BAY TOWNSHIP ZONING ORDINANCE

As Amended Through
January 2024



Bay Township
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Bay Township Zoning Ordinance

Current Text

Bay Township
Charlevoix County, Michigan

Note: This document exists to provide easy reference to the Bay Township Zoning Ordinance, as amended through January 2024. It is qualified in its entirety by the exact text of the relevant ordinances adopted by the Bay Township Board of Trustees. All users are encouraged to consult the exact text of:

Amendment Adoption Date	Amendment Description
December 17, 1997	Bay Township Zoning Ordinance
February 12, 1999	Amendment No. 1 – Replaced Article XVII "Nonconforming Uses" in its entirety with new language under the Article title "Nonconforming Uses, Structures, and Lots"
March 29, 2000	Amendment No. 2 – Charles & Cheryl Robison Rezoning
DID NOT BECOME EFFECTIVE	Amendment No. 3 – Certain Text Changes pertaining to inoperable motor vehicles, dumping of rubbish and waste matter, and accessory buildings. DID NOT BECOME EFFECTIVE. Defeated through referendum on Nov. 7, 2000.
February 6, 2002	Amendment No. 4 – Regulation of Bed & Breakfast Facilities
July 3, 2002	Amendment No. 5 – Revised Article 4.7 "Accessory Buildings in Agricultural Zoning District"
July 3, 2002	Amendment No. 6 – Revised Article 5.4 table for "Lot Area, Lot Width & Setback Requirements"
July 3, 2002	Amendment No. 7 - Revised Article 5.4 table for "Lot Area, Lot Width & Setback Requirements"
July 3, 2002	Amendment No. 8 – Revised Article 3.2 definition of "Setback"
July 3, 2002	Amendment No. 9 – Revised Article 3.2 definition of "Lot Line, Front" and Article 6.5a "Waterfront Setbacks"
November 30, 2005	Amendment No. 10 – Revised entire Article XVII "Nonconforming Uses, Structures and Lots"
November 30, 2005	Amendment No. 11 – Revised Article 3.2, added definitions for "Building Footprint, Building Demolition, Remodeling, Spatial Building Envelop"
March 26, 2008	Amendment No. 12 – Revised Article 5.4, revising "Lot Area, Lot Width and Setback Requirements" table and notes
March 26, 2008	Amendment No. 13 – Revised entire Article XI "Planned Unit Development (PUD) Overlay"
January 14, 2010	Amendment No. 14 – Revised entire Article III "Definitions"
January 14, 2010	Amendment No. 15 – Revised Article IV, Sections 4.7, 4.8, 4.19, 4.27, 4.28, 4.30
January 14, 2010	Amendment No. 16 – Revised Article 5.4 notes section
January 14, 2010	Amendment No. 17 – Revised entire Article VI "Waterfront Overlay District"
January 14, 2010	Amendment No. 18 – Revised Article XI, Section 11.1, Subsection 11.2.c, Section 11.6 steps 3, 4, 6, 6a & 7, Subsections 11.7.2, 11.8.a.1, 11.8.a.2, 11.8.a.5.ii & iii, 11.8.a.8, 11.8.a.10, 11.8.a.13, 11.8.a.14, 11.8.a.15, 11.8.b.2, Section 11.10 and add new Sections 11.14, 11.15 and 11.16
September 9, 2010	Amendment No. 19 – Revised Article III definitions of "Accessory Building" and "Structure"
September 9, 2010	Amendment No. 20 – Revised Article 4.7 by deleting the entire section of 4.7a "Accessory Buildings".
June 9, 2011	Amendment No. 21 – Revised Article III definitions of "Accessory Building", "Structure" and created a new definition for "Pump House".

Amendment Adoption Date	Amendment Description
July 12, 2012	Amendment No. 22 – Revised Article III definitions; deleted "Garage, Private" and "Garage, Public", and add new definitions for "Garage", "Garage, Attached" and "Garage, Detached".
July 12, 2012	Amendment No. 23 – Replace Article 4.7 "Accessory Buildings" in its entirety.
July 12, 2012	Amendment No. 24 – Revised Article 6.3.b "Waterfront Areas Regulated" by deleting entire section and replacing with revised language.
July 12, 2012	Amendment No. 25 – Revised Article 6.4.c & h "Development Standards: Building Height & Additional Standards" by deleting each section and replacing with revised language.
July 12, 2012	Amendment No. 26 – Revised Article XIV, Section 14.9 "Dimensional Variances" by deleting entire section and replacing with revised language.
October 9, 2014	Amendment No. 27 – Revised Article III, Article IV Section 4.4 and new Section 4.32 "Shared Driveways and Private Roads", Article XI Section 11.6, Step 5, item 4, Section 11.8, subsection a.7, and Section 11.8, subsection a.11
April 9, 2015	Amendment No. 28 – Revised Article IV Section 4.7a "Accessory Buildings" and Article VI Section 6.4 subsection a.2 by allowing accessory buildings in Front Yard with a 100-FT setback and not occupy more than 30% of the front yard.
April 9, 2015	Amendment No. 29 – Revised Article V Section 5.4 (the chart) revising Agricultural Zoning District side yard setback to 15-FT.
April 9, 2015	Amendment No. 30 – Revised Article XI Section 11.13 "Minor Modifications to an Approved PUD" subsection a by adding two more criteria for a minor modification to an approved PUD.
July 9, 2015	Amendment No. 31 – Revised Article XIV Zoning Board of Appeals by deleting entire section and replacing with revised language.
March 10, 2016	Amendment No. 32 – New Article IV Section 4.33 "Special Events & Activities" and new Articles VIII, Section 8.3.f
June 9, 2016	Amendment No. 33 – Revised Article XV Signs by deleting entire section and replacing with revised language, and also updates to Articles III, IV and XI pertaining to signs.
June 9, 2016	Amendment No. 34 – Revised Article IV Section 4.29.c "Cellular Telephone Tower Regulations" by reducing maximum height to 179-FT.
September 28, 2017	Amendment No. 35 – Revised Articles IV, VII, VIII, IX, and XII pertaining to Accessory Buildings on Vacant Land, by Special Use Permit.
November 16, 2017	Amendment No. 36 – Revised Articles III, IV, VII, VIII, IX, and XIII pertaining to allowing Accessory Dwelling Units (ADU) by special use permit.
February 14, 2019	Amendment No. 37 – Revised Articles III, IV, and V. New Article 5.5 added which are illustrations (A-E) intended to further clarify the dimensional zoning requirements for residential and agricultural parcels in Bay Township.

Amendment Adoption Date	Amendment Description
September 12, 2019	**Amendment No. 38 – Revised Articles XI, XII, XVI, and XIX. Included flow charts to illustrate processes contained in Articles. Changed title of Section 11.4 and text in Section 11.6 to reflect flow chart. Deleted "Attachment A PLANNED UNIT DEVELOPMENT (PUD): REVIEW PROCESS, Article XI 11.6" in its entirety.**
September 12, 2019	**Amendment No. 39 – Corrected an illustration error on the Bay Township Zoning Map dated 08/02/2000 by rezoning specific parcels in the Bear Cove area.**
December 12, 2019	**Amendment No. 40 – Revised Article XIII Special Uses, Section 13.1 Purpose to add item e. requiring the applicant of a special use permit file the approval and finding of fact with the Register of Deeds within 45 days of approval.**
January 14, 2021	**Amendment No. 41 – Established the geographic boundaries of the Village Overlay Zoning District on the Zoning Map, revised Section 9.2 Permitted Uses and Section 9.3 Special Uses, established design standards in Section 9.6 Village Design Standards, additional minor text changes in Article IX, and corrections to accessory buildings with and without a principal use in all other zoning districts.**
January 11, 2024	**Amendment No. 42 – Revised Article XVII Nonconformities intended to clarify for better understanding issues associated with changes to nonconforming properties, such as rebuilds/renovations after damage or additions to structures. Effective January 26, 2024.**

BAY TOWNSHIP ZONING ORDINANCE

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Article I
Title and Legal Basis

1.1 Title

This ordinance shall be known and may be cited as the "Bay Township Zoning Ordinance."

1.2 Legal Basis

This ordinance was adopted pursuant to the provisions of the Township Zoning Act (P.A. 184 of 1943, as amended).

1.3 Severability

The provisions of this Ordinance are severable. If any provision is held unconstitutional by any court, such holding shall not impair or affect the remaining provisions of this ordinance.

1.4 Repeal of Previous Zoning Ordinance

This ordinance repeals and replaces any previous Bay Township Zoning Ordinance in its entirety.

Article II
Purpose, Interpretation and Effective Date

2.1 Purpose

The purpose of this ordinance is to promote and preserve the health, safety, security, and general welfare; to provide for the orderly development of the township; to encourage the use of the lands and resources in accordance with their character and adaptability; to limit and discourage the improper use of lands, buildings and other structures; to create and maintain safe and favorable conditions for living, economic activity, and recreational activities; to reduce hazards to life and property; to provide, in the interests of health and safety, standards under which certain buildings and structures may be erected and used; to stabilize and enhance property values; to provide for safety of vehicular traffic on public roadways and in public and private parking areas; to establish minimum standards and regulations applicable to open spaces, lot and parcel size, the location and use of buildings and structures, and the development of land for residential, commercial, recreational, industrial, institutional, public and other purposes; to facilitate the development of adequate systems of transportation, fire protection, education, recreation, sewage disposal, safe and adequate water supplies, and other public requirements; to conserve life, property and natural resources, and the use of public funds for public services and improvements to conform with the most advantageous use of land, resources and properties; and to provide standards and regulations intended to assist with implementation of the Bay Township Land Use Plan.

2.2 Interpretation

This ordinance is not intended to repeal, annul or impair existing provisions of other laws or ordinances, or any private restrictions placed upon property by covenant, deed or other private agreement.

When this ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings and structures, or on lot coverage, or where this ordinance requires greater lot areas or larger yards or other open spaces than required by other laws, ordinances or private restrictions, the provisions of this ordinance shall prevail.

2.3 Effective Date

This Ordinance, in its original form, became effective seven days after the date of its publication in summary form on December 10, 1997 in The Citizen, a newspaper of general circulation in the Township.

Article III
Definitions

3.1 General Interpretation

For the purpose of this Ordinance, words used in the present tense include the future tense, words used in the singular include the plural, and words in the plural include the singular.

The term "shall" is always mandatory and not discretionary. The term, "the Township" shall mean Bay Township in Charlevoix County, Michigan.

Any word or term not defined shall be defined by common or standard usage.

The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."

3.2 Definitions

100-year Flood Plain - The plain along waters within Bay Township having 1-percent chance of being equaled or exceeded in any given year. The MDEQ 100-year flood plain elevation for Lake Charlevoix is 584.2 feet above mean sea level (msl) (NGVD 1929). The MDEQ 100-year flood level for Walloon Lake is 590.5 feet above msl (NVGD 1929).

Accessory Use - A use of land that is customarily incidental and subordinate to the principal use of a lot and that is located on the same lot on which that principal use is located.

Accessory Building - A freestanding building that is located on a lot on which a principal use and/or principal building is located and that is devoted to and occupied by a use that is customarily incidental and subordinate to the principal use and/or principle building. Examples of accessory buildings include, but are not limited to, detached residential garages, sheds, greenhouses, gate houses, and barns.

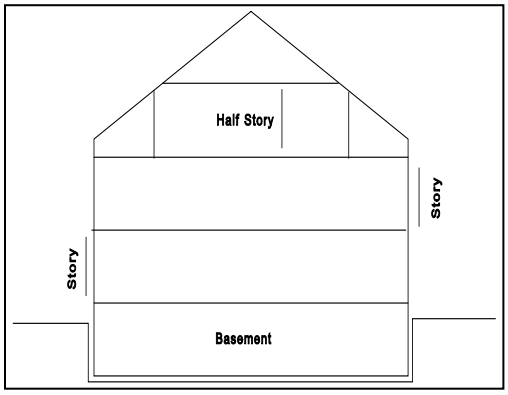
Accessory Dwelling Unit (ADU) - An ADU is an incidental and subordinate dwelling unit which provides living quarters in a permanent structure for one individual or a family that is on the same lot, but is separate from the primary dwelling unit. An ADU may be incorporated in an existing dwelling or a new dwelling unit through a special use permit.

Adjoining Lots and Parcels - Includes lots and parcels separated by highways, roads, streets, rivers, streams, wetlands, public utilities, and easements.

Agriculture - See Farm and Bone Fide Agricultural Operation.

Applicant - A person, firm, association, partnership, corporation, or combination thereof which may hold any divisible interest in land, whether recorded or not, who is seeking approval for development, change and/or use of property pursuant to this Ordinance.

Basement - That portion of a building partly below the grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.



Board of Trustees - The elected, legislative body consisting of the Bay Township board as established by the Michigan Constitution of 1963.

Bed and Breakfast Facility - Any single-family dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation.

Boarding House - A single-family dwelling where lodging and meals are furnished to three or more persons on a weekly or monthly basis

who are not members of the family occupying the dwelling.

Bona Fide Agricultural Operation - An agricultural or silvicultural operation that is active and intended for the commercial production of farm products.

Buildable Area - The area upon a lot where a principal building or structure and any attached or detached accessory structures are allowed to be constructed.

Building - A structure, either temporary or permanent, having a roof supported by columns, walls, or other supports, which is used for housing, storing, enclosing or sheltering persons, animals, chattel, or personal property, or for conducting business activities or other similar uses.

Building Demolition - Any act or process, which destroys or obliterates greater than fifty percent (50%) of a structure or feature, including architectural or design details.

Building Footprint - The portion of the lot, parcel, or plot upon which a building is placed, including any eaves and/or extensions.

Building Height - The lineal U.S. feet measured from the average finished grade around the building perimeter to the highest point of a building or structure, excluding chimneys.

Building, Principal - A building in which the principal use of a lot is conducted.

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

Condominium Unit or Site Condominium Unit - That portion of a condominium project designed and intended for separate ownership interest and used as described in the Master Deed and Condominium Act.

Condominium Subdivision - A division of land, such as planned unit development or site condominium, on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act (P.A. 591 of 1996, as amended).

Corridor View of Waters - The ability to observe a reasonable portion of the water of a lake, river, or stream through a least intrusive consolidated corridor and selective removal or trimming of trees, shrubs, or other vegetation within the natural vegetative strip that does not impair the underlying purposes of the natural vegetative strip.

Development or To Develop - The creation of new building sites, construction of any new building or other structure on a lot, the relocation of any existing buildings, or the use of a lot for any new use including planned unit development or site condominium.

Dock - A temporary or permanent structure, built out into and over the water, floating and/or supported by pillars, pilings, or other supporting devices.

Drive-in Establishment, Drive-Through Establishment - A business which offers goods or services to customers while in motor vehicles.

Drive-in Restaurant - A business establishment which by design of physical facilities permits or encourages the purchase of prepared ready-to-eat foods by customers while remaining in their motor vehicles.

Driveway, Shared - A vehicular way to provide ingress or egress to a maximum of three lots, parcels or site condominium units.

Dwelling - A building, or portion thereof, providing complete independent living facilities for one (1) family for residential purposes, including permanent provisions for sleeping, heating, cooking, and sanitation, including apartments, accessory dwelling units. Accessory buildings, tents, temporary structures, automobiles, school buses, and recreational vehicles are not considered to be dwellings under this definition.

Dwelling, Single Family - A building, or portion thereof, containing one (1) dwelling designed for occupancy by one (1) family.

Dwelling, Two Family - A building, or portion thereof, containing two (2) dwellings designed for occupancy by two (2) families living independently of each other.

Dwelling Multiple Family - A building, or portion thereof, containing three (3) or more dwellings designed for occupancy by three (3) or more families living independently of each other.

Earth Change - An artificial change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state. Prior to engaging in any earth change activity within five-hundred (500) feet of a lake, river or stream, a valid soil erosion and sedimentation control permit is necessary from the Charlevoix County Soil Erosion and Sedimentation Control Officer.

Environmental Areas - Areas of sensitive fish and wildlife habitat as defined by Michigan's Part 323: Shorelands Protection Act, Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Essential Services - The erection, construction, alteration, or maintenance by public utilities, as defined herein, or by municipal departments, boards or commission, of underground, surface or overhead natural gas, electrical, communications (other than cell towers), steam or water transmission or distribution systems, collection, supply or disposal systems. These systems include but are not limited to the poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, electric substations, communications buildings and structures, natural gas regulator stations, fire stations, and other similar equipment and accessories in connection therewith, including buildings necessary to house the foregoing that are reasonably necessary for the furnishing of service by such public utilities or municipal departments, boards, or commissions or are reasonably necessary for the protection of the public health, safety, and/or general welfare.

Family - An individual, a collective number of individuals related by blood, marriage, adoption, or legally established relationships such as guardianship or foster care, or a collective number of unrelated individuals whose relationship is of a permanent or distinct domestic character who occupy a single dwelling and live as a single nonprofit housekeeping unit with single culinary facilities. A family, however shall not include any society, club, fraternity, sorority, association, lodge or group of individuals, whether related or not, whose association or living arrangement is temporary or resort-seasonal in character or nature.

Farm - All the land operated as a single unit on which bona fide agricultural operations are carried on directly by the owner or by his or her agent or by a tenant farmer. For the purpose of this Ordinance, farms may be considered as including greenhouses, nurseries, orchards, livestock and poultry operations, Christmas tree farms ands other silviculture, and apiaries and other similar activities. The words "agriculture" and "farming" are considered synonymous. Farms do not include concentrated animal feeding operations or other industrial agricultural operations; establishments keeping or operating fur-bearing animals; dog kennels; slaughter houses; stone quarries or gravel or sand pits; unless combined with and constituting only a minor part of *bona fide* farm operations on the same contiguous tract of land. Nor shall the premises be operated as fertilizer works, bone yards, piggeries or for the reduction of animal matter, or for the disposal of garbage, sewage, rubbish, offal or junk constitute a farm hereunder.

