **Large Solar Energy System** at a minimum of 5' contours.
9. Access **road**s proposed to be located within and to the **Large Solar Energy System** from public **road**s, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed access **road**s. All intersections with public **road**s shall be subject to Manistee County Road Commission or Michigan Department of Transportation approval, which approval shall be noted on the site plan and shall be planned so as to minimize the **use** of lands for that purpose.
10. Security measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance, or repair of the **Large Solar Energy System**.
11. A written description of the maintenance program to be used for the solar array and other components of the **Large Solar Energy System**. The description shall include maintenance schedules, types of maintenance to be performed and equipment to be used.
12. Planned lightning protection measures.
13. A solar glare hazard analysis plot using the Solar Glare Hazard Analysis Tool, developed by Sandia National Laboratories, (or similar tool or program approved by the **Commission**) demonstrating compliance with the standards required by Section 1616 of this Ordinance.
14. A decommissioning plan meeting the requirements of Section 1616 of this ordinance and including the procedures and schedule to be used and an estimate of the total cost of decommissioning the entire **Large Solar Energy System** and all of its components, as of the end of its expected useful life, prepared by a licensed engineer.
15. A surface water runoff and detention plan for the entire site to be occupied by the **Large Solar Energy System**, showing the plan to capture and dispose of surface water falling or coming on to the site, as approved by the Manistee County Drain Commissioner and Manistee County Soil Erosion and Sedimentation Office.
16. The name and address and other contact information for the manufacturer and installer of the **Large Solar Energy System** and the proposed operator of the site, if not the applicant; the type and model of all major equipment components to be used, including but not limited to the photovoltaic panels, thermal energy or hot water systems, mounting and tracking systems, inverters and transformers.
17. A copy of the application to the utility company that will be interconnecting the **Large Solar Energy System** at the proposed site.
18. If the **Large Solar Energy System** will utilize batteries or the storage of batteries, adequate design must be provided to show compliance with all applicable state and federal requirements regulating the outdoor storage of batteries.

C. Modeling of all surrounding properties and existing **dwelling**s within 1000 feet of the exterior boundary of the **Large Solar Energy System** demonstrating compliance with the sound level requirements contained in Section 1616 of the ordinance.

9410. Submission of a Site Plan

Three (3) copies of a site plan shall be submitted with a zoning permit application to the administrator.

In thecae where a committee of the **Commission** or the **Commission** is reviewing the site plan, eight (8) copies of the site plan shall be submitted to the administrator.

9411. Review for Completeness.

The Administrator shall review the site plan received to ensure it is complete and contains all the elements required by this Ordinance. Such findings shall be done concurrently with similar required findings that a zoning application is complete.

A. If the site plan is not found to be complete, the administrator shall return the site plan to the applicant within 14 days with a written list of items needed to make the site plan complete.
B. If the site plan is found to be complete, the administrator shall:
    1. Only as applicable, forward copies of the site plan to the Township Engineer, County Road Commission, County Soil Erosion Inspector, County Drain Commissioner, County Health Department, Michigan Department of Highways, for their recommendations to be subsequently forwarded with the site plan, and
    2. Determine if the site plan is to be reviewed and acted upon by him, and then do so, or
    3. Determine if the site plan is to be reviewed and acted upon by the **Appeals Board**, and then forward the copies of the site plan to each member of the **Appeals Board** a week prior to their meeting, or
    4. Determine if the site plan is to be reviewed and acted upon by the **Commission** or a committee of the **Commission**, and then set up a site plan review meeting and forward the copies of the site plans to each member of the **Commission** (or a committee of the **Commission**) a week or more prior to the **Commission**'s meeting.

9412. Standards for Site Plan Review

The following standards shall be used by the **Commission** and administrator to review site plans:

A. All applicable regulations of this Ordinance which apply generally to all **district**s, and all applicable regulations of this Ordinance which apply to the specific **district**, to any conditions imposed with the granting of a Special **Use** Permit or variance, shall be shown on the site plan as being complied with.
B. Water lines, sewer lines, all provisions of surface water drainage shall be approved by the Township and designed in compliance with any applicable federal and state statute, township and county ordinance.

9413. Approval and Compliance

A. In cases where the administrator reviews the site plan pursuant to section 9402; within seven (7) days of the site plan being found complete, as specified in section 9409, the Administrator shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
B. In cases where the Commission, or a committee of the Commission, reviews the site plan; within forty-five (45) days of the site plan being found complete, as specified in section 9409, the Commission shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
C. The action shall be recorded in a record of the zoning application and shall be filed with the administrator. The administrator or Commission shall notify the applicant in writing of its

decision. If rejected, the reasons for rejection and, if approval is possible, the requirements for approval, shall be given to the applicant, in writing, attached to the rejection. If the administrator or Commission does not act on the site plan and put its action in writing within the prescribed time, the site plan shall be conclusively presumed to have been approved. If the proprietor and administrator or Commission mutually agrees, the time limit may be extended.

9414. Conditions of Site Plan Approval

A. A site plan can be approved with conditions necessary to comply fully with the intent of this Ordinance. All conditions shall be shown on the approved site plan and/or shall be in writing.
B. Reasonable conditions may include conditions necessary to:
    1. 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,
    2. protect the natural environment and conserve natural resources and energy,
    3. insure compatibility with adjacent **use**s of land, and
    4. promote the **use** of land in a socially and economically desirable manner.
C. Conditions imposed shall meet all of the following requirements.
    1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land **use** or activity under consideration, residents and landowners immediately adjacent to the proposed land **use** or activity, and the community as a whole.
    2. Be related to the valid exercise of the police power, and purposes which 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.