Farm Building - Any building or structure other than a dwelling that is located on a farm and used for the storage of farm equipment, supplies, products or animals, or used for the maintenance of farm equipment.

Farm Product - Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture.

Filtered View of Waters - The ability to observe a reasonable portion of the water of a lake, river, or stream through the least intrusive and selective removal or trimming of trees, shrubs, or other vegetation within the natural vegetative strip that does not impair the underlying purposes of the natural vegetative strip.

Floor Area - The area of all floors computed by measuring the dimensions of the outside walls of a building excluding porches, patios, basements, terraces, breezeways, carports, verandas, attached garages, accessory buildings, and attics having headroom of less than seven (7) feet.

Garage - A permanent building designed and used primarily for vehicle parking and storage and is intended for the primary use of the residents of a dwelling. The building may be attached or detached from a dwelling.

Garage, Attached - A garage that physically abuts or is connected to a dwelling by means of a permanent roofed structure.

Garage, Detached - A garage that does not physically abut a dwelling.

Gasoline Service Station - A business enterprise which, in addition to the dispensing of vehicular fuels, may offer to perform automobile maintenance, service or repair by the business owner or owner's representatives and may sell merchandise, such as convenience foods and sundries not related to the maintenance, service or repair of vehicles.

Grade - The average level of the finished surface of the ground measured around the perimeter immediately adjacent to the exterior walls of a building or structure.

Hobby Farm - A lot occupied by a single-family dwelling and used for the production of food, fiber, and/or livestock for the personal enjoyment and consumption by those living on the premises.

Home Occupation - Any profession or other occupation conducted in a dwelling which is clearly incidental and secondary to the use of the lot and dwelling for residential purposes, and which conforms to the provisions of Section 4.29.

Hotel - See Motel.

Impervious Surface - Developed portions of a parcel that preclude or inhibit the infiltration of precipitation or stormwater runoff. Impervious surfaces are typically covered by roofs, asphalt or concrete, compacted gravel, or compacted soil, and include but are not limited to building envelopes/footprints, parking areas, driveways, walkways, pathways, patios, etc. Impervious surfaces do not include such areas covered with pervious surfaces such as pervious pavements, pavers, block, etc.

Inoperable Motor Vehicle - Any vehicle made to be propelled by a motor or engine, which is no longer in operating condition.

Junk - Worn out and/or discarded material whether or not it may be returned to some use.

Junk Yard or Salvage Yard - A lot where junk, waste, discarded, salvaged or salvageable materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to wrecked motor vehicles, used motor vehicles, used building materials and equipment, and other manufactured goods that are worn, deteriorated, or obsolete.

Kennel - Any place keeping or harboring three (3) or more dogs greater than four (4) months of age on a parcel of land, which is not an animal hospital.

Lake - As used in this ordinance refers to the definition of inland lake found within the Michigan Inland Lakes and Streams Act, Part 301 of P.A. 451 of 1994, as amended.

Land Division - The process of dividing a Parent Parcel into lots in accordance with the Bay Township Land Division Ordinance and the Michigan Land Division Act, Act 288 of 1967 as amended; MCL 560.101 et seq. (the "Land Division Act").

Lot - A measured portion of land that is described and fixed in a platted subdivision, a limited common element within a site condominium project, or a parcel of land described by metes and bounds, and that is not divided by a public highway or alley. The word "lot" has the same meaning as "tract" and "parcel."

Lot, Corner - A lot which has frontage on two intersecting public or private roadways, provided that such roadways have an interior angle of intersection of less than 135 degrees.

Lot, Flag - A lot having minimal frontage on a public or private street right-of-way, and having access to such street along a narrow strip of land owned by the owner of the flag lot.

Lot, Through - A lot other than a corner lot having frontage on two non-intersecting public or private roadways.

Lot Line, Front - That line separating a lot from a public or private road right-of-way. On a corner and through lots, the lot lines separating such lots from road rights-of-way are front lot lines. On waterfront lots, the ordinary high water mark or stream bank is considered the front lot line.

Lot Line, Side - That line that is neither a front or rear lot line.

Lot Line, Rear - That property line which is opposite and most distant from the front lot line. On a corner lot, the Zoning Administrator shall determine a property line, other than a front lot line, that will be the rear lot line. In the case of a non-residential corner lot, or permitted non-residential use in a residential zoning district, the Planning Commission shall determine which property line, other than a front property line, will serve as the rear lot line.

Lot Coverage, Percentage of - The percentage of a lot's area covered by impervious surfaces including buildings, driveways, parking areas, porches, breezeways, patios, decks, and other structures.

Lot of Record - A lot which was recorded in the Office of the Register of Deeds before the effective date of this Ordinance or any amendments of this Ordinance.

Lot, Waterfront - A lot having frontage on or physically abutting a lake, stream, river, creek or other water body as defined by Part 301: Inland Lakes and Streams Act of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Lot Width - The horizontal straight-line distance between the side lot lines measured at their points of intersection with the front building setback line.

Lot Width, Waterfront - The horizontal straight-line distance between the side lot lines measured as shown in the waterfront illustration in Section 5.5(c).

Master Deed - The legal document prepared and recorded pursuant to the Michigan Condominium Act, Act 59 of 1978, as amended; MCL 559.101 et seq. (the "Condominium Act") within which are, or to which is attached as exhibits and incorporated by reference, the approved bylaws for the project and the approved condominium subdivision plan for the project.

Mobile Home - A single family dwelling unit of a type and quality conforming with the United States Department of Housing and Urban Development mobile home construction and safety standards, which is transportable in one or more sections and designed to be used as a dwelling with or without a permanent foundation. A mobile home is not a recreational vehicle.

Mobile Home Park - A parcel or tract of land on which three (3) or more mobile homes are located, regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a mobile home.

Motel - A business establishment providing lodging for the traveling public with parking facilities contiguous to the motel building. A motel may or may not provide food service or restaurant facilities. For the purpose of this ordinance "motel" and "hotel" are synonymous.

Nonconforming Building or Structure - A building, structure, or portion thereof that lawfully existed before the effective date of this Ordinance, or any amendments of this Ordinance, and does not meet the floor area, setback, parking or other dimensional regulations for the zoning district in which such building or structure is located.

Nonconforming Lot of Record - A lot which lawfully existed on the effective date of this Ordinance or lawfully exists on the effective date of any amendment to this Ordinance that is applicable to the lot and which fails to conform to the dimensional regulations of the zoning district in which it is located.

Nonconforming Use - A use which lawfully existed before the effective date of this Ordinance, or any amendments of this Ordinance, that does not conform to the use regulations of the zoning district in which such land is located.

Ordinary High Water Mark (OHWM) - The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and vegetation; or the ordinary high water mark for a water body as determined by the Charlevoix County Circuit Court as defined by the Inland Lake Level Act, Part 307 of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended. For the purposes of this Article, the OHWM of Lake Charlevoix shall be considered as 581.5 feet above mean sea level (IGLD 1985) and the OHWM of Walloon Lake shall be 686.8 feet above mean sea level. Also known as the "shoreline" for the purposes of this Article.

Owner - Any person or group of persons who holds an ownership interest in land.

Parcel - A lot**.**

Parent Parcel - Any legally created parcel of land created before the adoption of this Ordinance, and before the Bay Township Land Division Ordinance, from which Sublots, Subparcels, Remaining Parcels or Site Condominiums are created.

Parking Area - An on-premise parking lot, together with entrance drives, access drives and circulation aisles.

Person - An individual, firm, corporation, association, partnership, limited liability company, trust, estate, or other legal entity.

Planning Commission - The appointed land use planning body consisting of the Bay Township Planning Commission as enabled by the Michigan Planning Enabling Act, P.A. 33 of 2008 (MCL 125.3301 et seq.).

Principal Use - The use of the property which is the main use to which the building or premises is devoted.

Public Utility - A firm or corporation granted a franchise by the Township to provide service and to use public rights-of-way in the Township, or a municipal department, board or commission, furnishing electricity, natural gas, steam, telephone, transportation, sewage collection and disposal, or water supply distribution.

Pump House - A structure in which irrigation pumps are installed for irrigation purposes that is not larger than 4-FT high by 4-FT wide and 4-FT deep.

Recreational Vehicle - Any motorized or non-motorized vehicle that is designed and intended for use as a temporary living quarters for recreational, camping, or travel purposes and that is built on a single chases mounted on wheels, and is certified by the manufacturer as complying with the American National Standards Institute Standard A119.5 as defined by the Michigan's Part 125: Campgrounds Act, Public Health Code, P.A. 368 of 1978 as amended, R333.1250(1)(f). Recreational vehicles as defined in this Ordinance include trucks and truck-mounted campers.

Remodeling - The act or process of renovating, reconstructing, rebuilding a structure, site or feature through repair or alteration. Removal of more than 50% of the structure's perimeter walls or removal of more than 50%

of the existing floor area of any building shall constitute demolition.

Resort - A business establishment that provides temporary lodging accommodations, with or without meals and other services, for the traveling public. Resorts may provide lodging accommodations in a single building having several separate lodging accommodations, or in separate buildings, each providing an individual lodging accommodation.

River - As used in this ordinance refers to the definition of rivers, streams, creeks, etc. found within the Michigan Inland Lakes and Streams Act, Part 301 of P.A. 451 of 1994, as amended.

River Bank - The line along rivers, streams, creeks between an upland and river bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and vegetation.

Road, Pre-existing Private - A Private Road created prior to the adoption of the former Bay Township Private Road Ordinance No. 16 of June 2000.

Road, Private - Any road or thoroughfare for vehicular traffic serving more than three lots, parcels or site condominiums that is privately owned and maintained, and that provides the principal means of access to abutting properties.

Road, Public - Any road, street or thoroughfare for vehicular traffic that is publicly owned and maintained, and that provides the principal means of access to abutting properties.

Roadside Stand - A farm building or structure used for the display or sale of agricultural products grown or produced on the farm on which the stand is located.

Setback - The minimum straight-line horizontal distance from an applicable lot line or right-of-way within which no building or structure can be placed, except as otherwise provided for in this Ordinance.

Setback, Front - The required setback measured from the front lot line or ordinary high water mark.

Setback, Rear - The required setback measured from the rear lot line.

Setback, Side - The required setback measured from a side lot line.

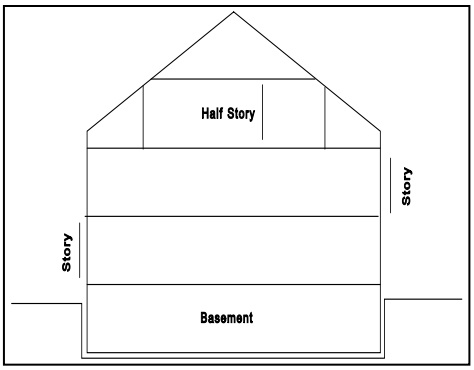
Sign - A structure, device, letter, word, model, figure, symbol, product, banner, balloon, flag, pennant, streamer, insignia, emblem, logo, painting, poster, or some quantity or combination of the above which is visible from a public place and is intended to direct public attention to a product, service, place, activity, person, institution, business, solicitation, or otherwise convey a message to the public.

Soil Erosion and Sedimentation Control Act Agency - The Soil Erosion and Sedimentation Control Officer, Charlevoix County enforcing the provisions of Part 91: Soil Erosion and Sedimentation Control Act; Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Spatial Building Envelope - The three dimensional configuration of the building's volume and mass. The volume of space ("envelope") within which a building may be placed on a site. It is the space inside which a proposed structure can be located or oriented, so long as no part of the structure penetrates any imaginary planes of the envelope.

Steep Slopes - An area of land with an elevation that deviates from the horizontal plan by eighteen (18) percent or more and that is calculated as the ratio of vertical rise divided by horizontal run.

Story - That portion of a building between the surface of any floor and the ceiling next above it.



Stream - A waterway as defined by Part 301: Inland Lakes and Streams Act of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Structure - Anything constructed or erected, the use or placement of which requires a more or less permanent location on the ground or attachment to something having a permanent location on the ground. Examples of structures include but are not limited to buildings, outdoor boilers, billboards, communications apparatus, permanent outdoor displays, swimming pools, gazebos, sheds, storage bins, children's play houses, sports courts, pet accommodations, and wind energy conversion systems (WECS). Fences, signs, sidewalks, driveways, pump houses, water supply well heads, septic systems, light posts, utility poles and roads are excluded from the definition of structure.

Swimming Pool - An accessory use that is located out-of-doors that contains water over 24 inches deep, and that is used, or is intended to be used, for swimming or recreational bathing. This definition includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

Tract - A lot.

Township - The term "Township" shall be interpreted to mean Bay Township in Charlevoix County, Michigan.

Use - Any purpose for which a building or structure or lot may be designed, arranged, intended, maintained or occupied, or any activity, occupation, or business enterprise carried on, or intended to be carried on in a building, structure, or upon a lot.

Vegetated Buffer - A natural or landscaped area located within a waterfront setback, along the perimeter of a building, parking area, storage area or other improvement that is preserved or created to eliminate or mitigate land use conflicts between adjoining properties and/or incompatible land uses, and improve or maintain water quality.

Watercourse - A watercourse or waterway or water body as defined by Part 301: Inland Lakes and Streams Act of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Wetland - A wetland as defined by Part 303: Wetland Protection Act of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Yard - The space between a principal building footprint and a lot line.

Yard, Front - The yard between the principal building and the front lot line extending across the entire width of the lot. In the case of waterfront lots, the front yard shall be located between the ordinary high water mark or waterfront property line and the nearest portion of the principal building.

Yard, Rear - The yard between the principal building and the rear lot line extending across the entire width of the lot. On waterfront lots, the rear yard is located between the road right-of-way (rear lot line), and the nearest portion of the principal building.

Yard, Side - A yard between the principal building and a side lot line extending between the front yard and the rear yard. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest portion of a principal building.

Zoning Administrator - The Bay Township Zoning Administrator.

Zoning Board of Appeals - The appointed interpretive body consisting of the Bay Township Zoning Board of

Appeals (also referred to as the "ZBA") as enabled by the Michigan Zoning Enabling Act, P.A. 110 of 2006 (MCL 125.3101 et seq.).

Article IV
General Provisions

4.1 Extent
The regulations contained in this Article shall apply to all zoning districts and all uses except as otherwise noted.

4.2 Effect
Except as otherwise noted no building, structure or lot in the Township shall be developed, used, or occupied, and no building or structure shall be built, moved, reconstructed, extended, enlarged, or altered except in compliance with the provisions of this Ordinance.

No lot, yard, parking area, or other required space shall be divided, altered, reduced or diminished as to an area or dimension less than the minimum area or dimension required by this Ordinance, except where such reduction may be necessitated by the expansion or acquisition of public rights-of-way for a street, road or highway.

If a required area is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

4.3 Unlawful Uses Not Authorized
Nothing in this ordinance shall be construed as authorization for, or approval of the continuance of the unlawful use of a building, structure, or land on the effective date of this ordinance or any amendment thereto.

4.4 Frontage on Public or Private Roads, or Access via legal easement
No zoning permit will be issued for construction of a structure on a lot, unless the lot has legal frontage on a public road, a private road or the applicant provides documentation of the recorded easement providing legal access to the parcel. This regulation applies to site condominium and planned unit development projects, as well as platted or unplatted lots.

4.5 Principal Use of Property
Except as permitted elsewhere in this Ordinance, no more than one principal use shall be established on any single lot.

4.6 Principal Use Required
No accessory building or structure shall be constructed on any lot on which there is no principal use, unless the terms outlined in Section 4.7(g) are met.

4.7 Accessory Buildings

a. Accessory buildings in all Zoning Districts must be in the side or rear yard and shall not occupy more than thirty percent (30%) of any side or rear yard, except:
    I. In the Agricultural Zoning District, accessory building(s) are permitted in the front yard(s) as long as such building(s) are not less than one hundred feet (100') from the front property line and shall not occupy more than thirty percent (30%) of the front yard(s).
    II. In the Residential Zoning District, accessory building(s) are permitted in the front yard(s) as long as such building(s) are not less than seventy feet (70') from the front property line and shall not occupy more than thirty percent (30%) of the front yard(s).
    III. In the Waterfront Overlay District, accessory building(s) are permitted in the front yard(s) as long as such building(s) are not less than sixty-five feet (65') from waterfront property line and shall not occupy more than thirty percent (30%) of the front yard(s).

b. Accessory buildings shall not be used or occupied for dwelling purposes on a temporary or permanent basis, and shall not be used or occupied for business purposes except as expressly permitted by this Ordinance.

c. Accessory buildings may not be located closer to any side or rear lot line than the principal building is permitted, with the exception for accessory buildings having less than 120 square feet of floor area, which may be located not less than ten feet from a side or rear lot line.

d. The distance between an accessory building in excess of 120 square feet and any principal building shall be not less than ten (10) feet.

e. On platted or unplatted lots less than two acres in size, the total aggregate area of accessory buildings shall not exceed the total building footprint area of the principal structure.

f. On lots less than two acres in size, the total aggregate area of accessory buildings shall not occupy more than ten percent (10%) of the total lot area. On lots two acres or more in size, the total aggregate area of all structures and impervious surfaces shall not occupy more than twenty percent (20%) of the total lot area.

g. This subsection is to provide the opportunity to establish accessory buildings without a principal structure through a special use permit so long as the use is consistent with existing and surrounding uses. This provision shall not allow new uses that are commercial in nature. In all zoning districts, accessory buildings without a principal structure may be established through a special use permit, subject to the provisions of Article XIII, and the following requirements:
    1. The accessory building is consistent with surrounding uses, based on the following considerations:
        a. The building is well-screened from public view;
        b. The building is an appropriate size compatible with surrounding buildings;
        c. The use is compatible with surrounding uses;
        d. The placement of the building is appropriate relative to surrounding roads, buildings, and natural features; and
        e. The outdoor storage of goods and/or materials of any kind is prohibited unless screened if the Planning Commission finds that such screens are necessary to mitigate any adverse impacts outdoor storage may have on adjoining properties and road rights-of-way.
    2. A future development envelope for a principal structure is preserved in full compliance with all applicable setback requirements in the district.
        a. If the lot on which the accessory building is located does not have sufficient lot area for the future development envelope, then the accessory building may be constructed on the lot under consideration only if the owner of the lot owns another lot with sufficient area for the future development envelope that is either:
            i. contiguous to the lot under consideration; or
            ii. separated from the lot under consideration by a public or private road and the owner(s) of the two lots records deed restrictions (or other legal instruments) acceptable to the township attorney with the county Register of Deeds Office requiring the two lots to be used and/or sold as one development site.
    3. Upon site plan review, the planning commission may determine a performance guarantee is required as set forth in Article XII, Section 12.17

    4. Upon site plan review, the planning commission may determine it is necessary for the property owner to enter into a deed restriction or other means to restrict certain activities when/if the property changes hands, before issuing a zoning permit.

4.8 Mobile Homes as Temporary Living Quarters

A property owner may place and occupy a mobile home on the same lot on which a permanent dwelling is being constructed, or on which an existing dwelling is being repaired following a fire, storm or similar event that temporarily rendered the dwelling dangerous and unsafe for occupancy, subject to the following conditions:

a. A mobile home shall be placed or occupied under the provisions of this Article only after a Temporary Mobile Home Permit has been issued by the Zoning Administrator;

b. Temporary permits as required by the Article shall not be issued by the Zoning Administrator unless and until a building permit authorizing construction of the permanent dwelling, or repair or reconstruction of a damaged, dangerous and unsafe existing dwelling, has been secured by the lot owner (or the lot owner's building contractor) from the Charlevoix County Building Department;

c. Temporary permits issued under the provision of this Article shall only be valid for a period of one (1) year from the date of issuance by the Zoning Administrator. The Zoning Administrator is authorized to grant one six (6) month extension for reasonable extenuating circumstances;

d. Mobile homes authorized under the provisions of this Article shall be vacated, disconnected from utility, water supply and sanitary sewer systems, and shall be removed from an authorized premise by the date on which the permit expires or once a Certificate of Occupancy is issued by the Charlevoix County Building Department for the permanent dwelling being constructed or repaired, whichever occurs first; and

e. Mobile homes placed and occupied under the provisions of this Article shall comply with applicable setback and lot coverage regulations of the zoning district in which the lot is located.

4.9 Use of Basements and Partially Completed Buildings as Living Quarters

When not part of any above-ground dwelling, the use of a basement for living quarters shall be prohibited. The use of a basement as a dwelling unit in a partially completed building is prohibited.

4.10 Moving of Buildings

Moving a building to a different location shall be construed as the act of building a new building, and all provisions applicable to the construction of a new building shall apply.

4.11 Demolition of Buildings

A land use permit is required from Bay Township for non-agricultural building demolition. Permits required by the Charlevoix County Building Code shall be obtained prior to commencing the demolition or razing of buildings.

4.12 Patios, Decks and Porches

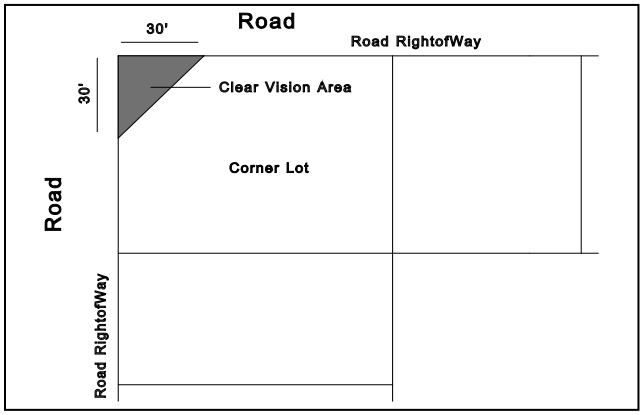
Porches, decks, and similar structures shall comply with the setback provisions of this Ordinance.

4.13 Fences, Walls, and Screens

Within the limits of the front setback of a lot in a residential district, no fence or wall, other than a necessary retaining wall or snow fence in season, or other screening shall be higher than four (4) feet. No such fence or wall located within a rear or side setback shall exceed six (6) feet in height.

4.14 Intersection Visibility

No obstructing planting or structure of any kind greater than three feet in height is allowed within the triangular area formed by the intersecting street right-of-way lines and a straight line intersecting them at points which are on said right-of-way lines and thirty (30) feet distant from their point of intersection. No such planting or structure shall obstruct vision from a driveway between the heights of three (3) and ten (10) feet, measured above the elevation of the street centerline, within ten (10) feet of any front property line.



4.15 Through Lots

Through lots shall provide for front yard setbacks on both street frontages.

4.16 Site Condominium Subdivisions

Residential site condominiums and residential condominium subdivisions are permitted as Planned Unit Developments (PUD's) in any zoning district in which PUDs are allowed or permitted.

4.17 Essential Services

Essential services shall be permitted in all zoning districts subject to the provisions of this Ordinance and to site plan review by the Planning Commission.

4.18 Water Supply and Sewage Disposal

Applicants for zoning permits shall, as required by law, provide evidence of Northwest Michigan Community Health Agency approval of septic disposal and potable water supply prior to final site plan, special use permit or other approval.

4.19 Street Closures

Whenever any public right-of-way is vacated by official action of a governmental agency or body, the zoning district adjoining each side of such right-of-way shall be automatically extended to the center of such vacated right-of-way.

4.20 Grades/Stormwater

The development of lots shall not alter, modify or restrict the runoff of stormwater from adjoining lots, nor result in the discharge of stormwater onto adjoining lots, or into lakes and streams. Stormwater from a 100-year storm event shall be retained and treated/disposed on-site in accordance with innovative methods including but not limited to infiltration basins, constructed wetlands, rain gardens, pervious pavements, etc. as approved by the Township.

4.21 Livestock and Poultry

The keeping of livestock and poultry is permitted as a matter-of-right in the Agricultural zoning district, and as a special use in the Residential zoning district.

4.22 Regulations Applicable to Dwellings

The following regulations apply to all dwellings located outside of licensed mobile home parks:

a. All dwellings shall comply with the minimum habitable floor area requirements established by applicable zoning district regulations;

b. All dwellings shall have a width of no less than sixteen (16) feet that also extends no less than sixteen (16) feet along the length of the dwelling at time of manufacture or construction;

c. All dwellings shall comply with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of Act 230 of P.A. of 1972, as amended, including minimum heights for habitable rooms. In the event a dwelling is a mobile home, it shall meet or exceed mobile home construction and safety standards promulgated by the United States Department of Housing and Urban Development, being 24CFR 3280, as amended;

d. All dwellings shall be placed upon and anchored to a foundation complying with the state construction code. In the event that the dwelling is a mobile home, such dwelling shall be placed upon a foundation complying with the state construction code, and shall be anchored to such foundation pursuant to the manufacturer's setup instructions in compliance with rules and regulations of the Michigan Mobile Home Commission;

e. Dwellings shall have no exposed towing mechanisms, undercarriage, or chassis;

f. All dwellings shall be connected to water supply and sewage disposal systems approved by the Northwest Michigan Community Health Agency; and

g. All dwellings shall provide a storage area, either within the dwelling, or in a separate structure of standard construction equal to or of better quality than the dwelling. This storage area shall be equal to 10% of the habitable floor area of the dwelling or 100 square feet, whichever is less.

4.23 Storage of Dwellings

No dwelling shall be placed on a lot for storage purposes unless such lot is approved for such purposes.

4.24 Swimming Pools, Spas and Hot Tubs

Swimming pools, spas and hot tubs are permitted as an accessory use in all zoning districts subject to applicable setback regulations established for accessory uses, buildings and structures. Swimming pools, spas and hot tubs located out of doors, whether constructed in, on or above the ground, shall be provided with a fence or other barrier that complies with all provisions of the Charlevoix County Building Code applicable to swimming pools. Fences or other barriers must be approved by the Building Inspector before a swimming pool, spa or hot tub will be approved for use or occupancy.

4.25 Vegetated Buffer

A vegetated buffer, as defined in Article III, shall be required for any commercial or industrial use that abuts a residential use on either the side or rear setback. In all instances, this may be provided as part of the side or rear setback requirements.

4.26 Restoration of Unsafe Buildings

Nothing in this Ordinance shall prevent the strengthening or restoration to a safe condition of any part of any building or structure declared unsafe by the Building Inspector.

4.27 Home Businesses

The availability of computers and telecommunications technology makes it practical to conduct certain professions and occupations (classified as home occupations) within the home in an efficient and business like manner. In addition to the above, an area-wide need for certain skilled and semi-skilled occupations and trades, and small-scale, minimal impact service and retail businesses (classified as cottage industries) makes it practical to allow the conduct of same within detached residential accessory buildings.

The existence of a home business on a premises shall not be considered an adequate reason for rezoning either the property on which it is located or neighboring properties for commercial or industrial use.

a. Home Occupations

1. Home occupations are permitted as a matter of right in all zoning districts in which single-family

dwellings are permitted as a matter of right.

2. Home Occupations shall be operated in their entirety within the dwelling and an attached or detached garage or accessory building. The in-dwelling component of the occupation may occupy no more than twenty-five percent (25%) of the dwelling's floor area.

3. Home Occupations shall be conducted only by the person or persons occupying the premises as their principal residence.

4. Additions to a dwelling for the purpose of conducting a Home Occupation shall be of an architectural style that is compatible with the architecture of the dwelling, and shall be designed so that the addition can be used for dwelling purposes if the home occupation is discontinued.

5. Home Occupations shall be incidental and subordinate to the principal use of the dwelling for residential purposes and shall not detract from the residential character of the premises or neighborhood.

6. Home Occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners or the Township as a whole.

7. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses. Any machinery, mechanical devices or equipment employed in the conduct of a Home Occupation shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not associated with the use of the dwelling for residential purposes.

8. The outdoor storage of goods and/or materials of any kind are prohibited. No goods or materials shall be sold that are not associated with the conduct of the Home Occupation.

9. No process, chemicals, or materials shall be used which are contrary to an applicable State or Federal law.

10. There shall be no exterior evidence of the Home Business other than one sign which shall conform to requirements of Article XV of the Bay Township Zoning Ordinance, according to the district in which the home business is located.

b. Cottage Industries

1. Cottage industries may be permitted as a special use in any zoning district in which single-family dwellings are permitted, subject to review and approval by the Planning Commission. Cottage industries shall be allowed on the basis of individual merit. The permit shall be reviewed for compliance with the original permit by the Zoning Administrator on a periodic basis and upon transfer of the property.

2. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such industry other than one sign which shall conform to requirements of Article XV of the Bay Township Zoning Ordinance, according to the district in which the home business is located.

3. A cottage industry shall occupy a floor area of not more than twenty four hundred (2,400) square feet of an accessory building.

4. Hours of operation shall be established by the Planning Commission at the time of review, if the Planning Commission finds that such hours are necessary to mitigate any adverse impacts the cottage industry may have on adjoining property.

5. The outdoor storage of goods and/or materials of any kind is prohibited unless screened (up to eight (8) feet high tight-board wood fence, native vegetative buffer, landscaped berm planted with native perennial plants, or a combination thereof if the Planning Commission finds that such screens are necessary to mitigate any adverse impacts outdoor storage at a cottage

industry may have on adjoining properties and road rights-of-way.

6. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners or the Township as a whole.

7. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses. Any machinery, mechanical devices or equipment employed in the conduct of cottage industries shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not associated with the use of the premises for residential purposes.

8. Cottage industries shall be conducted only by the person or persons residing on the premises. Cottage industry owners/operators may employ up to three (3) on-site employees/assistants.

9. A "not to exceed" number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process, if the Planning Commission finds that such parking restrictions are necessary to mitigate any adverse impacts the cottage industry may have on adjoining property.

10. The activity will be served adequately by essential public services or facilities.

11. The activity will not create additional public costs and will not be detrimental to the economic welfare of the Township.

c. Termination, Extensions, Revisions, and Inspections

1. The Zoning Administrator shall require the cottage industry to comply with the special use permit conditions. If continued violations occur, the Planning Commission shall revoke the permit after a show cause hearing.

2. Upon written application of the owner, the Planning Commission may grant no more than two (2) extensions of the time for compliance with the conditions of this Article if the Planning Commission determines that reasonable extenuating circumstances substantially resulted in the owner's failure to comply with this Article.

3. Proposed revisions or additions to a cottage industry shall constitute change of use, and shall be subject to special use review and approval by the Planning Commission.

4.28 Mining and Extractive Operations

These regulations recognize that the location of sand, gravel, rock, peat, and topsoil mining operations is dependent upon deposits of mineral resources having monetary value. They also recognize that mining operations can have a vast array of cultural, economic, and environmental impacts on the Township if not reasonably regulated.

The regulation of mining operations is consistent with the purposes of the Bay Township Master Plan, the purposes of this Ordinance, and necessary for the protection of the general health, safety and welfare of the community. Proposed mining and other mineral extraction operations are subject to review and authorization as a special use under the provisions of Article XIII: Special Uses, as well as under the provisions of this Article.

The standards and regulations outlined in this Article are intended to assure that 1) the need for the mineral resources that might be produced by proposed operations outweighs any negative cultural and environmental impacts created by such operations, and; 2) unreasonable negative consequences will not result from such operations.

a. Supplemental Application Standards

Proposed mining and extractive operations shall, in addition to the requirements for applications listed in this Article and the requirements for site plans listed in Article XII, be supplemented by the following information:

1. Applicants shall be required to deposit escrow funds to cover reasonable professional costs associated with the Township's use of engineering, legal and planning consultants during the review of applications under the provisions of this Article.

2. Site plans shall clearly illustrate proposed operational characteristics as required by this Article, and the Planning Commission may require the following information upon a finding that the additional information is necessary for the Planning Commission to determine compliance with the requirements of this Ordinance:

   i. Boring logs, geological assay, assessment reports, etc. demonstrating the nature and extent (i.e. horizontally and vertically) of the mineral deposit(s).
   ii. Proposed location, area, extent, depth, and phasing of mining activities.
   iii. Location of proposed stockpiling areas, sediment basins, and any areas used to store, fuel or maintain vehicles and other heavy equipment, and any proposed temporary buildings to be used during proposed mining operations.
   iv. Internal roadways to be used by any hauling equipment and all planned ingress/egress points to the excavated area.
   v. A small-scale sketch illustrating the route within the Township to be used by vehicles transporting materials produced by the mining operation.
   vi. The type, operational characteristics, and location of any excavation, processing (including mineral washing or beneficiations, stockpiling, screening, sorting, etc.), loading and transportation equipment and machinery proposed for on-site operation.
   vii. A written statement describing:
      a. Schedules for starting and completing mining operations.
      b. Groundwater conditions, including groundwater depth, flow direction and gradient, flow velocity, and background water quality (i.e. dissolved oxygen, specific conductivity, alkalinity, iron, manganese and other heavy metals, etc.) and the results of a valid and reliable aquifer pump test submitted to the Planning Commission to determine any possible impact on groundwater wells, including residential, commercial industrial and/or agricultural wells in the area.
      c. The type of material to be extracted, methods of operation, and equipment to be used.
      d. Measures and methods to control noise, dust, stormwater discharge onto adjoining properties, natural watercourses, and drainage ways, deposition of soil or other materials from the site onto adjoining roadways, and other steps to relieve any adverse effects to adjoining properties and the environment.
      e. Operational schedule by seasons, days of the week and times of the day.

3. A separate, phased site reclamation plan complying with the provisions of Article 4.28(c). Plans and statements outlining all work to be done on site reclamation and assuring that sufficient steps are taken to blend into the surrounding landscape or neighborhood as applicable.