9415. Security Requirement

A. To ensure compliance with the site plan and Ordinance and any conditions, limitations or requirements imposed by the administrator or **Commission** as 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, the administrator or the **Commission** may require
    1. A cash deposit,
    2. Certified check
    3. Irrevocable bank letter of credit or
    4. Security bond in an amount and under the conditions permitted by law.
    5. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the administrator or **Commission** may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
    6. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to ensure compliance.

9416. File Copies

At least three (3) copies of the site plan, all accompanying documents, record of approval, list of conditions, security shall be kept by the Township for its records. One for the zoning administrator, one for the township clerk and one for the planning commission.

9417. Zoning Permits

No zoning permit or Michigan Construction Code building permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, M.C.L. 125.1501*et. seq*., shall be issued or otherwise authorized until after the site plan has been approved and any required securities have been received. No related building or changes to the landscape shall commence related to the zoning permit until after the zoning permit is granted.

9418. Amendment of Site Plan

An application may be considered to amend an existing site plan and shall be handled in the same manner as the initial site plan review prescribed by Section 9401 et. seq. of this Ordinance. By mutual agreement between the Township and applicant, minor non-substantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for work authorized by the Special **Use** Permit.

ARTICLE 96 – ZONING BOARD OF APPEALS

9601. Appeals Board Established

There is hereby established an **Appeals Board**, which shall perform its duties and exercise its powers as provided in Zoning Act, in such a way the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done.

9602. Duties of the Appeals Board

The **Appeals Board** shall hear and decide such matters as the **Appeals Board** is specifically authorized to pass on as provided in this Ordinance and such matters as may be provided by law, including, but not limited to, variances, interpretation of Ordinance text and map. The Appeals Board shall have the authority to:

1. Interpret the zoning map and interpret the zoning text.
2. Hear appeals from all administrative orders, requirements, decisions or determinations made by the zoning administrator, or other administrative official or body charged with the enforcement of this Ordinance, subject to limitations contained in this Ordinance.
3. Consider all requests for a variance from the provisions of this Ordinance.

9603. Application Process and Public Hearing

A. A request for a variance, interpretation or appeal to the Appeals Board shall be filed with the zoning administrator. Upon receipt of a request for a variance, interpretation or appeal, the administrator shall review the application to ensure it is complete and the fee is paid.

1. If the application is not complete, the administrator will return the application to the applicant with a letter that specifies the additional material required.
2. If the application is complete, the administrator and chairman of the appeals board shall

establish a date to hold a hearing on the appeal. The appeal stays all proceedings in furtherance of the action appealed, unless the body or officer from whom the appeal is taken certifies to the zoning board of appeals that by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril of life or property, in which case proceedings may be stayed by a restraining order issued by the Appeals Board or a circuit court.

3. The Appeals Board shall hold a public hearing on the request for a variance, interpretation, or appeal.
4. Representation at Hearing - Upon the hearing, any party or parties may appear in **person** or by agent or by attorney.

9604. Notice of Public Hearing

A. Public notices shall be given not less than 15 days before the date of the public hearing. Notices shall be sent to:

1. The applicant.
2. The owner (or other owners) of the applicant's property, if different than the applicant.
3. The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the zoning jurisdiction or not.
4. Occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the zoning jurisdiction or not.
5 The general public by publication in a newspaper which circulates in the Township.
6. Members of the Appeals Board.

B. The Notice shall include:

1. A description of the nature of the request.
2. The property (ies) for which the appeal or variance has been made.
3. A listing of all existing street addresses within the property (ies) which is(are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)
4. The location where the demand for appeal can be viewed and copied prior to the date of the zoning amendment hearing.
5. The date, time, and location of when the hearing before the appeals board will take place.
6. The address at which written comments should be directed prior to the hearing.
7. For members of the appeals board only, a copy of the demand for appeal, the entire record on the case, the staff report, and supporting documents in the record.

9605. Appeals to the Appeals Board

Appeals can be filed by a person aggrieved, or an officer, department, board, or bureau of the state or local unit of government from all administrative orders, requirements, decisions or determinations, including site plan review, made by the zoning administrator, or other administrative official or body charged with the enforcement of this Ordinance, subject to limitations contained in this Ordinance.

9606. Interpretation of Ordinance Text

A. Interpretation - Pursuant to the requirements of The Zoning Act; nothing contained herein shall be construed as prohibiting the **Appeals Board** from interpreting the text of this Ordinance in such a fashion that will allow in a **district**: **buildings**, **use**s and **structure**s which are sufficiently similar to the specifically delineated permitted or special **use**s in that land **use district**, under the same permitted or special **use** regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the Ordinance text.

B. Standards - In determining whether a proposed **building**, **use** or **structure** is sufficiently similar to a specifically delineated permitted or special **use**, the **Appeals Board** shall consider the relevant policies for the **District** in question as set forth in the Master Plan, the nature, **use** and purpose of the proposed **building**, **use** or **structure** and whether or not the proposed **building**, **use** or **structure** is a permitted or special **use** in any other **District**.

C. Precedent - An earlier determination under this section shall be considered a precedent for other applications proposing an identical **building**, **use** or **structure** in the same **District**, provided the earlier determination was made with respect to a **building**, **use** or **structure** sufficiently similar to a specifically delineated permitted **use** in the **District** and not with respect to a specifically delineated special **use**. An earlier determination with respect to an identical, sufficiently similar special **use** shall be considered as a precedent only to the extent that such sufficiently similar special **use** shall be considered as a candidate for a Special **Use** Permit in that **District**, but shall otherwise be subject to all requirements of section 8608.

9607. Variances

A. Standards - dimensional variance from the terms of this Ordinance may be granted by the Appeals Board only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:
   1. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicants personal or economic difficulty.
   2. That strict compliance with regulations governing area, **setback**, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.
   3. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the **district**.
   4. That the requested variance will not cause an adverse impact on surrounding property, property values, or the **use** and enjoyment of property in the neighborhood or **district**.

5. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
6. That granting the variance will not alter the essential character of the area. No **nonconforming use** of neighboring lands, **structure**s, or **buildings**, in the same **district**, and no permitted **use** of lands, **structure**s or **buildings** in other **district**s shall be considered grounds for the issuance of a variance.
7. That special conditions and circumstances exist which are peculiar to the land, **structure**, or **building** involved and which are not applicable to other lands, **structure**s, or **building**s in the same **district**.

[In its decision to grant or deny a variance, the **Appeals Board** must make findings and determinations under all of the foregoing standards.]

B. Conditions – In granting any variance, the **Appeals Board** may prescribe appropriate conditions and safeguards in conformity with this Ordinance and including requirements for a buffer area, greenbelt, and vegetation belt. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under section 9802.
C. No Use Variances - Under no circumstances shall the **Appeals Board** grant a variance to allow a **use** not permissible under the terms of this Ordinance in the **district** involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said **district**.
D. Voiding of and Reapplication for Variance
   1. Each variance granted under the provisions of this Ordinance shall become null and void unless:
      a. The construction authorized by such variance or permit has begun within one (1) year after the granting of such variance and pursued diligently to completion; or
      b. The occupancy of land or buildings authorized by such variance has taken place within one (1) year after the granting of such variance.
   2. No application for a variance which has been denied wholly or in part by the Appeals Board shall be resubmitted except on grounds of new evidence or proof of changed conditions found by the Appeals Board to be valid.

9608. Appeals Board Members.

A. A majority vote of the membership of the Appeals Board is necessary to grant a dimensional variance, to rule on an appeal or to interpret this Ordinance or the Zoning Map. The decision shall be in writing and reflect the reasons for the decision including:
   1. formal determination of the findings and facts,
   2. the conclusions derived from the findings (reasons for the decision) and
   3. the decision.
B. For variances, the Appeals Board shall either grant, grant with conditions, or deny the application based upon the standards in Section 9607 A.
C. For appeals, the Appeals Board may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.
D. The Appeals Board's decision may either be a writing signed by the Chair of the Appeals Board or signed by the members if there is no Chair, or can be the approved minutes of the decision. Within eight days of the decision, the record of the decision shall be certified and a copy

delivered by first class mail to the applicant with a copy to the Administrator.

9609. Appeals to Circuit Court

Any appeal of the Appeals' Board decision to Circuit Court shall proceed in accordance with the Michigan Zoning Enabling Act.

9610. Appeals Board Membership

The Appeals Board shall consist of the following three (3) members:

A. The first member shall be a member of the Commission appointed by the Board.
B. Second and third members shall be selected and appointed by the Board from among the electors residing in the Township.
C. The Board may appoint not more than two standing alternate(s) to serve in the place of a regular member(s)s who is (are) absent, unable to attend one or more meetings, has a conflict of interest, and because the regular member has already voted on the issue when it was before Commission.
    1. Appointments to the Appeals Board shall be for three-year terms, and staggered so that, as much as is possible, an equal number of members' terms end each year, and those vacancy(ies)are filled each year.
    2. The Board shall provide for the removal of a member of the Appeals Board for misfeasance, malfeasance in office upon written charges and after public hearing.
    3. A member of the Appeals Board shall disqualify himself or herself from a vote, discussion, and deliberation on a case when the member has a conflict of interest. Failure of a member to disqualify himself or herself when a conflict of interest exists constitutes malfeasance in office.

ARTICLE 98 – ENFORCEMENT AND ORDINANCE AMENDMENT PROCEDURES

9801. Nuisance per se

Uses of land, and **dwelling buildings** or **structure**s, including tents or **mobile home**s, used, **erected**, **altered**, razed or converted in violation of this Ordinance or any regulations adopted under authority of this Ordinance, are hereby declared to be a nuisance per se subject to abatement and/or other action by court of competent jurisdiction.

9802. Penalties, Authorized Local Official:

A. Authorized Local Official: As set forth in the Brown Township Civil Infraction Ordinance, the following are designated as the Authorized Local Officials for purposes of issuing civil infraction citations: the Township Supervisor, the Township Zoning Administrator, or any county, state or tribal law enforcement officer.
B. Violations: Civil Infractions: Any **person**, including, but not limited to, an individual, partnership, corporation, limited liability company, or other incorporated or unincorporated, voluntary association, who violates any provision of this Ordinance shall be guilty of a civil infraction. Violation of this Ordinance and its penalties shall be judicially enforced through the 85th Judicial District Court for the County of Manistee. The civil infraction fines for violation

shall be as set forth in the Brown Township Civil Infraction Ordinance. The following civil fines shall apply in the event of a determination of responsibility, for a municipal civil infraction, unless otherwise specifically designated in the text of this Ordinance:

1) *First offense:* The civil fine for a first offense violation shall be in an amount of $300.00, plus costs and other sanctions, for each offense.
2) *Repeat offense:* The civil fine for any offense that is a repeat offense shall be in an amount of $500.00 or more if determined appropriate by the Court, plus costs and other sanctions for each offense.
3) Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.