4. As a condition of approval, the Planning Commission shall require an owner to deposit funds in escrow with the Township, or provide an insurance bond satisfactory to the Township's Attorney to assure phased site reclamation and reasonable professional costs for the review of mining and extraction operations, hydrogeological and hydrologic studies, and reclamation/redevelopment plans prescribed in this Article. Such escrow deposit or insurance bond shall be in an amount equal to one and one-quarter (1.25) times the estimated cost of site reclamation at the time of approval. Such escrow deposit or bond shall be maintained by successor owners.

b. Review Standards

The Planning Commission shall approve, or approve with conditions, a special use application for mining and extractive operations only if it finds that the proposed operation complies with the approval standards listed in Section 12.11 and Section 13.3 and complies with all of the following additional standards:

1. All mining operations shall maintain a minimum 200-foot setback from property lines and road rights-of-way. A 100-foot vegetative buffer shall be maintained along property lines and road rights-of-way. Stockpiles of topsoil, overburden, and mined materials may be located within the setback area, though not within the vegetative buffer. Machinery associated with mining operations, and areas used for the storage of machinery and equipment used in the excavation, processing and transport of mined resources shall be located no closer than 200 feet to any property line or road right-of-way;
2. Working faces shall maintain slope angles sufficient to prevent sloughing, erosion, or disturbances of any kind within the facility to the setback areas or neighboring properties;
3. Sufficient topsoil from the site shall be stockpiled on-site to be used in reclamation work following mining operations;
4. Fences, berms, walls, and natural or planted native vegetative visual buffers shall be required within the one-hundred (100) foot vegetated buffer, to protect neighboring properties and/or persons in the vicinity of the site;
5. Equipment operations shall be limited by the Planning Commission by holidays, the day of the week and the daily hours of operation if the Planning Commission finds that such restrictions are necessary to mitigate any adverse impacts the mining and extractive operation may have on adjoining properties;
6. All structures, equipment, and machinery necessary to the mining operation shall be considered temporary, and shall be removed from the site upon completion of mining activities;
7. Air pollution, dust, deposition of materials on adjoining roadways, fugitive glare, noise, and vibration shall be controlled within the limits established by this Ordinance, or applicable State and/or Federal regulations, whichever is more stringent in its application; and
8. Access routes serving the site may be limited as stated on the Permit or as illustrated on the site plan, with the intent to minimize the exposure of residential streets to earth moving vehicles.
9. Mining operations that excavate into or otherwise encounter groundwater or retain surface water runoff shall be treated as follows:
    i. Stagnant water conditions shall not be permitted under any circumstances. In instances where water will remain ponded during and after mining operations, the depth of the water shall be sufficient to avoid stagnation, support wetland and/or pond functions;
    ii. Grade at the water's edge shall be not more than one foot vertical to three feet horizontal (1:3). The depth of the pond shall be posted; and
    iii. The Planning Commission may require that ponds be fenced and that the fence shall be maintained in the interest of the health, safety and welfare of area residents.
10. The length of time that stockpiling of materials is permitted on site, if the Planning Commission finds that such storage restrictions are necessary to mitigate any adverse impacts the mining and extractive operation may have on adjoining properties.
11. Site reclamation plans and a schedule for reclamation implementation must be provided by the Applicant and approved by the Planning Commission.

c. Site Reclamation/Redevelopment Requirements

All mining operations shall be subject to a site reclamation**/**redevelopment plan that will be implemented in a phased manner, and completed by the applicant or his or her heirs or assigns within a reasonable period of time period in accordance with an enforceable and approved schedule subject to the escrow following completion of mining activities. In cases where mining operations are conducted in phases, reclamation**/**redevelopment shall commence upon the completion of each phase, and shall be completed within a reasonable period of time as determined by the Planning Commission and in accordance with the approved schedule**.** The Planning Commission may consider alternate reclamation/redevelopment plans in those instances where applicants allege phased reclamation/redevelopment is not feasible.

1. Mined areas shall be finished with evenly contoured grades to blend in with the adjoining contours and topography. In developing areas, grades shall be finished to accommodate adjoining developing land.
2. In instances where water is to remain ponded during and after mining operations, the depth of the water shall be sufficient to avoid stagnation. Grade at the water's edge shall be not more than one foot vertical to three feet horizontal (1:3). The depth of the pond shall be posted. The Planning Commission may require that ponds be fenced in the interest of the health, safety and welfare of area residents.
3. Grades shall be finished and revegetated with native plants to prevent slope failure. Generally a slope not greater than one (1) foot vertical to three (3) feet horizontal (1:3) shall be required, though greater slopes may be permissible provided they are finished at less than the maximum angle of repose based on soil texture, water content, and proposed native vegetative cover. Refer to Appendix A for acceptable Native Plants list.
4. Topsoil of a texture, bulk density, moisture retention, structure and fertility equivalent to that occurring naturally in the area shall be replaced at a depth equal to that which supports native and naturally occurring vegetation in the area.
5. Revegetation shall be accomplished by the seeding of native grasses and planting of native trees and shrubs, or by the planting, harvest and/or rotation of agricultural crops. Refer to Appendix A for acceptable Native Plants list.
6. Upon cessation of mining operations, and within a reasonable period of time not to exceed 24 months thereafter, all plant structures, buildings, equipment, and stockpiled inventory shall be removed.
7. Additional, site specific reclamation standards may be imposed depending on the location of the site in terms of its exposure to view, physical isolation, influence on residential areas, impact on or sensitivity to the natural environmental, re-use potential, and phased reclamation**/**redevelopment plan.

4.29 Cellular Telephone Tower Regulations

Antenna towers and masts for cellular phone and other personal or business communications services may be authorized as a special use by the Planning Commission in any zoning district except the Waterfront Overlay zoning district. Antenna towers and masts erected and operated as a residential accessory use, and not more than thirty-five (35) feet in height as measured between the tower's base at grade and its highest point erected, are exempt from the provisions of this Section.

In addition to a site plan and other materials normally required for applications for special uses, applications for approval under the provisions of this Section must also be submitted with construction plans and specifications for antenna towers and masts, and any appurtenant supporting mechanisms or structures. These plans and specifications must be signed and sealed by a professional engineer.

The Planning Commission shall approve, or approve with conditions, a special use application for a cellular

telephone tower only if it finds that the proposed tower complies with the approval standards listed in Section 12.11 and 13.3 and complies with the following additional standards:

a. The Applicant shall provide documentation to the Planning Commission that clearly establishes the legal ownership of the tower and the land upon which the tower shall be located. The applicant, its agents, successors, and assigns shall report to the Planning Commission any changes in the legal ownership of the tower within thirty (30) days of the effective date of the change.

b. The application for special use approval for the tower shall include a visual impact analysis, prepared by the applicant, which includes graphic depiction of the anticipated visual appearance of the tower from public right-of-ways and other important vantage points in the surrounding area as determined by the Planning Commission. Methods used in preparing the analysis shall be reviewed and approved by the Planning Commission during its first consideration of the application for special use approval before the public hearing.

c. A cellular phone or other personal and business communications services antenna tower shall be exempt from building height limits established by zoning district regulations, provided that the tower height shall not exceed the minimum height necessary to serve its intended functions or one hundred and seventy-nine (179) feet, whichever is less.

d. Applicants are required to co-locate proposed communications apparatus on existing towers when feasible. Applicants must adequately demonstrate to the Planning Commission when co-location is not feasible on an existing tower or other existing structure located in the Township or neighboring communities.

e. The tower and any ancillary building or buildings housing equipment needed for operation of the tower shall not exceed the floor area and height minimally necessary for such equipment, and shall be of a size, type, color, and exterior materials which are aesthetically and architecturally compatible with the surrounding area, and as minimally obtrusive as possible. A landscape plan including the screening with native vegetation shall be required by the Planning Commission to accomplish screening of ancillary equipment buildings. Refer to Appendix A for acceptable Native Plants list.

f. Guy cables and anchors shall comply with applicable zoning district setback requirements.

d. The applicant shall provide documentation of any lighting to be installed on the tower. If tower lighting is required or proposed, the tower may not be approved unless the Planning Commission determines that it will not have a significant adverse impact on properties and residents of the surrounding area.

h. Towers shall be painted so as to be as unobtrusive as possible. The painting of towers in alternate bands of orange and white shall be permitted only if specifically required by Federal Communications Commission (FCC) or Federal Aviation Administration (FAA) regulations. If alternate band painting is required by FCC or FAA regulations, the applicant shall provide documentation of such requirements and regulations.

i The applicant shall provide documentation of conformance with any Federal Communications Commission and Federal Aviation Administration regulations.

j. The owner/operator of the tower shall agree to permit use of the tower by other personal or business communications services providers, including local government agencies, on reasonable terms, so long as such use does not interfere with the owner/operator's reasonable use of the tower. The addition of other user's equipment to the tower shall be permitted so long as the engineered design capacity of the tower or mast is not exceeded.

k. As a condition of approval, the Planning Commission may require an owner to deposit funds in escrow with the Township, or provide an insurance bond satisfactory to the Township's Attorney to assure the removal of towers and masts as prescribed in this Article. If required, such escrow deposit or insurance bond shall be in an amount equal to one and one-quarter (1.25) times the estimated cost of removal of the tower at the time of approval. Such escrow deposit or bond shall be maintained by successor owners.

l. If the tower ceases operation for its original use or is abandoned for any reason, the Township may order its removal from the site by the owner of the tower within three (3) months of notification by the Township.

m. If the height required for the tower to serve its intended function decreases from such height as installed due to technological advancement, additional tower installations at other locations, or other factors, the Township may order that the tower be lowered to such decreased minimum height.

n. The tower and any supporting or appurtenant structures shall be no closer to any dwelling than the distance equal to the height of the tower measured from its base at grade to its highest point of elevation.

o. The Bay Township Zoning Board of Appeals shall have no jurisdiction over a decision made by the Planning Commission to approve, approve with conditions, or deny an application for special use approval to erect and maintain cellular phone and other personal and business communications antenna towers.

p. Applicants shall be required to deposit funds to cover reasonable costs associated with the Township's use of professional engineering, legal, and planning consultants during the review of applications under the provisions of this Article.

4.30 Storage of Recreational Vehicles and Watercraft

Recreational vehicles and watercraft shall not be parked for longer than seven (7) days or stored in the front yard of any lot, unless the back yard is inaccessible due to natural setting or the recreational vehicle or watercraft are adequately screened by an existing building. Section 4.30 shall not apply to lawful lots of record within the Residential District if said lot is 5 acres or greater in size.

4.31 Bed and Breakfast Facility

While this subsection is established to enable single-family dwelling units to be used as bed and breakfast facilities, it is the intent of this Zoning Ordinance to preserve the residential character of the district in which the operation is located. A bed and breakfast facility is a subordinate use to a single-family dwelling unit and is subject to the standards of Article XIII – Special Uses and following conditions:

a. Bed and breakfast facilities are permitted as a Special Use in all Zoning Districts of the Township except the Commercial Zoning District.

b. A bed and breakfast facility shall have the owner/innkeeper live on the premises when the operation is active.

c. The Planning Commission shall limit the number of rooms available for guest sleeping rooms as it shall deem appropriate and reasonable after considering the requirements of Section 4.33 and Article XIII. In no case shall the number of sleeping rooms exceed ten (10), including sleeping rooms occupied by the owner/innkeeper.

d. Guests shall have access to lavatory and bathing facilities meeting public health standards.

e. The operation shall not require alteration of or construction to the structure not customarily found in residential dwellings.

f. All signs shall conform to requirements of Article XV of the Bay Township Zoning Ordinance.

g. Meals may be served only to overnight guests, and in accordance with public health regulations regarding bed and breakfast facilities.

h. The bed and breakfast facility shall produce no excessive noise, traffic, glare or other nuisance that would be detrimental to the character of the neighborhood.

i. In the event the Planning Commission determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely

to occur, then the Planning Commission may require that fencing and/or a planting buffer be constructed and maintained.

j. At least one (1) parking space shall be provided for each transient guestroom plus at least two (2) parking spaces for the owner. A minimum area of two hundred (200) square feet, measured by a minimum width of ten (10) feet and a minimum depth of twenty (20) feet, shall be provided for each vehicle parking space, exclusive of aisles and access. The parking area shall be landscaped and screened and all parking for guests and owners shall be on-site.

k. No more than 80% of the parcel shall be covered by structures and parking areas in the Village Overlay District. No more than 30% of the parcel shall be covered by structures and parking areas in all other zoning districts.

l. The applicant shall submit one site plan of the parcel showing all structures, parking area, landscaping, and setbacks. A separate site plan showing the bed and breakfast facility's relationship to the surrounding parcels and structures shall also be submitted.

m. The applicant shall submit a floor plan of the entire structure showing the present use and the proposed use of each room in the structure. Any permit granted allowing the Special Use shall designate the number of bedrooms for transient guests and the number shall not be thereafter increased without further application and approval of the Planning Commission.

n. All refuse and garbage collection areas shall be screened and located in a designated area.

o. Use of snowmobiles, all-terrain vehicles or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment, shall be prohibited.

p. The Planning Commission may impose additional conditions pursuant to Article XIII, Section 13.4

4.32 Shared Driveways and Private Roads

a. Shared Driveways shall be allowed with Zoning Administrator approval, provided the driveway meets the following standards: Access to the principal structure(s) shall require a driveway which has twelve feet (12') horizontal and fourteen feet (14') vertical clearance of all obstacles and vegetation, except ground covers, cleared and continually maintained in a drivable condition for the purpose of access by emergency vehicles (This section does not cover or require snow removal). A vehicle turn around area shall be provided capable of handling forty (40') foot vehicles (Minimum T-type turn around 20' x 45') for police, fire, and ambulance, and be connected to a private or public road. County or Township are not responsible for maintenance of a shared driveway or private road.

b. **Non-conforming Pre-existing Private Roads**
Nonconforming Pre-existing Private Roads may continue in use provided the number of lots, parcels or site condominium units utilizing such road shall not be increased without either (i) coming into compliance Section D below, or (ii) a specific waiver or modification of the referenced standards is granted by the Planning Commission. No zoning permit shall be issued for additional development utilizing a nonconforming pre-existing private road until the existing private road is in compliance with the standards of this section. In cases where the Applicant seeks to increase the number of lots, parcels or site condominiums served by the road, the Applicant may request a specific waiver or modification of such standards. The Bay Township Board of Trustees shall have the authority to waive or modify any or all of the particular standards of Section D, only upon making the following findings:

1. That no good public purpose will be achieved by requiring strict conformance with the particular standards sought to be waived by the applicant.
2. That no nuisance will be created.
3. That any approved deviation from the standards specified in Section D will result in improvements that bring the Pre-existing Private Road closer to compliance with the referenced current standards.
4. Upon a finding there is a practical difficulty in carrying out the strict standards of Section D.

c. **Pre-existing Private Roads—additional applicant requirements**

1. A statement acceptable to the Township shall be recorded by the applicant, with the Charlevoix County Register of Deeds and that runs with all newly created lots on a Pre-existing Private Road, to specify road maintenance, clearing and repairs are the property owners' responsibility and are NOT the responsibility of the Charlevoix County Road Commission or Bay Township.
2. When any Pre-existing nonconforming Private Road that is approved for additional lots the applicant shall maintain or install standard County blue and white private road identification signs at the start of the private road. Signs shall be of a design which is similar in design to those identifying Public Roads in the Township. In addition to road identification, Private Road signs shall also include the wording "PRIVATE ROAD" in a minimum of four (4) inch high letters and "NOT MAINTAINED BY CHARLEVOIX COUNTY ROAD COMMISSION" in a minimum of two (2) inch high letters.
3. At each location where a new Driveway or Shared Driveway splits from a Pre-existing Private Road or Shared Driveway, a 911 address sign shall be required to be installed for each residence served by the driveway or shared driveway.
4. The requirement for a road maintenance agreement as a result of the expansion of a Pre-existing Private Road, or the expansion of the potential use of the Pre-existing Private Road due to the creation of additional lots, parcels or site condominium units served by the road, shall only be waived or modified with approval by the Bay Township Board of Trustees, following a public hearing held by the Planning Commission and a recommendation made by the Planning Commission. The private road public hearing shall provide notice to the owner of record for each property accessing the private road, and the timing of the notice shall be same as that required for a public hearing for a special use permit application.

d. **Private Road and Shared Driveway Construction and Design Standards:** The creation of a private road shall meet the following standards:

1. Right-of-Way and Cross Section: All private roads shall meet or exceed the Charlevoix County Road Commission's cross-sectional construction standards for roads of similar traffic levels, including road and intersection grades, except as provided in the following table on the following page:

Type of Access	Parcels Served	ROW Easement Width	Road/ Driveway Width*	Vertical Clear-ance*	Emergency access on private roads >150' length	Req'd to be Paved	Cul-de-Sac and other options for End of Road	Parent Parcel Perimeter setback for ROW	Approval Body and Plan required
Shared Driveway	2-3 parcels	20'	12'	14'	(1), (2) or (3)	No	As approved by the Fire Chief	NA	ZA
Private Road	4-6 parcels	26'	18'	14'	(1), (2) or (3)	No	As approved by the Fire Chief	Applicable District Front, Side or Rear Setbacks per Section 5.4	PC Site Plan
	7-24	35'	24'	14'	(1), (2) or (3)	Yes, unless waived by PC	As approved by the Fire Chief	Applicable District Front, Side or Rear Setbacks per Section 5.4	PC Sp. Use including site plan
	>24	Must be constructed as a public road per Charlevoix County Road Commission Standards						Applicable District Front, Side or Rear Setbacks per Section 5.4	

(1) expanded road width adequate to accommodate passing, and/or staging of firefighting apparatus, at intervals not to exceed 250 feet.
(2) pull-off/turnaround areas adequate to accommodate the turning around of fire fighting apparatus, at intervals not to exceed 500 feet.
(3) expanded road width, pull-off areas, turnaround areas or a combination thereof subject to approval by the Fire Chief or his/her designee.

2. Construction Materials minimum standards for Private Roads: Sand and gravel base of not less than twelve (12) inches in depth of which the top six (6) inches in depth shall be 23A gravel or the equivalent, as approved by the Township.
3. Geometric Design Standards for Private Roads: All private roads shall meet the applicable current geometric design standards of the Charlevoix County Road Commission, except as provided for in this section.
4. Stormwater management: All private roads and shared driveways shall comply with the standards of the Uniform Stormwater Management Ordinance for Charlevoix County, and must obtain a Storm Water Management (SWP) permit prior to obtaining a zoning permit and beginning construction.
5. Design Layout: Unless otherwise specifically authorized by the Township Planning Commission, each shared driveway or private road shall be laid out in a manner that:
   i. Avoids soils classified as 'hydric' (wetland soils) by the Natural Resources Conservation Service.
   ii. Aligns the shared driveway or private road along fence rows, edges of the open fields, agricultural lands or adjacent to woodlands to minimize fragmentation of farmland or open space.
   iii. Will be least likely to impact scenic views, as seen from public roads and waters. Grade cuts or fills of greater than six feet shall only be allowed if the Township Planning Commission finds that these areas will be shielded from scenic views by vegetation or topography.

6. Parent Parcel Access and Setbacks: One intersection of the proposed Private Road with a Public Road shall be allowed for each Parent Parcel, with additional public/private road intersections permitted based on the Parent Parcel's public road frontage.

Parent Parcel frontage on a Public Road	Maximum Public Road Intersections Allowed
300' or less	1
>300' but less than 1,000'	2
>1000'plus for Each additional 1,000'	*2 +1 (i.e. 1 additional intersection per additional 1,000 feet of frontage)*

The required setback of the Right of Way for a Private Road in relation to the perimeter boundaries of the Parent Parcel shall be the front, side or rear setbacks for the applicable zoning district, as specified in Section 5.4.

7. Road Names and Signs: Road names shall be approved by the Township and by the County Numbering System and Charlevoix County Road Commission. Standard County blue and white identification signs shall be required for all Private Roads. Signs shall be of a design which is similar in design to those identifying Public Roads in the Township. In addition to road identification, Private Road signs shall also include the wording "PRIVATE ROAD" in a minimum of four (4) inch high letters and "NOT MAINTAINED BY CHARLEVOIX COUNTY ROAD COMMISSION" in a minimum of two (2) inch high letters.
   i. At each location where a Shared Driveway splits from a Public or Private Road, a 911 address sign shall be required to be installed for each residence served by the Shared Driveway.
   ii. At each location where an individual Driveway or a Shared Driveway splits from a Shared Driveway, a 911 address sign is required to be installed for each residence served by the Shared Driveway.

8. Maintenance Agreements Private Roads serving or to serve four (4) or more Lots shall have a road maintenance agreement which provides for the perpetual private (non-public) maintenance of such roads, and shall be recorded with the Charlevoix County Register of Deeds and runs with all lots served by the private road. This document, at a minimum, shall contain the following provisions:
   i. A method of initiating and financing long term maintenance in order to keep the Private Road in good and usable condition.
   ii. A method of apportioning the costs of maintenance and improvements.
   iii. A binding agreement requiring that the owners of any and all of the property using the Private Road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen and others bound to or returning from any of the properties having a right to use the road. Provisions shall be included to allow ingress and egress of emergency and public vehicles for necessary public services.
   iv. A notice that if the Private Road repairs and maintenance are not made in a timely manner to keep the road in good and usable condition, the Township shall have the authority to make such repairs and maintenance. In these situations owners of Lots

serviced by the Private Road shall be assessed for repairs and maintenance costs, plus an amount to cover documented administrative costs.

v. A notice that except for situations described in item iv above, no public funds of the Township are to be used to build, repair or maintain the Private Road.

e. Any approval for new or expanded private road shall expire and a new approval required after sixty (60) days from the date of approval by the Township, unless the applicant records in the Charlevoix County Register of Deed Office the instrument(s) as specified in Section 4.32, and files a copy of the recorded instrument(s) with the Zoning Administrator.

4.33 Special Events and Activities

This subsection is established to provide for special events and activities of a commercial nature or 'for profit' as a special use in the Agricultural Zoning District as a means to promote agricultural tourism and other activities that feature the rural character and agricultural environment of the area, while protecting and limiting the impact of such activities on the surrounding area. This subsection identifies information that must be provided for the approval of special events and activities in addition to information required for special land use approval.

a. Typical special events and activities include**,** but are not limited to, weddings, nonprofit benefits, wine and catered food events, seasonal natural events, vineyard harvest festivals, receptions, parties, picnics, barn dances, educational conferences, and agricultural research. These activities may be permitted provided:
   1. The appropriateness of proposed special events and activities for the size of the intended parcel shall be determined at the discretion of the Planning Commission based on information provided by the applicant according to Section 4.33.a.6 and the standards set forth in this ordinance.
   2. Parking areas shall be off-road, forty (40) feet from all lot lines, and appropriately screened from neighboring property.
   3. The operator shall provide a written statement from the Health Department indicating the maximum number of persons who can be accommodated with existing toilet facilities, and additional portable toilets shall be provided for any guests exceeding the aforementioned number. The location(s) of any required portable toilets shall be shown on the site plan.
   4. Hours of operation shall be confined between the hours of 10:00 a.m. and 11:00 p.m, unless otherwise authorized by the Planning Commission.
   5. Any music or entertainment provided for the activity must be for background purposes and not a featured item of the activity. Sound amplifiers are permitted as determined in site plan review.
   6. A written description of the planned activities shall be provided and include the following:
      i. Type of gathering. The purpose of the gathering will not be considered in granting or denying a permit, provided it meets the purpose and intent of this ordinance.
      ii. Frequency and number of activities proposed in a calendar year.
      iii. Maximum number of guests for any activity.
   7. Light sources shall be directed downwards and shielded to prevent light being directed off the premises.
   8. The special events and activities shall not involve the overnight sleeping accommodations for event patrons.

b. Additional Site Plan Review Standards:
    1. The Planning Commission shall review the site plan for conformance with the regulations of the Agricultural Zoning District; and shall establish that the following standards have been satisfied:
        i. Proposed activities shall not result in adverse impact on the neighbors from the noise, traffic, trespass, light or other impacts deemed relevant by the Planning Commission. The size of the function and maximum number of allowed guests on the property at one time shall be determined at the sole discretion of the Planning Commission.
        ii. Adequate area for parking of vehicles shall be provided so that there is no parking on public roads, and adequate setbacks from adjacent properties are maintained. The size of such parking areas shall be determined by the Planning Commission based on the maximum peak attendance anticipated by the applicant. Temporary parking areas may be approved at the sole discretion of the Planning Commission.
        iii. All temporary structures shall be located so as to minimize potential adverse effects and impacts on adjacent and nearby properties. Temporary structures shall be erected no more than three (3) days prior to an event and shall be removed within three (3) days following an event unless otherwise authorized by the Planning Commission.
        iv. Screening and buffering, in the form of vegetative plantings, between parking areas, buildings and adjacent properties may be required at the discretion of the Planning Commission to avoid adverse impacts from proposed activities on adjacent properties.
    2. Any activities other than those included in the original special use permit require additional approval from the Planning Commission to amend the special use permit.
c. When the special event is proposed to occur on property which is located on a shared driveway or private road, all owners of properties accessing the shared driveway or private road shall be notified in the same manner as other special use public hearing notification. This notification shall occur in addition to the notification of owners and occupants of all properties within three hundred (300) feet of the subject property as required in Article XIII.

4.34 Accessory Dwelling Units

This subsection is established to provide the opportunity for Accessory Dwelling Units (ADUs) in Bay Township through a special use permit as a way of providing more housing choices for Bay Township residents, increasing affordability and flexibility, and supporting multigenerational housing in single family neighborhoods; while still preserving the rural character of the Township and high quality neighborhoods.

a) ADUs may not be appropriate on every residential parcel and are subject to the provisions of Article XIII (Special Uses), and the following specific requirements:
    1. ADUs are permitted only as an accessory use to an owner occupied single-family dwelling.
    2. A maximum of one ADU is permitted per parcel.
    3. An ADU must be established as a permanent structure.
    4. An ADU may be incorporated into an existing dwelling on any lot meeting the minimum lot size and dimensional standards of the zoning district in which it is proposed. When proposed as a separate structure from the existing dwelling unit, an ADU shall comply with the standards of Section 4.7.
    5. In no case shall an ADU be larger than 800 square feet and it must comply with minimum building occupancy standards established by the Charlevoix County Department of Building Safety.
    6. An ADU may not be placed on a non-conforming lot or on a lot with a non-conforming primary structure if the non-conformity is because the lot or structure is too small.
    7. On-site parking accessed through an existing driveway shall be required for an ADU.

8. Applicants for an ADU shall provide certification from the Health Department of Northwest Michigan that the water supply and sewage disposal facilities are adequate for the projected number of residents.
9. Upon site plan review, the planning commission may enter into a deed restriction or other means to restrict certain activities when/if the property changes hands, before issuing a zoning permit.

Article V
Zoning District Regulations

5.1 Purpose

For the purpose of this Ordinance, Bay Township is divided into the following zoning districts:

A - Agricultural District
WF - Waterfront Overlay
R - Residential
V - Village Overlay
C - Commercial District
PUD - Planned Unit Development

5.2 Zoning Map

The locations and boundaries of these districts are shown on the Bay Township Zoning Map which is part of this Ordinance as is any other Chapter, Section, or regulation herein.

The official zoning map shall be the final authority as to the current zoning status of property in the Township. The official zoning map shall be displayed at the Township Hall, and shall be identified by the signature of the Township Clerk.

In the case of amendments to the zoning map, such amendments shall be noted on the map, and the date of such amendment shall be noted and accompanied by the signature of the Township Clerk.

5.3 Interpretation of Zoning District Boundaries

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning map, the following rules shall apply:

a. Where district boundaries are indicated as approximately the same as street or highway centerlines or right-of-way lines, platted lot lines, section lines, quarter-section lines, or other survey lines, such lines shall be construed to be said boundaries.

b. Where district boundaries are indicated as approximately parallel to street or highway centerlines or right-of-way lines, or to section lines, quarter-section lines or other survey lines, such boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Zoning District Map.

c. Where the boundary of a district follows the shoreline of a stream, lake or other body of water, the boundary line shall be interpreted as following such shoreline and in the event of a naturally occurring change in shoreline shall be construed as moving with said shoreline.

5.4 Lot Area, Lot Width and Setback Requirements

Lot area, width and setback requirements are listed in the table appearing on the following page.

Area, Width and Setback Requirements

Zoning District	Lot Area (Minimum)	Lot Width (Minimum)[4]	Lot Depth (Minimum)[4]	Maximum Height	Front Setback (Minimum)[2]	Side Setback (Minimum)	Rear Setback (Minimum)	Minimum Habitable Floor Area[3]
Agricultural	1 acre[1]	150’	150’	30’	65’	15’	35’	720 sf
Residential	20,000 sf	100’	150’	30’	35’	15’	35’	860 sf
Commercial	2 acres	150’	150’	30’	100’	100’	100’	---

*See Figure 5.5(D) for standards related to accessory structures in front yards

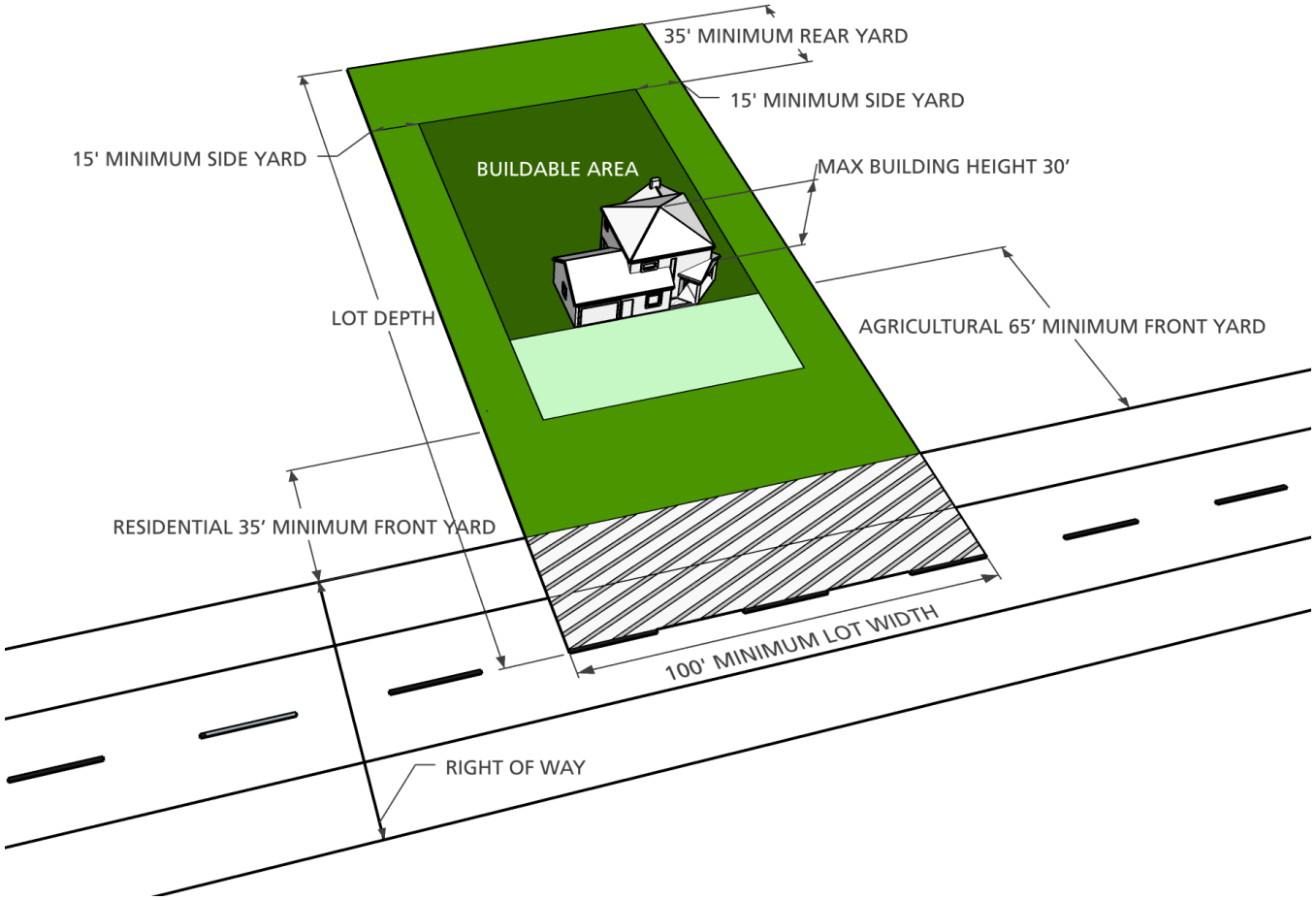
Notes:

1. Agricultural district density shall not exceed an equivalence of one lot per eight acres. Lot averaging is permitted, provided that the area of all lots meet minimum lot areas, and Northwest Michigan Community Health Agency septic disposal requirements; and the overall density does not exceed the maximum permitted within the Agricultural density for the entire parent parcel. Any lot splits within the Agricultural District utilizing the equivalent density approach, shall be recorded with the Township and the County Register of Deeds to indicate the size and tax number of the original parent parcel, and the remaining number of lot splits allowed. Once a parent parcel within the Agricultural District is completely split at its equivalent density, a deed restriction to which the Township is a party and signatory shall be recorded to document the size and tax parcel identification number of the parent parcel and any new lots. Lot splits may occur at once or over time in accordance with the equivalent Agricultural District approach. Upon the creation of any new lots in the Agricultural District from a parent parcel utilizing this approach, a statement shall be included within each new lot title that “no further lot splits or subdivisions, including site condominium and PUD, are allowed and that any resulting lots of ten (10) acres or more shall not qualify for PUD development under this Ordinance.”
2. On corner and through lots, front yard setback requirements apply to both yards fronting on streets.
3. Habitable floor area does not include porches, patios, terraces, breezeways, carports, verandas, attached garages or basements and attics having headroom less than seven (7) feet. All dwellings shall contain a portion on the habitable floor area having a core area with the width and depth minimum dimension of sixteen (16) feet each.
4. The depth of a lot may not exceed four times its width.
5. Lot size, lot width, and setback requirements for overlay zoning districts are established by the underlying zoning district requirements. Waterfront overlay district regulations (Article VI) provide supplemental waterfront setback and greenbelt requirements. Village overlay zoning district regulations (Article IX) provide supplemental setback, use and design standards.

5.5 Lot Area, Lot Width and Setback Illustrations

The following illustrations (A-E) are intended to further clarify the dimensional zoning requirements for residential and agricultural parcels in Bay Township.