C. The District Court may also impose its own fines and costs. In addition to ordering the respondent determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate shall be authorized to issue any judgment, writ or order necessary to enforce or enjoin violation of this Ordinance.
    1) In addition to any remedies provided for in this Ordinance, any equitable or other remedies available may be sought.
    2) The judge or magistrate shall also be authorized to impose costs, damages and expenses as provided by law.
    3) A municipal civil infraction shall not be a lesser included offense of a criminal offense or of an ordinance violation which is not a civil infraction.
D. The Township will seek reimbursement of all attorney fees and costs associated with having to enforce this Ordinance. The Township may also seek equitable relief and request the issuance of a compliance order under the authority provided under the Revised Judicature Act for MCI.
E. Violation: Civil Lawsuit: The Township may institute a nuisance, injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings, to prevent, enjoin, abate, or remove any **building** or **structure** or **use**, which has been **erected**, constructed, reconstructed, **altered**, converted, maintained or used in violation of this Ordinance in the Manistee County Circuit Court.
F. Cumulative Remedies: The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law. The issuance of a municipal civil infraction citation and a finding or admission of responsibility for violation of this Ordinance in a civil infraction proceeding in the 85th District Court shall not bar a civil action seeking equitable relief in the Manistee County Circuit Court.

9803. Amendments

The Board may from time to time, on recommendation from the **Commission**, amend, modify, supplement, or revise the **district** boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the Board, the **Commission**, or by petition of one or more owners of property to be affected by the proposed amendment. Except for the Board, or the **Commission**, the petitioner or petitioners requesting an amendment shall at the time of application pay a fee adopted pursuant this Ordinance.

A. Application Procedure.

1. An amendment to the text of the ordinance shall be submitted to the Administrator for consideration by the Planning Commission and Township Board in accordance with the Zoning Enabling Act, Act 110 of 2006, as amended. A description of the request, reference to the text proposed for amendment, proposed new text, as well as justification for the request shall be included in the petition.
2. An amendment to the zoning map shall be submitted in writing to the Administrator for consideration by the Planning Commission and Township Board in accordance with the Zoning Enabling Act, Act 110 of 2006, as amended. A description of the request, map of the location of the subject property or properties, description of existing and proposed zoning, as well as justification for the request shall be included in the petition.
3, The procedure for making amendments to the Ordinance shall be in the manner provided by the Zoning Enabling Act with all amendment proposals being referred to the Commission for statutorily required notices, hearing, review by Commission, transmission of the proposed amendments and summary of comments made at the public hearing to the Board for their action with or without an additional public hearing.

B. Pre-proposal Conference and Neighborhood Meetings:

1. The applicant, at his or her option, may request a meeting with the Administrator and not more than two members of the **Commission** before submitting an amendment proposal. The purpose of the meeting is to discuss amendment processing procedures, explanation of this zoning ordinance, what has been required of similar proposals in the past, and to assist the applicant and township with understanding of general concepts and design parameters prior to investment in preparation of the amendment proposal. Township officials at this meeting shall not indicate or otherwise commit the township to any particular action regarding the proposal.
2. The applicant, at his or her option, may sponsor a neighborhood meeting for those who live near and within land subject to the amendment proposal. The purpose of the neighborhood meeting is for the applicant to learn resident's concerns and to be able to design the amendment proposal to mitigate those concerns prior to submitting the same to the township. If a neighborhood meeting is held, minutes of the meeting shall be prepared by the applicant and a copy provided to the Commission with the application.

C. Notice Procedure**:** Amendments Request: When a request for amendment is initiated and has been initially reviewed by the Commission the Zoning Administrator shall cause notification of the request and public hearing.

1. The notices shall be given not less than 15 days before the date of the hearing on a proposed zoning amendment and notices shall be sent to:
    a. The applicant.
    b. The owner (or other owners) of the property, if different.
    c. If the zoning amendment is for less than 11 adjacent properties:
        i. the owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the zoning jurisdiction or not.
        ii. occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and

property is located in the zoning jurisdiction or not.

2. The general public by publication in a newspaper which circulates in Brown Township.
3. Members of the Commission, or Board and Commission if the hearing is being held by the Board.
4. Other governments (city, township, village, county, Indian tribal government) which is located within one mile of the proposed special use;
5. The county road commission and county planning commission for where the proposed special use is located within;
6. Utility providers;
7. Michigan Department of Transportation if within 300 feet of a state highway;
8. Michigan Department of *Environment*, Great Lakes & Energy if the proposed special use in on property with surface water, wetlands, sand dunes, etc.

D. Failure of the administrator to notify those **person**s and entities listed in section 9804.C.1 of this Ordinance shall not be grounds to challenge the validity of the proposed amendment, provided notice has been given in accordance with the Zoning Act.
E. The notice shall include:
   1. The nature of the zoning amendment being requested.
   2. The property(ies) for which the zoning amendment has been made.
   3. If the zoning amendment is for less than 11 adjacent properties, also a listing of all existing street addresses within the property (ies) which is(are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)
   4. The location where the application documents can be viewed and copied prior to the date the zoning amendment hearing.
      a. The date, time, and location of when the hearing on the zoning amendment will take place.
      b. The address at which written comments should be directed prior to the hearing on the zoning amendment.
      c. For members of the commission only, a copy of the request for the zoning amendment, the draft of the zoning amendment and supporting documents in the record.
F. The secretary of the **Commission** shall maintain a file of each affidavit of mailing for each mailing made under this section.
G. A township, village, city, county, utility, and road agency which receives notice pursuant to this section may choose to submit material to the **Commission**. Such submissions shall be delivered to the township at or before the hearing on the issue. Such submissions shall be considered advice to the **Commission**. The **Commission** may give extra deference to those comments as long as it does not abdicate the **Commission**'s authority. The applicant may wish to present the application to the township, village, city, county, utility, and road agency which receives notice pursuant to this section prior to the hearing, or prior to submitting the application to the **Commission**.
H. Planning Commission Hearing and Decision
   1. The **Commission** shall hold a public hearing to receive input on the proposed Zoning Amendment.