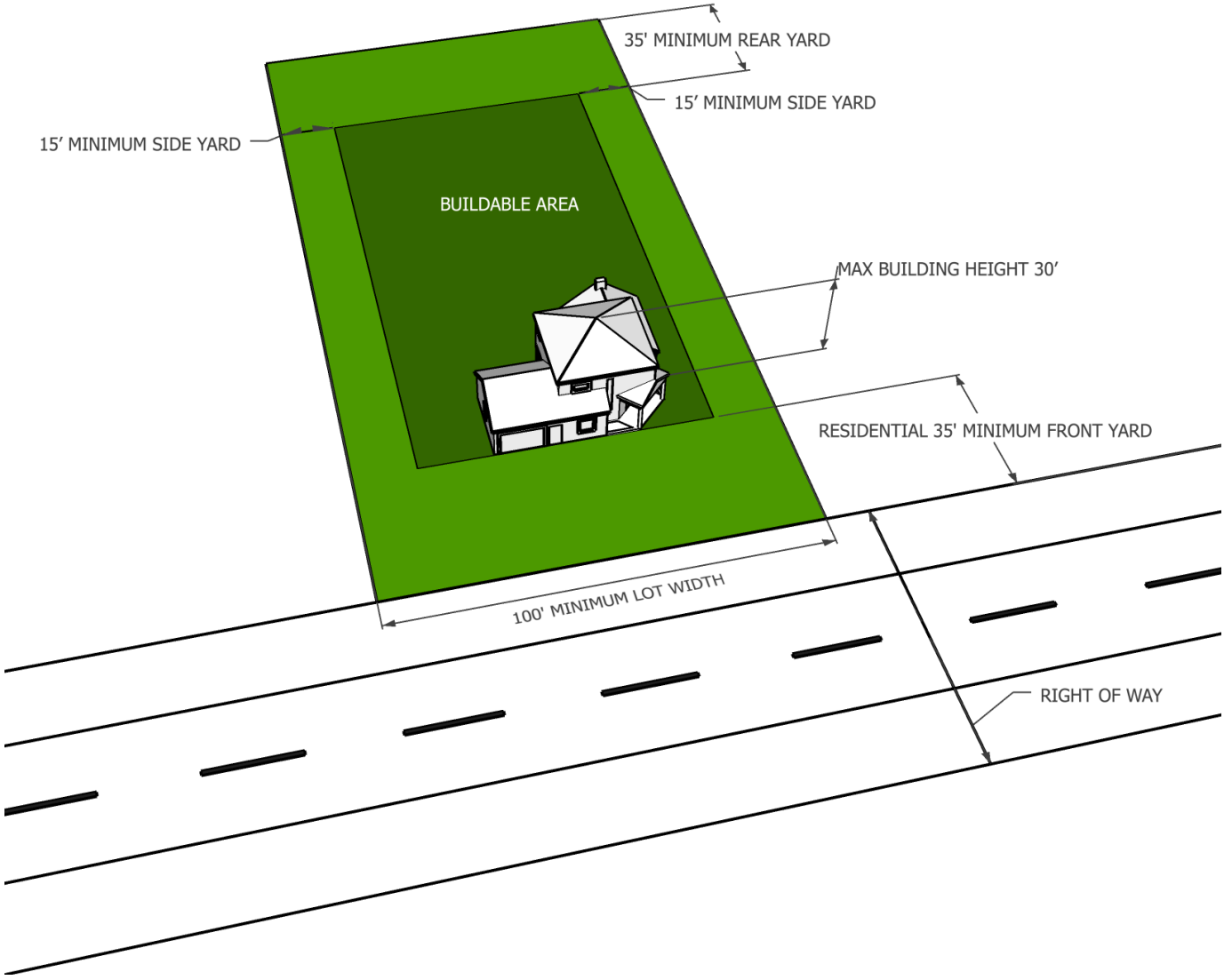
<u>Figure 5.5 (A)</u> – Unplatted Agricultural and Residential Zoning Standards



NOTES:

1. The right of way distance varies from road to road.
2. The front yard setback is measured from the center of the right-of-way and is equal to half the right-of-way plus the setback. In a typical 66' right-of-way, it would be 33' plus the 35' residential setback for a total of 68' from the center of the right-of-way and 33' plus the 65' agricultural setback for a total of 98' from the center of the right-of-way. Generally the center of the right-of-way can be measured from the road centerline, however if it is unclear, the center point needs to be verified through historical records or a survey.
3. The minimum lot size for unplatted residential (20,000 square feet) and agricultural (1 acre typically) is measured from the center of the right-of-way as shown in the cross hatched portion of the illustration unless otherwise noted in the parcel legal description. For unplatted (metes and bounds) parcels the minimum parcel size includes the right-of-way.
4. On steep slopes and uneven topography, the maximum building height is measured incrementally along the extent of the property line as described in Section 6.4(f).
5. For accessory buildings see Section 4.7.
6. See Figure 5.5(E) for triangular or irregular shaped lots.

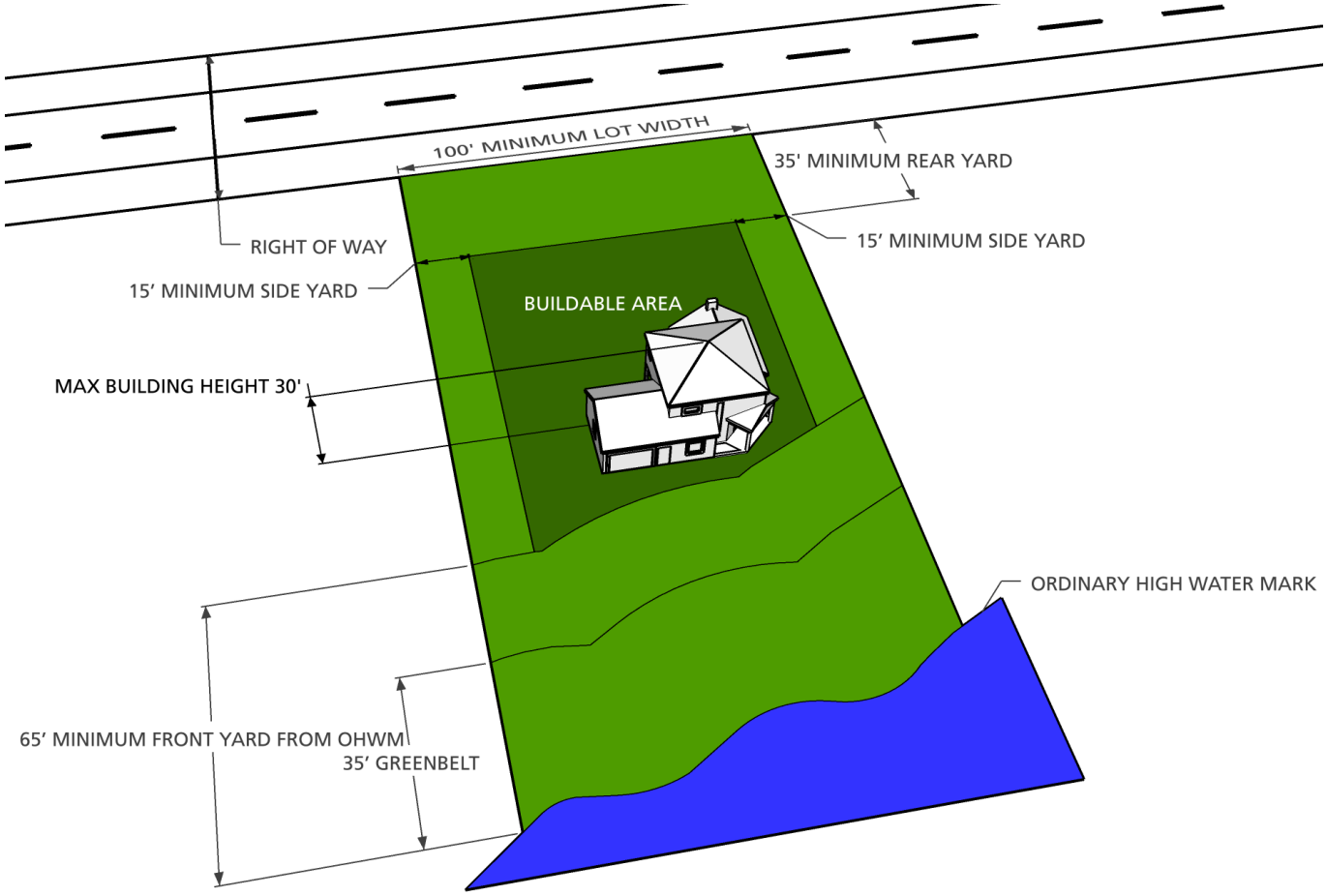
<u>Figure 5.5(B)</u> – Platted Zoning Standards



NOTES:

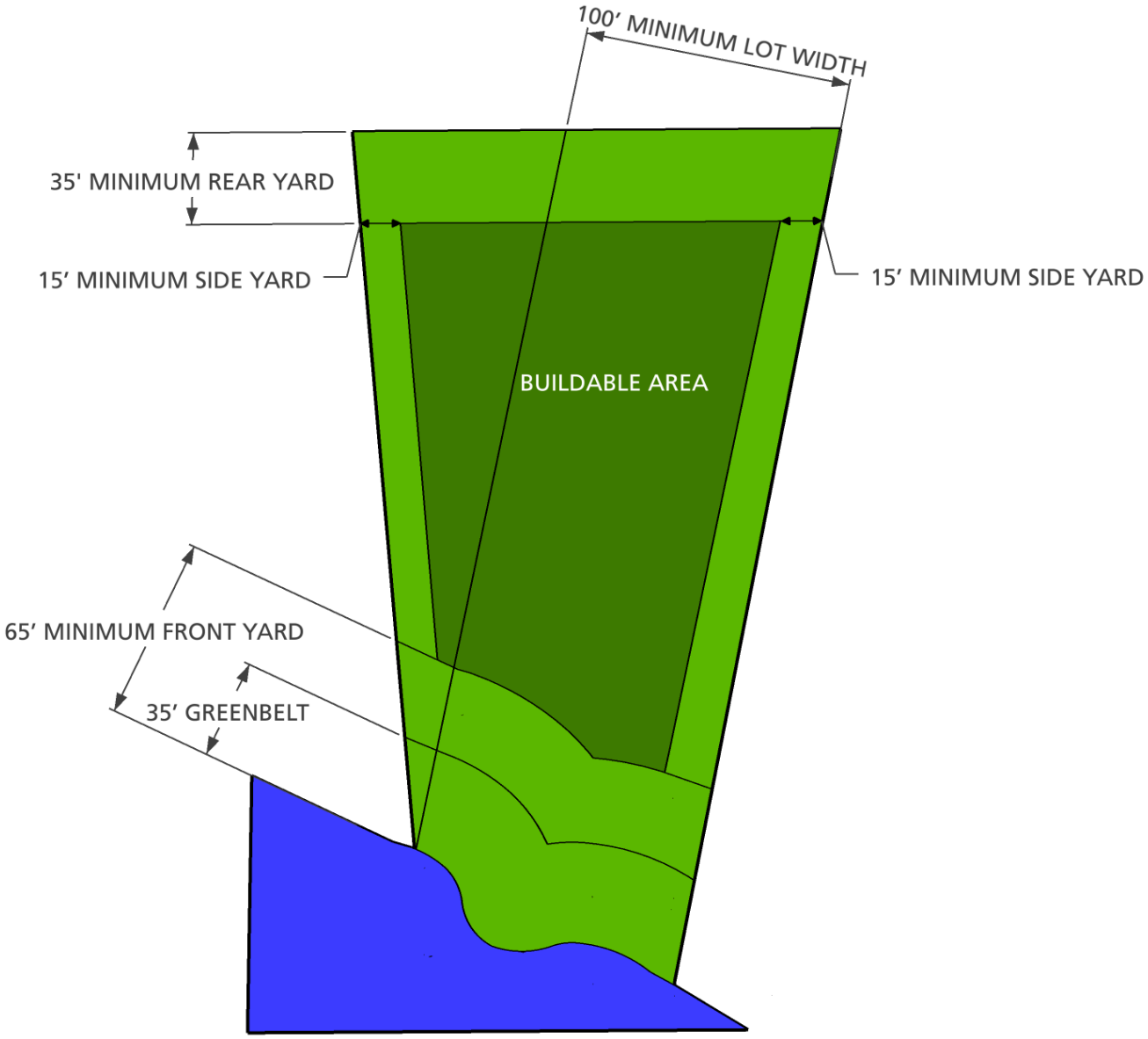
1. The right of way distance varies from road to road.
2. The front yard setback is measured from the center of the right-of-way and is equal to half the right-of-way plus the setback. In a typical 66' right-of-way, it would be 33' plus the 35' residential setback for a total of 68' from the center of the right-of-way and 33' plus the 65' agricultural setback for a total of 98' from the center of the right-of-way. Generally the center of the right-of-way can be measured from the road centerline, however if it is unclear, the center point needs to be verified through historical records or a survey.
3. The minimum lot size is 20,000 square feet per Section 5.4.
4. On steep slopes and uneven topography, the maximum building height is measured incrementally along the extent of the property line as described in Section 6.4(f).
5. For accessory buildings see Section 4.7.
6. See Figure 5.5(E) for triangular or irregular shaped lots.

<u>Figures 5.5(C)</u> – Waterfront Overlay District Residential Zoning Standards and Lot Size Requirements



Please see the following page for notes corresponding to this illustration.

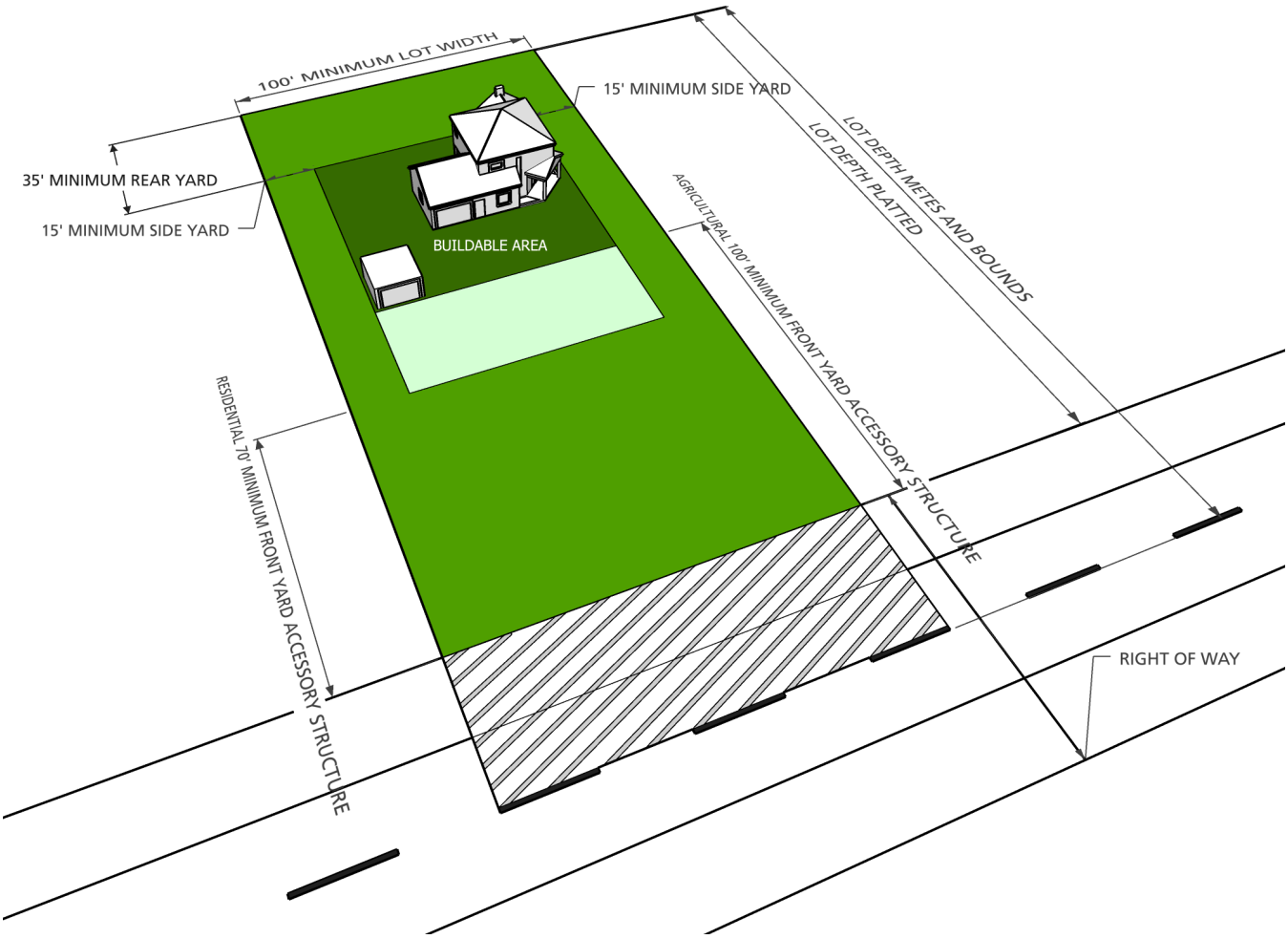
<u>Figures 5.5(C)</u> – Waterfront Overlay District Residential Zoning Standards and Lot Size Requirements (continued)



NOTES:

1. The right of way distance varies from road to road.
2. The rear yard setback is measured from the center of the right-of-way and is equal to half the right-of-way plus the setback. In a typical 66′ right-of-way, it would be 33′ plus the 35′ residential setback for a total of 68′ from the center of the right-of-way and 33′ plus the 65′ agricultural setback for a total of 98′ from the center of the right-of-way. Generally the center of the right-of-way can be measured from the road centerline, however if it is unclear, the center point needs to be verified through historical records or a survey.
3. For accessory buildings see Section 4.7.
4. On steep slopes and uneven topography, the maximum building height is measured incrementally along the extent of the property line.
5. See Figure 5.5(E) for triangular or irregular shaped lots.