2. Following the hearing, the **Commission** shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the most likely effect on the community's physical **development**. The **Commission** may recommend any additions or modifications to the original amendment proposal. The **Commission** shall review the proposed amendment in the context of the following factors:
    a. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
    b. Whether any public services and facilities would be significantly adversely impacted by a **development** or **use** allowed under the requested rezoning; and
    c. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
    d. Whether the proposed change represents a form of spot zoning, such that it creates a small zone of ***inconsistent use*** when compared with surrounding uses or the surrounding zoning within a larger zone.
    e. Whether the proposed use would be incompatible with existing (and/or future) uses in the area.
    f. Whether the proposed change is in accordance with the Township's Master Plan, and whether the proposed district conforms to the Master Plan for future land use and would be in conflict therewith.
    g. Whether the proposed change is a reasonable alternative to the Master Plan because it will promote land use policies of the Master Plan and will not conflict with present policies.
    h. Although representing a change in the Master Plan for Future Land Use, whether the proposed district:
        i. Would be compatible with existing or future uses in the area.
        ii. Would not have a negative impact on the policies of the Master Plan.
        iii. Would further the objectives, goals, or policies of the Master Plan.
        iv. Would preserve an existing, unique natural area.
    i. Whether the proposed change would negatively affect the Township's ability to implement or follow the Master Plan for the area.
    j. Other factors set forth in the Zoning Enabling Act, Act 110 of 2006, as amended.

I. After the public hearing and the Commission's findings in Section 9803. D. have been made, the Commission shall submit:
    1. The Commission's recommendation on the proposed amendment
    2. a summary of the comments received at the public hearing,
    3. the proposed amendment, and
    4. any changes to the zoning maps, to the Board.

J. Township Board Possible Public Hearing and Final Decision
    1. After receiving the recommended zoning amendment, the Board, at a regular meeting or at a special meeting called for the purpose, shall consider the recommendations and vote upon the adoption of the proposed amendment. The Board shall apply the same review criteria above used by the Planning Commission under Section 9803 D.
    2. Any amendments shall be approved only by a roll call vote of the majority of the members

of the Board. The Board shall not make a change or departure from the proposed text amendment and zoning map amendment, as recommended by the **Commission**, unless the proposed change or departure is first submitted back to the **Commission**. The **Commission** shall have thirty (30) days from and after receipt of the proposed change or departure to send its second report to the Board.

3. The Board may conduct its own public hearing on the proposed amendment if it chooses to do so. The Board shall grant a public hearing on a proposed amendment to an interested property owner who requests a hearing by certified mail, addressed to the clerk of the legislative body. Notice of such public hearings shall be provided in accordance with MCL 125.3401 of the Zoning Enabling Act.

K. Upon the Board acting to adopt the amendment the zoning map and/or the text of this Ordinance shall be changed to reflect the amendment.

L. The amendment shall be filed with the Board's Clerk and a notice of ordinance adoption shall be published in a newspaper of general circulation in the Township within 15 days after adoption of the amendment.

M. The amendment shall take effect upon the expiration of 7 days after publication.

9804. Conditional Rezoning

As an alternative to a rezoning amendment, as described in Section 9803, the Township may allow conditional rezoning to help ensure the proper use of land and natural resources and to allow for a more flexible approach to the rezoning process in accordance with the Zoning Enabling Act. It is recognized that, in certain instances, it would be an advantage to both the Township and petitioners seeking rezoning of land if a site plan, along with conditions and limitations that may be relied upon by the Township, could be proposed as part of a petition for rezoning. Conditional rezoning of land must follow the standards and procedures as noted below.

A. The amendment procedure for a conditional rezoning shall follow the same procedure as a traditional rezoning amendment pursuant to Section 9803.

B. In addition to the procedures as noted in Section 9803, the following specific procedures, standards, and requirements shall apply to all proposed conditional rezoning requests:

1. A conditional rezoning request must be voluntarily offered by an owner of land within the Township. All offers must be made in writing and must provide specific conditions to be considered by the Township as part of the rezoning request. All offers shall be in the form of a written agreement approvable by the Township and property owner, incorporating the conditional rezoning site plan and setting forth any conditions and terms mutually agreed upon by the parties relative to the land for which the conditional rezoning is sought.
2. Conditional rezoning shall not allow a use or activity that would not otherwise be allowed in the proposed zoning district.
3. Conditional rezoning shall not alter any of the various zoning requirements for the uses in questions, 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 16-104.
4. Conditional rezoning shall not grant special land use approval. The process for review and approval of special land uses must follow the provisions of Article V.

5. All conditions offered by a landowner in relation to a rezoning request must have a direct relationship to the rezoning itself. The provisions to allow conditional rezoning shall not be construed to allow rezoning by exaction.

C. In addition to the informational requirements provided for in Section 9804 B, the applicant must provide a conditional rezoning site plan prepared by a licensed professional allowed to prepare such plans under this Ordinance, that shall show the location, size, height or other measures for and/or of buildings, structures, improvements and features, including natural features on, and in some cases adjacent to, the property that is the subject of the conditional rezoning of land. The details to be offered for inclusion in the conditional rezoning site plan shall be determined by the applicant, subject to approval of the Township. A conditional rezoning site plan shall not replace the requirement for site plan review and approval, site condominium approval, or subdivision approval, as the case may be.

D. Time limits and reversion of land to the previous district (ensure applicant pays for any and all rezoning costs incurred by any application including reversion)

1. If the proposed conditions of rezoning are acceptable to the Township, the Township may establish a time period during which the conditions apply to the property and must be met. If the conditions are not satisfied within the time specified under this section, the property shall revert to its former zoning classification unless an extension is granted as noted below. Reversion of a property back to its former classification must follow the rezoning amendment provisions as provided in Section 9803.B.
2. Unless a reversion of the zoning takes place as described in the section above, the approved conditional rezoning shall be binding upon the subject property owner, his heirs, successors, assigns, and transferees.
3. Upon approval of a conditional rezoning, a copy of the written agreement between the property owner and Township shall be filed by the Township with the County Register of Deeds, which shall act to provide notice to all subsequent owners of the property of the conditions approved and agreed to by the Township.
4. The Township may not add to or alter any conditions approved as part of a rezoning during the time period specified above.
5. The time limits specified and approved by the Township may be extended upon the application of the landowner and approval of the Township.

9805. Certification

A certified updated copy of the entire annotated zoning ordinance and zoning map, including annotations on the Amendment Adoption Documentation has been printed on paper and filed with the township clerk and county clerk. A non-editable electronic version of the entire zoning ordinance replaces earlier versions of the zoning ordinance on the township's web page.

9806. Validity

If any clause, sentence, sub sentence, paragraph, section or part of this Ordinance by adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub sentence, paragraph, section, or part directly involved in the controversy in which said judgment shall have rendered.

9807. Caption

The captions used in this Ordinance shall not be deemed to be a part of this Ordinance and shall not be construed to enlarge or restrict the rights and obligations otherwise contained herein.

9808. Effective Date

This Ordinance shall take effect immediately after adoption by the Board and publication. The Brown Township Zoning Ordinance of June 13, 2001, as amended, is repealed at the same instance this Ordinance takes effect. All applications for permits, appeals and variance requests pending before the Administrator, the **Commission**, or the **Appeals Board** on the effective date of this Ordinance shall be acted upon only in conformance with these provisions of this Ordinance.

APPENDIX to 1613.Special Land Use for Natural Resource Extraction

The extraction by mining of natural resources shall include earth removal, quarrying, gravel processing and mining procedure and standards for review and approval of applications in accordance with the provisions of MCL 125.3205 (3)-(7), enacted by Act 113, PA 2011 ("Act 113"). The following items add details from past Michigan litigation and court summations that will be useful for ultimate determinations as noted:

A. The provisions of Act 113 direct that the standards in *Silva v Ada Township*, 416 Mich. 153 (1982) ("*Silva*") shall be applied in reviewing an application to permit the extraction of natural resources. Based on the authority MCL 125.3202(1) to "provide by ordinance for the manner in which the regulations . . . shall be determined and enforced or amended," the Township finds that review and approval of a special land use for the extraction of natural resources would be most effective and efficient if based on the procedures and terms of this Section. Act 113 subsections make further clarifications:
   1. In subsection (3), an ordinance shall not prevent the extraction, by mining, of valuable natural resources from any property unless very serious consequences would result from the extraction of those natural resources. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting natural resources, can receive revenue and reasonably expect to operate at a profit.
   2. In subsection (4), a person challenging a zoning decision under subsection (3) has the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources by the person or in the market served by the person, and that no very serious consequences would result from the extraction, by mining, of the natural resources.

B. Act 113 at MCL 125.3205(4) requires the showing of "Need" for the resources to be extracted to be the *initial burden* that must be met by the applicant. The Michigan Court of Appeals explained that Need must be ascertained in order to know how to apply the "very serious consequences" standard. In the adoption of the "no very serious consequences" standard in its *Silvav Ada Township* opinion, the Michigan Supreme Court discussed a *variable level of public interest*, that is, need for the resources proposed to be extracted: "[t]he public interest of the citizens of this state who do not reside in the community where natural resources are located in the development and use of natural resources requires closer scrutiny of local zoning regulations which prevent development." 416 Mich at 160. A more detailed explanation on

this point was as provided by the Court of Appeals in *American Aggregates Corp v Highland Township*, 151 Mich App. 37, 42-46 (1986), where it was clarified that the public interest, that is, the "Need" factor, is required to inform the ultimate decision on "no very serious consequences," noting that the entire foundation of the stricter "no very serious consequences" test (as compared to the standard that applies to nearly all other uses) rests on the important public interest involved in extracting and using natural resources. Therefore, the degree and extent of need and demand for the extraction of the specific natural resources located on the applicant's land is an indispensable factor in reviewing the "no very serious consequences" issue. The Court referred to this as a sliding scale determination of whether "very serious consequences" exist in the landowner's specific situation. If the Need for a specific landowner's resource is very high, the consequences resulting from the extraction of the resource will not reach the level of "very serious" as readily as in the case where Need in the specific resource is relatively low. Accordingly, this Section 1613 A. makes provision for a preliminary determination on the extent of Need for the applicant's resources in order to inform the ultimate decision on whether the applicant's proposal would result in "very serious consequences."