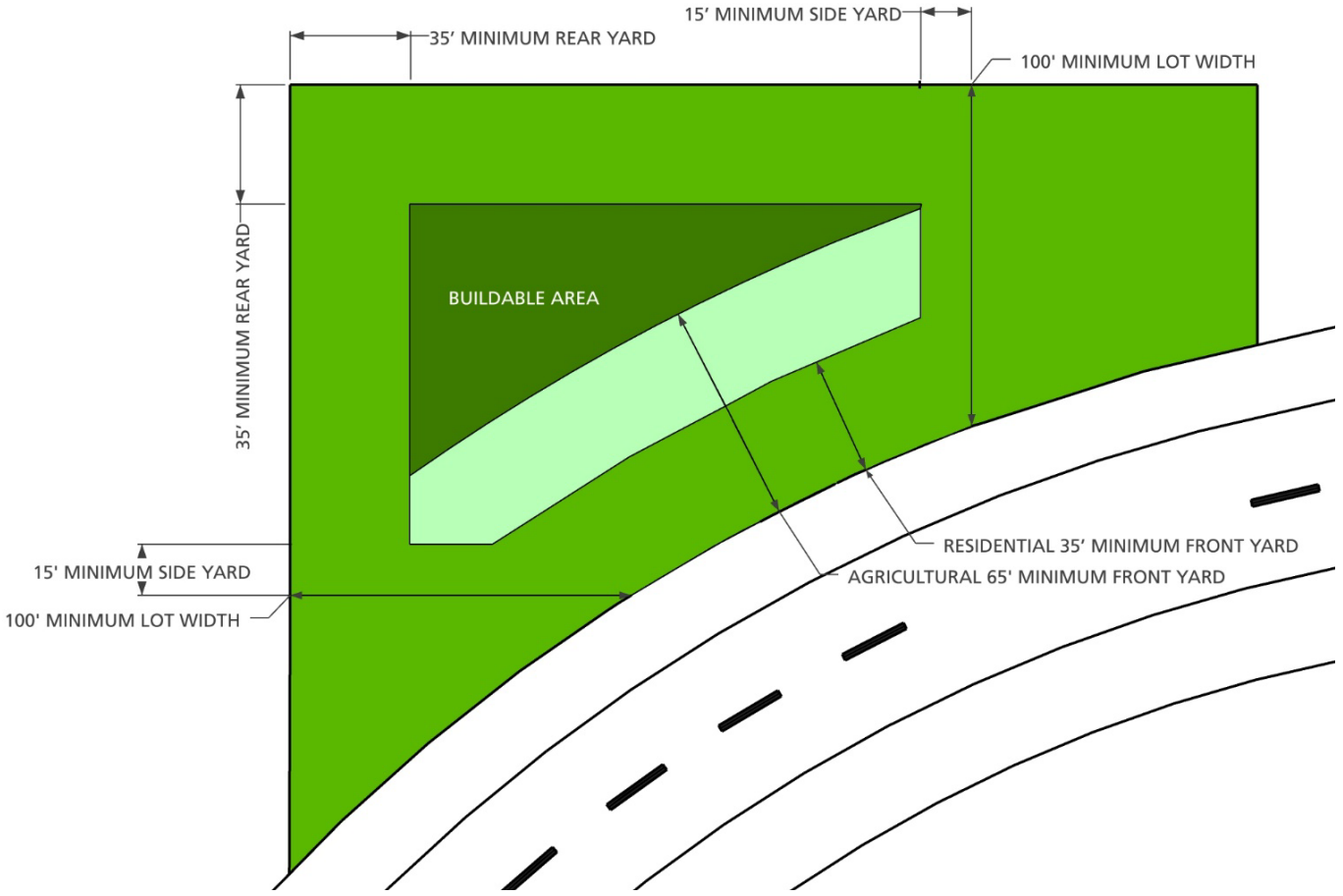
<u>Figure 5.5(D)</u> – Accessory Building in Front Yard



NOTES:

1. The right of way distance varies from road to road.
2. The front yard setback is measured from the center of the right-of-way and is equal to half the right-of-way plus the setback. In a typical 66’ right-of-way, it would be 33’ plus the 35’ residential setback for a total of 68’ from the center of the right-of-way and 33’ plus the 65’ agricultural setback for a total of 98’ from the center of the right-of-way. Generally the center of the right-of-way can be measured from the road centerline, however if it is unclear, the center point needs to be verified through historical records or a survey.
3. An accessory building in the front yard must be set back at least 100 ft. in the agricultural district, at least 70 ft. in the residential district, and at least 65’ in the waterfront overlay district.
4. For backyard accessory buildings, all setbacks for principal structures apply.
5. Accessory building must be at least 10’ from any other structure, but can be located anywhere in the buildable area.
6. See Figure 5.5(E) for triangular or irregular shaped lots.
7. On corner lots each front yard setback is treated individually per respective road.

<u>Figure 5.5(E)</u> – Triangular or Irregular Shaped Lots



NOTES:

1. The right of way distance varies from road to road.
2. The front yard setback is measured from the center of the right-of-way and is equal to half the right-of-way plus the setback. In a typical 66' right-of-way, it would be 33' plus the 35' residential setback for a total of 68' from the center of the right-of-way and 33' plus the 65' agricultural setback for a total of 98' from the center of the right-of-way. Generally, the center of the right-of-way can be measured from the road centerline, however if it is unclear, the center point needs to be verified through historical records or a survey.
3. For irregular shaped lots the front or rear setbacks are measured from a point where the lot is equal to the minimum lot width.
4. For non-conforming lots, reference Section 17.5 for setback and dimensional requirements.

Article VI
WF – Waterfront Overlay District

6.1 Purpose

This Article is enacted to protect water quality within Bay Township, prevent soil erosion and sedimentation into waters, and to promote the scenic character and protect property values of waterfront parcels. This overlay district encompasses all land within one-hundred feet of the shorelines of Lake Charlevoix and Walloon Lake, and the banks of all natural and built watercourses such as channels, rivers and streams.

6.2 Definitions (also included in Article III)

CORRIDOR VIEW OF WATERS
The ability to observe a reasonable portion of the water of a lake, river, or stream through a least intrusive consolidated corridor and selective removal or trimming of trees, shrubs, or other vegetation within the natural vegetative strip that does not impair the underlying purposes of the natural vegetative strip.

EARTH CHANGE
An artificial change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state. Prior to engaging in any earth change activity within five-hundred (500) feet of a lake, river or stream, a valid soil erosion and sedimentation control permit is necessary from the Charlevoix County Soil Erosion and Sedimentation Control Officer.

FILTERED VIEW OF WATERS
The ability to observe a reasonable portion of the water of a lake, river, or stream through the least intrusive and selective removal or trimming of trees, shrubs, or other vegetation within the natural vegetative strip that does not impair the underlying purposes of the natural vegetative strip.

IMPERVIOUS SURFACE
Developed portions of a parcel that preclude or inhibit the infiltration of precipitation or stormwater runoff. Impervious surfaces are typically covered by roofs, asphalt or concrete, compacted gravel, or compacted soil, and include but are not limited to building envelopes/footprints, parking areas, driveways, walkways, pathways, patios, etc. Impervious surfaces do not include such areas covered with pervious surfaces such as pervious pavements, pavers, block, etc.

LAKE
As used in this ordinance refers to the definition of inland lake found within the Michigan Inland Lakes and Streams Act, Part 301 of P.A. 451 of 1994, as amended.

ORDINARY HIGH WATER MARK (OHWM)
The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and vegetation; or the ordinary high water mark for a water body as determined by the Charlevoix County Circuit Court as defined by the Inland Lake Level Act, Part 307 of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended. For the purposes of this Article, the OHWM of Lake Charlevoix shall be considered as 581.5 feet above mean sea level (IGLD 1985) and the OHWM of Walloon Lake shall be 686.8 feet above mean sea level. Also known as the "shoreline" for the purposes of this Article.

RIVER
As used in this ordinance refers to the definition of rivers, streams, creeks, etc. found within the Michigan Inland Lakes and Streams Act, Part 301 of P.A. 451 of 1994, as amended.

RIVER BANK
The line along rivers, streams, creeks between an upland and river bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and vegetation.

SOIL EROSION AND SEDIMENTATION CONTROL ACT AGENCY
The Soil Erosion and Sedimentation Control Officer, Charlevoix County enforcing the provisions of Part 91: Soil Erosion and Sedimentation Control Act; Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

6.3 Waterfront Areas Regulated

a. The requirements of this Article are supplemental to those imposed on waterfront lands by any underlying zoning provisions of this ordinance or other ordinances of Bay Township. These regulations supersede all conflicting regulations of the underlying zoning district(s) to the extent of such conflict, and no more.

b. That portion of a lot or parcel of land, lying between the ordinary high water mark and a line one-hundred (100) feet parallel from and perpendicular to the ordinary high water mark on an inland lake or river/stream bank, is subject to this overlay district. This line shall be known as the waterfront overlay line. In addition, the provisions of Section 6.4.b concerning natural vegetation strips apply to all waterfront properties within Bay Township, even if not depicted on the Bay Township Zoning Map.

c. Any land use permit approved within the waterfront overlay district shall conform to the requirements of this Article.

d. 100-year Flood Plain. No principal structure shall be constructed within the 100-year floodway. Any permitted structures within the 100-year flood plain shall be constructed in a manner that allows for the free flow through of water, complies with all state and/or federal regulations, and compensates for flood plain losses, if any.

e. Lots of record after the effective date of this Article shall conform to waterfront setbacks established in this Article.

6.4 Development Standards

a. Waterfront/Front Yard Setback

1. Waterfront setback: No principal structure, accessory building or parking area(s), shall be erected closer than sixty-five (65) feet from the OHWM of a water body or the bank of a river, stream or creek.

2. Waterfront setbacks, as applied to principal structures ONLY, on lots of record on or before the effective date of this Article within the Bay Township Zoning Ordinance may be reduced by averaging the setback from the ordinary high water mark to primary structures on the two closest developed lots on either side of the subject parcel property lines. The minimum front yard setback shall be no less than fifty (50) feet.

3. Compost piles, manures/fertilizers, livestock, small animal pens and other nutrient sources; solid waste, garbage, trash, discarded appliances, motor vehicles (not including motorized boats), and other unsightly or potentially polluting materials shall not be stored within the waterfront setback.

4. Roadways except as may be required to provide access to a boat ramp, are prohibited within the waterfront setback area.

b. Natural Vegetative Strip

1. To minimize erosion, stabilize waterfronts, protect water quality, keep nutrients from entering waters, maintain water temperature at natural levels, preserve fish and wildlife habitat, to screen artificial structures, protect property values, and also to preserve the scenic values of waterfront areas, a natural vegetation strip shall be maintained on each parcel or lot between the ordinary high water mark and a buffer line, each point of which is forty-five (45) feet horizontal from and perpendicular to the ordinary high water mark of a waterbody or the banks of a waterway.

2. Existing vegetation shading water surfaces shall be preserved to the maximum extent possible.

3. Existing natural ground cover and native vegetation shall be preserved to the fullest extent feasible, and where removed shall be replaced with native vegetation that is equally effective in retarding runoff, preventing erosion, preserving property values, and protecting community scenic values. Refer to Article XI, Planned Unit Development, Appendix B for a list of allowed native plant species. Natural vegetation buffer shall be fenced with silt fence and construction barrier fencing prior to grading or other on-site construction activities. This protective fencing shall be maintained until the completion of construction. The topping of trees is prohibited.

4. All exterior lights shall be less than thirty (30) feet in height, shielded, downward directed, and below tree level as measured from post-construction grade.

5. Within the natural vegetation strip, twenty (20%) percent of existing trees and shrubs may be selectively pruned or removed to enhance a filtered or corridor view of the water from the principal structure and for reasonable private riparian access to the water. A corridor view shall be established through selective cutting only after the principal structure has been sufficiently constructed to locate windows, decks or other structure features intended to enjoy and utilize a water view. Said pruning and removal activities shall be inspected at the discretion of the Zoning Administrator and insure that a live root system stays intact to provide for waterfront bank stabilization and erosion control. Tree-topping and clear cutting within the natural vegetation buffer is prohibited.

6. A maximum of one (1) pathway, including pathway portions constructed as stairways and boardwalks**,** shall be allowed per parcel or lot within the waterfront setback and through the natural vegetation strip to the water's edge. The improved surface of such pathways shall consist of porous pavement, wood chips, mulch or other natural materials. Said pathways are to be no more than a total of four (4) feet in width. Pathway(s) shall meander down to the ordinary high water mark in a manner which protects the soil and vegetation from erosion, while also screening the principal structure, parking areas and vehicles from direct view from the water. Any waterfront pathway (stairway, boardwalk, etc.) shall comply with Michigan's Part 303: Wetland Protection Act, Part 301: Inland Lakes and Streams Act of NREPA, P.A. 451 of 1994, as amended, and other appurtenant or relevant federal, state or local regulations.

7. Typical waterfront, shoreline, bathing, recreation and beach uses are allowed within the waterfront overlay district within conformance with the above-referenced state law and the reasonable rights and expectations of riparian landowners.

8. Dead, diseased, unsafe or fallen trees and non-native exotic or noxious plants and shrubs, including poison ivy, poison sumac, purple loosestrife, *Phragmities*, etc. may be removed at the homeowner's discretion provided that no stumps are removed. Landowners are encouraged to consult with the Bay Township Zoning Administrator before removing dead, diseased, unsafe or fallen trees from within the natural vegetation buffer. Planting of perennial native species (ground cover, shrubs and trees) in the natural vegetation strip is encouraged, especially where

exposed soil and steep slopes exist (i.e. 18% slope or greater). Refer to Article XI, Planned Unit Development, Appendix B for a list of allowed native plants.

c. Building Height

All principal buildings and accessory buildings shall, as far as practicable, be designed so as not to obstruct existing scenic viewsheds.

Single-family dwellings within the waterfront overlay district shall be limited to 30 feet in height; Accessory buildings shall not exceed 24 feet in height.

d. Waterfront Accessory Buildings

Permanent docks, boat ramps, pumphouses, walkways/pathways, and/or elevated walkways accessory to permitted uses which provide property owners with reasonable access to the water are allowed to be permitted by the Michigan Department of Environmental Quality pursuant to Parts 301 and/or 303 of Michigan's NREPA, P.A. 451 of 1994, as amended.

All accessory buildings shall comply with the underlying zoning side setbacks, and all docks shall comply with the underlying zoning side setbacks, as projected in to the water under the laws of the state of Michigan.

Any dock or accessory building lighting is prohibited. Lighting of any other structures within the Waterfront Overlay though, if provided**,** shall be of low intensity, shielded, less than thirty (30) feet in height and downward**-**directed so as to prevent glare and appearance from a public way or waterbody, the illumination of the night sky, or adjoining properties.

e. Waterfront Lot Width

Waterfront lots must provide a minimum straight-line width of one (100) hundred feet between side lot lines, as measured at a side lot lines' point~~s~~ of intersection with the OHWM of a water body or the bank of a river, stream or creek.

f. Impervious Surface

The maximum percentage of lot coverage a lot within the waterfront overlay district with sealed surface, such as roofs, structures, asphalt, concrete, etc. shall be as follows:

Average Parcel Slope	Percent Lot Coverage
0-25%	50%
26-35%	25%
36% or more	10%

g. Innovative Stormwater

Stormwater flow from lots within the Waterfront Overlay district shall be directed to the non-lakeward side of any principal structure, be treated/disposed of on-site, and not leave the subject parcel above pre-development rates. Innovative stormwater treatment methods such as rain gardens, groundwater infiltration structures and/or constructed wetlands, shall be utilized.

h. Additional Standards

1. Each legally created lakefront lot shall be entitled to one (1) seasonal dock. A minimum of two (200) hundred feet of frontage is required for a second dock. Each additional dock shall require an additional one (100) hundred feet of water frontage.

2. Not more than three (3) motor-powered watercraft shall be docked at any single dock at any time.

3. One swimming/diving raft is allowed per legally created waterfront lot. A minimum of two (200) hundred feet of water frontage is required for a second raft. Each additional raft shall require an additional one (100) hundred feet of water frontage.

4. All waterfront parcels are required to utilize underground utilities within one (100) hundred feet of water frontage.

6.5 Area, Width and Setback Requirements

Lot area, width and setback requirements are listed in Article V, Section 5.4. In instances where the development standards outlined above require greater width or setbacks at the discretion of the Planning Commission, then such standards shall apply.

Article VII
R-1 - Residential Zoning District

7.1 Purpose

The purpose of this zoning district and its accompanying regulations is to provide for a stable and sound residential environment on lots of sufficient area to accommodate the safe and healthful use of on-site water and waste disposal systems. This district also provides for certain non-intensive special uses and for PUDs that are compatible with permitted and special uses.

7.2 Permitted Uses

a. Single-family dwellings.

b. Accessory buildings customary to permitted uses, subject to the provisions of Article IV, Section 4.7.

7.3 Special Uses

a. Hobby Farms, subject to the provisions of Article XIII, and the following specific requirements:

   1. Minimum parcel size of five acres.

   2. Livestock density shall be at the discretion of the Planning Commission.

   3. All buildings used for the purpose of housing livestock, poultry, and similar farm animals shall conform to the minimum yard and setback requirements of the Agricultural zoning district

   4. The boarding of animals for use by persons not residing on the premises is prohibited. Incidental sale of animals, fruit, grain and fiber produced upon the hobby farm shall be allowed. Retail sales from the property are prohibited.

b. Public parks and preserves.

c. Natural resource conservation areas.

d. Private parks and preserves.

e. Bed and breakfast facilities subject to the provisions of Article IV, Section 4.31 and Article XIII Special Uses.

f. Accessory Buildings without a principal use, subject to the provisions of Article IV, Section 4.7 and Article XIII Special Uses.

g. Accessory Dwelling Units (ADU's), subject to the provisions of Article IV, Section 4.34 and Article XIII Special Uses.

7.4 Uses Subject to Approval as PUDs

a. Single family condominium and platted subdivisions.

b. Public or private campgrounds, summer camps, resorts, golf courses, and country clubs.

7.5 Area, Width and Setback Requirements

Lot area, width and setback requirements are listed in the table appearing in Article V, Section 5.4.

Article VIII
A - Agricultural Zoning District

8.1 Purpose

This district is intended to provide for the continuation of farming and forestry management activities in areas of the Township designated by the Bay Township Land Use Plan that are well suited to such operations due to concentrations of prime farmland and forestland soils, and the presence of large contiguous tracts of active farmland and productive woodlands. This zoning district presents opportunities for the agricultural activities and timber production if large tracts of land remain intact rather than fragmented. The district can accommodate low density residential development in areas not ideally suited to agricultural and forestry operations.

8.2 Permitted Uses

a. Farms for general and specialized farming, including nurseries, and single family farm dwellings, and buildings and other structures essential to farming and farm operations.

b. Timber management operations.

c. Single family dwellings.

d. Roadside stands for the sale of produce raised on the premises, provided that off-street parking is provided, and no hazardous traffic condition shall result from such activity.

e. Accessory buildings customary to permitted uses, subject to the provisions of Article IV, Section 4.7.