C. Act 113 specifies that the "Need" for the natural resources shall be determined with regard to the need for the resources by the person or in the market served by the person. Need must be reviewed based on the extent that the particular natural resources proposed to be extracted from applicant's property can be reasonably supplied from other viable sources within the geographic area proposed to be supplied by the property at issue, that is, within the geographic area in which there would be other extractive operations available or already providing a supply of the same natural resources. The geographic area for this analysis is to be determined by considering factors including but not limited to the economic feasibility of transporting the natural resources to the locations of demand, as well as other factors relevant to feasibly providing a supply of the natural resources to the locations of demand.
    1. Act 113 specifies that the Township shall not prevent the extraction, by mining, of valuable natural resources from any property unless it would result in very serious consequences. The applicant shall have the initial burden of showing that no very serious consequences would result from the extraction, by mining, of the natural resources. In determining under this Section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied, as directed in Act 113.
    2. The applicable standards are explained in the holdings in cases interpreting *Silva v Ada Township*, such as, *American Aggregates Corp. v. Highland Township*, 151 Mich App. 37 (1986).
    3. The standards provided below are the standards in Act 113, with explanations to assist in the understanding of the applicable considerations by the Planning Commission, the applicant and the public, and shall guide interpretation and decision of "no very serious consequences" with regard to an application for special land use approval under this Section.
    4. Setbacks and other dimensions shown are minimum standards and the Township retains the discretion under its special use permit review authority to modify those standards based upon the input of experts such as mining experts, land use experts, sound engineers

and others who are employed by the Township to assist in the application review. In fact, the applicant should expect that many of the setbacks and other standard will be modified to protect the health, safety and welfare of neighboring property owners and others based upon expert review. The minimum standards cannot be changed to be less restrictive without a variance from the Zoning Board of Appeals.

D. Act 113 Standards of Review - The following guiding standards are provided. These are based on the standards and framework provided in Act 113, MCL 125.3205(5) (a)- (f) for the purpose of determining whether the applicant has proven that "no very serious consequences" would result from the applicant's proposed extractive operation and haul route. These standards are intended to assist the Township in reviewing an application under the Act113, and shall guide decision making on the ultimate decision on whether the applicant has proven that "no very serious consequences" would result from the applicant's proposed extractive use and haul route. The weight and relevance of each of these standards shall be determined by the Planning Commission in its discretion, taking into consideration the extent of Need and public interest in the specific natural resources proposed to be extracted from applicant's property, as well as all other relevant facts and circumstances. As part of the Township's review of the following standards as part of the "no very serious consequence" determination, the Township may retain its own various experts, and the applicant shall be responsible for the costs of these experts in accordance with the escrow provisions of this Zoning Ordinance. The guiding standards are as follows:

1. Existing Land Uses
    a. The relationship and impact of applicant's proposed use and associated activities with and upon existing land uses anticipated to be impacted, particularly those properties in the vicinity of the property and along the haul route(s).
    b. The impact upon the public health, safety, and welfare from the proposed use, including haul route(s), considering, among other things, the proposed design, location, layout and operation in relation to existing land uses.
2. Property Values
    a. The impact of applicants' proposed use and associated activities on property values in the vicinity of the property and along the proposed haul route(s) serving the property.
    b. The effect on the general demand for and value of properties in the Township anticipated to be caused by the proposed use, including use of the haul route(s).
    c. The impacts considered in this subsection 2) may take into consideration: the number and type of vehicles proposed; machines and equipment to be used in the operation; location and height of buildings, equipment, stockpile or structures; location, nature and height of walls, berms, fences and landscaping; and all other aspects of the proposed use.
3. Pedestrian and Traffic Safety
    a. The impact of the proposed use and associated activities on pedestrian and traffic safety in the vicinity of the property and along the proposed haul route(s) serving the property.
    b. Consistency with and authorization of the proposed use and haul route(s) under state, county, and/or local regulations that have been established for roadways, including regulations applicable to the use of roads for proposed haul route(s).

c. The impact of the proposed use, including haul route(s), on vehicular and pedestrian traffic, particularly in relation to hazards reasonably expected in the district(s) impacted, taking into consideration the number, size, weight, noise, and fumes of vehicles, vehicular control, braking, and vehicular movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and driveways and other means of access, off-street parking and provisions for pedestrian traffic. Consideration shall be given to the interaction of heavy vehicles used for the use with children, the elderly and people with disabilities.
d. Whether the proposed use and associated activities would result in a hazard to children attending schools or other activities within the Township.
e. Overall, the impact of the proposed use, including haul route(s), on children, older persons, and persons with disabilities, with consideration to be given to the extent to which such persons shall be required to forego or alter their activities.

4. Identifiable Health, Safety, and Welfare Interests
   a. If the property has been designated in the Master Plan as an appropriate site for heavy industrial use, this shall weigh in favor of the applicant under this provision, subject to consideration of the specific scope and impact of the operation and associated activities. Similarly, if the property has been designated in the Master Plan for non-industrial use, this shall weigh in favor of determining that the proposed Use would result in a very serious adverse consequence.
   b. The impact of applicants' proposed use and associated activities on identifiable health, safety, and welfare interests in the Township.
   c. The impact of the proposed use, including haul route(s), upon surrounding property in terms of noise, dust, fumes, smoke, air, water, odor, light, and/or vibration. In determining whether a proposed use amounts to a very serious consequence, the standards for the stated impacts contained within the Township's regulatory ordinance, as the same may be amended, will be considered, along with any one or a combination of components proposed for the use that have unique qualities relating to these impacts (such as crusher noise and vibration).
   d. The extent of the impact of the proposed use, including haul route(s), on economic development and on the character and features that defines the community, or on development in other units of government that will be impacted by the use, including haul route(s).
   e. The impact of the proposed use on the planning, functioning and spirit of the community, factoring into such consideration whether the proposed use would be likely to render the applicable regulations in the zoning ordinance on other properties in the area unreasonable. This review shall analyze whether the heavy industrial nature of the proposed use would undermine reciprocity of advantage by creating impacts and character that would raise a reasonable question whether residential zoning restrictions on area property would represent arbitrary limitations on the use and enjoyment of such area property.
   f. The operation of the proposed use, including the haul route(s), shall be evaluated in light of the proposed location and height of buildings or structures and location, nature and height of stockpiles, walls, berms, fences and landscaping, and all other

proposed aspects of the overall use, including whether such improvements would interfere with or discourage the appropriate development and use of adjacent land and buildings.

g. The extent to which the proposed use, including haul route(s), would be likely to cause limitations on the use and enjoyment of other property in the vicinity (zoning district or districts, as impacted) in which it is to be located and along the haul route(s), and the extent to which the proposed use would likely be detrimental to existing and/or other permitted land uses and future redevelopment in the manner specified in the Master Plan.
h. The extent to which the proposed use, including haul route(s), would likely be detrimental to the development of new land uses in the zoning districts impacted.
i. The burden from the proposed use, including haul route(s), on the capacity of public services, infrastructure, or facilities.
j. The burden of the proposed use, including haul route(s), on retail uses, arts and culture, equestrian activities, non-motorized vehicle travel or recreation, school use, parks, playgrounds, residential uses, and the likely creation of physical vulnerability or degradation of any uses and resources, including the creation of the need for added public or private expenditures for maintenance of buildings, structures, and infrastructure.
k. The extent to which the proposed use, including haul route(s), would cause diesel fumes, dust, truck noise or physical/mental health issues, including along the haul route(s).
l. The nature and extent of impact from the proposed use, including haul route(s), in relation to environmental resources in the Township, including air, ground water, surface water, soils, agricultural and farm usage, and wetlands. In determining impacts, the cumulative effect upon all environmental resources shall be evaluated.

5. Overall Public Interest in the Proposed Extraction
   a. The overall public interest in the extraction of specific natural resources on the property both in absolute terms and in relative terms in relation to the need for resources and the adverse consequences likely to occur.
   b. Public interest in the proposed use, as measured against any inconsistencies with the interests of the public as are proposed to be protected in Master Plan for the area to be impacted by the use and haul route(s).
   c. Public interest in the proposed extraction, as measured against any inconsistencies with regard to physical, historic, and economic interests in relation to the use and haul route(s).
   d. Public interest in the proposed extraction, as measured against any likely creation of valid environmental concerns, including without limitation impairment, pollution and/or destruction of the air, water, natural resources, and/or public trust therein.
   e. Public interest in the proposed extraction, as measured against public costs likely to be caused by the proposed use, including haul route(s), considering alternative supplies of natural resources.

Ordinance and Amendment Documentation:

Notices of Hearing published: July 28, 2026.
Public Hearing held: September14, 2026
Adoption of the Zoning Ordinance: October5 2026
Adopted by the Brown Township Board: October14, 2026
Copy on file with township clerk: October 5, 2026
Recommended for county review by Brown Township Planning Commission: September 2, 2026
Review by the Manistee County Planning Commission: October 2, 2026
Copy on file with county clerk:November 9, 2026

Topic: Amendment _____
(sent to atty: _____)
Notices of Hearing published: _____,.
Public Hearing held: _____
Recommended for county review by Brown Township Planning Commission: _____
Review by the Manistee County Planning Commission: _____
Recommended by Brown Township Planning Commission. _____
Adopted by the Brown Township Board: _____
Effective Date: _____(Published, in the *News Advocate*, _____
Copy on file with township clerk:
Copy on file with county clerk:
Copy provided to county planning commission:

Topic: Amendment _____
(sent to atty: _____)
Notices of Hearing published: _____,.
Public Hearing held: _____
Recommended for county review by Brown Township Planning Commission: _____
Review by the Manistee County Planning Commission: _____
Recommended by Brown Township Planning Commission. _____
Adopted by the Brown Township Board: _____
Effective Date: _____(Published, in the *News Advocate*, _____
Copy on file with township clerk:
Copy on file with county clerk:
Copy provided to county planning commission:

Severability

This Ordinance and the various parts, sections, sub-sections, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, sub-section, phrase or clause is adjudged unconstitutional or invalid, it shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each section, sub-section, phrase, sentence, and

clause therefore irrespective of the fact that any one or more sections, sub-section, phrases, sentences, or clauses be declared invalid.

Repeal

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but only to the extent of such conflict or inconsistency.

Effective Date

This Ordinance was adopted by unanimous vote and declared as passed by the Brown Township Board at a regular meeting held on the 14th day of October 2026. The Township Clerk shall cause a copy of this Ordinance to be published on the Brown Township website (www.browntownshipmi.com/residentinformation).

Certification

I, the undersigned, the duly qualified and acting Clerk of Brown Township do hereby certify that the foregoing is a true and complete copy of the Ordinance adopted by the Brown Township Board at the regular meeting held on the 14th day of October 2026. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, being Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting. The original copy of which is on file in my office and a copy of the Ordinance can be located at the Brown Township website, or if needed shall be made available for public use and inspection at the office of the Brown Township Clerk.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this _____day of October 2026.

_____

Deborah Knutson, Clerk Brown Township