8.3 Special Uses

a. Non-intensive recreation facilities, such as snowmobile trails; archery, rifle, skeet or gun ranges; hunting and fishing preserves; or hunting or fishing clubs.

b. Dog kennels and boarding facilities provided all buildings and runs are located a minimum of 100 feet from all property lines and are at least 200 feet from any dwelling on adjacent and adjoining property.

b. Landing strips that are incidental to a permitted agricultural or residential principal use.

c. Commercial natural resource mining operations.

d. Bed and breakfast facilities subject to the provisions of Article IV, Section 4.31 and Article XIII Special Uses.

e. Special Events and Activities subject to the provisions of Article IV, Section 4.33 and Article XIII Special Uses.

f. Accessory Buildings without a principal use, subject to the provisions of Article IV, Section 4.7 and Article XIII Special Uses.

g. Accessory Dwelling Units (ADU's), subject to the provisions of Article IV, Section 4.34 and Article XIII Special Uses.

8.4 Uses Permitted as PUDs

a. Public or private campgrounds, summer camps, resorts, golf courses, country clubs, and publicly and privately owned recreation areas.

b. Single-family site condominium subdivisions and platted subdivisions.

8.5 Area, Width and Setback Requirements

Lot area, width and setback requirements are listed in the table appearing in Article V, Section 5.4.

Article IX
V - Village Overlay Zoning District

9.1 Purpose

This is an overlay zoning district that is intended to provide for village scale development within the Horton Bay Village Area illustrated on the Bay Township Zoning Map. The Horton Bay Village Area is viewed by residents and visitors as an important, historic community center. This area presents a location for small scale commercial development that reflects the Village Area's historic character.

Due to environmental constraints and the impracticality of assuming that municipal sewage treatment and water supply systems will become available at any time in the foreseeable future, the Village Area presents limited, though viable, opportunities for village-scale, residential, and tourism-oriented service/retail development. Such development may include small restaurants, galleries, shops, and similar tourism-oriented uses.

9.2 Permitted Uses

a. Single-family dwellings

b. Accessory buildings customary to permitted uses, subject to the provisions of Article IV, Section 4.7

9.3 Special Uses

a. Non-intensive retail establishments, art galleries, and potteries

b. Professional offices

c. Bed and breakfast facilities subject to the provisions of Article IV, Section 4.31 and Article XIII Special Uses

d. Accessory Buildings without a principal use, subject to the provisions of Article IV, Section 4.7 and Article XIII Special Uses.

e. Accessory Dwelling Units (ADU's), subject to the provisions of Article IV, Section 4.34 and Article XIII Special Uses.

f. Inns providing lodging and food service facilities

g. Museums, community centers, and places of worship

9.4 Uses Permitted as PUDs

None

9.5 Area, Width and Setback Requirements

Lot area, width and setback requirements are listed in the table appearing in Article V, Section 5.4 except as provided in Section 9.6.

9.6 Village Design Standards

The requirements of this Section are supplemental to those imposed on land under the R-1 Residential Zoning District provisions of this ordinance and are applicable only to special uses within the Village Overlay Zoning District. These regulations supersede all conflicting regulations of the R-1 Residential Zoning District and other applicable standards of this Ordinance to the extent of such conflict, and no more.

a. Parking: Parking for non-residential uses shall meet the following standards:

    1. Required Parking: The minimum required parking for commercial uses shall be provided at a rate of one (1) parking space for every two hundred (200) square feet of gross floor area.

2. Location: Off-street parking shall be located in the side or rear yard and shall be prohibited from occupying any front yard.

b. Exterior Lighting: Exterior lighting for non-residential uses shall meet the following standards:

1. All exterior lighting shall be hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of way.

2. All lighting fixtures shall have one hundred (100) percent cut-off shielding that prevents light from being emitted above a horizontal plane from the lowest direct light emitting part of the luminaire.

3. All exterior lighting shall emit light measuring 3,500 K or warmer (between 0 K and 3,500 K) on the Kelvin Scale and not exceed eight hundred (800) lumens.

c. Signs: Signage for non-residential uses shall meet the following standards:

1. Freestanding signs shall be prohibited.

2. Internally illuminated signs shall be prohibited.

d. Building Materials: In order to maintain the historic character of the Horton Bay Village Area, non-residential structures shall meet the following building materials standards:

BUILDING MATERIALS		MAX. PERMITTED FAÇADE COVERAGE
Brick	Face, terra cotta, or ceramic	100%
	Jumbo or utility[1] brick	25%
Stone	Natural stone, stone veneer, or simulated stone materials	100%
Concrete	Formed in place, pre-cast panels or blocks	10%
	Split-face CMU[2] or similar decorative block	25%
Siding or Shingles	Vinyl, metal or other synthetic materials	75%
	Wood, cement board, or similar materials	100%
Engineered Finish Products	EIFS[3], plaster, stucco, or similar materials	10%
	Hard-coated EPS[4] or similar polyurea hard-coated foam materials	20%
Glass	Translucent, dark tint or mirrored	0%
	Transparent, pale tint, or energy efficient	75%
	Glass block	5%
Sheets, Paneling or Similar	Metal	10%
	Wood	25%

Notes to Table:
1. Utility brick is larger than standard brick (typical utility brick = 3 5/8 inches by 11 5/8 inches).
2. CMU = Concrete Masonry Unit
3. EIFS = Exterior Insulation and Finish System
4. EPS = Expanded Polystyrene

e. Setbacks: Setbacks for all uses shall be as follows:

1. Front: Twenty five (25) feet

2. Side: Ten (10) feet

3. Rear: Thirty (30) feet

f. Alternative Designs and Materials: To encourage creativity, imagination, innovation, and variety in architectural and site plan design, the Planning Commission may waive or modify the requirements of this Section upon determining that the proposed architectural or site plan design meets all of the following conditions:

1. The proposed design or materials is consistent with the purposes of this Section.

2. The proposed design or material would enhance the character of the building and/or site and would be equal or superior to designs or materials permitted by this Section.
3. The proposed design or material would be in harmony with the character of adjacent buildings and the surrounding overlay district.

Article X
C - Commercial Zoning District

10.1 Purpose

This zoning district is intended to provide areas in the Township for retail and professional services.

10.2 Permitted Uses

a. Inns providing lodging and food service facilities

b. Non-intensive retail establishments, art galleries, and potteries

c. Professional offices

d. Marinas

e. Accessory buildings customary to permitted uses, subject to the provisions of Article IV, Section 4.7.

10.3 Special Uses

a. Accessory Buildings without a principal use, subject to the provisions of Article IV, Section 4.7 and Article XIII Special Uses.

10.4 Area, Width and Setback Requirements

Lot area, width and setback requirements are listed in the table appearing in Article V, Section 5.4.

Article XI
Planned Unit Development (PUD) Zoning District

11.1 Purpose

The PUD zoning district is an overlay district that encompasses Agricultural and Residential zoning districts, and provides for the review of single and mixed-use land development projects on a case by case basis.

The types of land developments eligible for consideration as PUDs include, but are not necessarily limited to, single and two-family residential developments; single and two-family residential uses combined with golf course/country clubs; single use recreational and resort-oriented developments such as campgrounds, resorts, public or quasi-public golf courses; conference and retreat centers providing lodging and dining facilities together with residential facilities for management and staff. All site condominium projects proposed within the Agricultural (A) and Residential (R-1) Districts in Bay Township shall comply with this Article.

The PUD overlay district is established to accomplish the following objectives:

a. To encourage the use of land in ways consistent with its character and adaptability;

b. To encourage and provide incentives for the implementation of conservation design and low impact development principles within Bay Township;

c. To enable farmers and other landowners to realize their rightful equity in their land holdings by providing for the division, sale, and development of land;

d. To provide for the preservation of farmland, orchards, forest land, open space, visual and community character and to protect and preserve natural resources;

e. To provide for the division of land under the provisions of the Land Division Act (P.A. 591 of 1996, as amended) and the Condominium Act (P.A. 59 of 1978, as amended);

f. To provide for the orderly development of land and the orderly layout of lots;

g. To assure that land is suitable for the creation of building sites and to allow innovation and flexibility in the design of residential and mixed-use developments;

h. To provide for the provision of environmental amenities and recreational opportunities to present and future residents of the community by providing for the development of land in a manner consistent with the Bay Township Master Plan;

i. To provide for safe and adequate ingress and egress to lots;

j. To provide for the construction and maintenance of roads, storm water management systems, and public utilities in an economical and efficient manner;

k. To provide for the construction and maintenance of public facilities and infrastructure in a manner that does not overburden the Township's financial ability to provide such facilities and infrastructure;

l. To assure the equitable provision of fire, emergency, medical, and police services to all residents and property owners;

m. To encourage and accommodate innovation in the design, layout, and construction of land uses and land development projects;

n. To promote the enhancement of housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the Township;

o. To promote and ensure greater compatibility of design and use between neighboring properties; and

p. To provide for other purposes as outlined in Section 503, Michigan Zoning Enabling Act, P.A. 110 of 2006.

11.2 General Requirements

Single and mixed-use PUDs shall be subject to the following general requirements:

a. Location
   PUD may be established in an Agricultural or Residential zoning district.

b. Minimum Land Area
   The minimum lot area eligible for PUD overlay is ten (10) acres.

c. Residential Component
   All proposed PUDs, whether single use or mixed use, shall have a residential component.

d. Single Ownership and Control Required
   The land or proposed PUD must be under single ownership or control. Single ownership and control shall consist of landownership and/or control by an individual or family, or a single legal entity. An owner or entity in control of a PUD under this Article shall assume joint and several liability for completing a PUD subject to the provisions of this Article.

e. Escrow Funds
   Applicants shall be required to deposit escrow funds of a reasonable amount to cover costs associated with the Township's use of engineering, legal and planning consultants during the review of preliminary and final applications for PUD zoning.

f. Approved PUD Plan Functions as PUD Overlay District Regulations
   The final site plan, other plans and statements submitted by applicants and accepted by the Township and conditions imposed by the Township that are associated with an approved PUD shall constitute the zoning regulations governing the alteration of land and natural resources and the layout, construction, use and occupancy of buildings, improvements, and structures within a PUD.

11.3 PUD Overlay Districts are Established on Case by Case Basis

a. Single Use PUDs
   Single use PUDs containing a use allowed in an underlying zoning district shall be established as a special use approved under Article XI of this Ordinance.

b. Mixed Use PUDs
   Applications for mixed use PUDs shall be processed in the same manner as any other application for rezoning property. Mixed use PUDs may be established provided underlying zoning district use regulations will not be circumvented by the uses proposed.

   The establishment of business or industrial uses in zoning districts in which such uses are not allowed as permitted or special uses are not permitted under any circumstances.

11.4 Pre-application Conference (refer to *Figure 11.1 Planned Unit Development (PUD): Review Process, Article 11* for Flow Chart of the PUD Review/Approval Process)

Applicants shall attend a pre-application conference with the zoning administrator and/or Township planner to present PUD concepts for informal, non-binding informational purposes. Pre-application conferences are intended to allow applicants to address Article 11.8 Design and Approval Standards; develop an administratively complete PUD application prior to consideration by the Planning Commission; and to allow the Township to inform applicants of the Township's PUD and other land use goals, policies and objectives, and to identify and address any potential areas of concern.

Statements made by applicants or the Zoning Administrator at pre-application conferences are intended to be informational and not legally binding.

11.5 Applications

Applications for PUDs shall be submitted and processed as outlined below:

a. Single Use PUDs
   Single use PUDs containing a use allowed in an underlying zoning district shall be established as a special use. Single use PUD applications shall be submitted to the Zoning Administrator not less than thirty (30) days before the date on which the Planning Commission will first consider same.

b. Mixed Use PUDs
   Applications for mixed use PUDs shall be processed in the same manner as any other application for rezoning property. Mixed use PUDs may be established provided underlying zoning district use regulations will not be circumvented by the uses proposed.

Applications shall consist of the following materials and information:

a. A completed application form;
b. An application fee;
c. An escrow fee within twenty (20) days of the zoning administrator and/or Planning Commission's determination of the required reasonable escrow amount;
d. A preliminary PUD site plan complying with the provisions of Article 12.8 Content of Site Plans. If the PUD is proposed for development in phases, the location and timing of each phase must be indicated on the site plan;
e. A natural and cultural features inventory identifying primary conservation areas such as wetlands, waterways, floodplains, shorelines, views into and from the site, etc. and secondary conservation areas such as steep slopes, ridgelines, old buildings/structures, historic/archeological features, farmland, groundwater recharge/discharge areas, significant plant/wildlife habitat, etc., and potential development areas.
f. A site yield plan showing potential lots, roads, maximum lot density, etc. allowed by underlying zoning.
g. A conservation design plan indicating development areas and proposed lots, common elements such as conservation areas, access roads, utilities, and acreage percent of conservation area set asides.
h. A typewritten legal description of the property.
i. A typewritten statement describing:
    1. The number of acres of land subject to the application;
    2. The use or uses to be established in the proposed PUD, including the number and area of lots or building sites; number, type, and floor area of dwelling units; and the number, type, and floor area of all other buildings; and
    3. If a PUD is proposed for phased development, a tentative construction schedule must also be provided.

11.6 Review Process

The steps followed in the single and mixed use PUD review processes are outlined below. Please refer to *Figure 11.1 Planned Unit Development (PUD): Review Process* for a detailed flow chart. Steps 1 through 5 apply to both types of developments. Step 6 applies only to single-use developments. Steps 6a and 7 apply only to mixed-use developments.

Step 1 The Zoning Administrator notifies the applicant in writing that a PUD application is administratively complete and that escrow funds have been created or reasonable assurances are received in writing from a financial institution or other third party that escrow funds will be created.

Step 2 Applicant files application for preliminary PUD approval at least thirty (30) days before the date of the regularly scheduled Planning Commission meeting at which the applicant wishes to have the application considered.

Step 3 Planning Commission reviews the application, preliminary site plan, supporting documentation and if adequate information has been provided by the applicant, then the Planning Commission sets a date for public hearing in accordance with Section 11.7.
The Planning Commission may request modifications to the preliminary site plan or may request that the applicant submit additional information deemed necessary to continue informed deliberations on the application. In such cases, the Planning Commission shall table consideration of the application until the modified site plan and/or additional adequate information is provided by the applicant.

Step 4 Planning Commission conducts public hearing.

1. Applicant presents the proposal;
2. Public makes comments;
3. Close public hearing;
4. Commissioners make comments and ask questions;
5. Planning Commission deliberates;
6. Applicant addresses comments and questions; and
7. Planning Commission preliminarily approves, approves with conditions, or denies application.

Within a reasonable period of time following the public hearing, the Planning Commission shall approve, deny, or approve with conditions the preliminary PUD site plan. The Planning Commission's decision must be consistent with the following standards:

The Planning Commission's decision must be in writing and include findings of fact clearly describing how the preliminary PUD does or does not comply with the provisions of this Article. The finding of fact shall state the bases for the Planning Commission's decision, and make specific reference to each of the design and approval standards outlined under Section 11.8 below.

Approval of a preliminary PUD site plan authorizes the applicant to proceed with the preparation of an application for final PUD approval.

Step 5
Applicant submits written request for review of final PUD plans and supporting documentation not less than twenty (20) days before the date of the regularly scheduled Planning Commission meeting at which the applicant wishes to have the application considered.

This request must be accompanied by the following materials and information:

1. Final site plan;
2. Itemized cost estimate for construction of all improvements;
3. A soils report delineating soil types at the site, septic suitability, construction suitability, etc. as determined by the Charlevoix County Soil Survey and/or soil borings;
4. Approvals by the Health Department of Northwest Michigan; approval from fire and safety officials; approval from the Charlevoix County Road Commission for public road development (if any); and approval from Bay Township for private road development per Section 4.32 of this Ordinance;
5. At the request of the Planning Commission, a hydrogeological report shall be provided documenting the depth to groundwater, groundwater flow direction, groundwater flow velocity, potential to impact nearby water well supplies and/or natural features, and/or the results of pump test(s), etc.;
6. Documentation of arrangements for construction of improvements; and
7. Proposed covenants, deed restrictions, master deed, condominium or property owners' association by-laws.

Step 6 Single Use PUDs
Final Review by Planning Commission. Planning Commission reviews the final PUD site plan and supporting documentation and approves, approves with conditions, or denies application in accordance with the standards within Section 11.8 and Article XII.

Step 6a Mixed Use PUDs
Final Review by Planning Commission.

Planning Commission reviews final application, final site plan and supporting documentation and recommends that Township Board approve, approve with conditions, or deny the final PUD application in accordance with the standards within Section 11.8 and Article XII. The Planning Commission's recommendation must be transmitted to the Charlevoix County Planning Commission for review, and comment as is required of any Planning Commission recommendation on the rezoning of property.

If the County Planning Commission's response has not been received by the Township within thirty (30) days of receipt of the Township Planning Commission's recommendation, it shall be presumed that the County has waived its right for review. If such recommendation has been received, it shall be considered by the Township Planning Commission and forwarded to the Township Board with the Township Planning Commission's original recommendation.

Step 7
Final Action by Township Board (for mixed-use PUDs only)

The Township Board may take any of the following actions:

1. Conduct additional public hearings. Notification of such hearings shall be published in accordance with state law and this Ordinance.
2. Review evidence compiled by and findings of fact of the Planning Commission, and approve, approve with conditions or reject the mixed use PUD as recommended by the Planning Commission.
3. Remand the mixed use PUD review back to the Planning Commission for further deliberation if the Board determines that additional review is advisable.
4. The Township Board shall produce its own findings of fact in accordance with the standards within Section 11.8 and Article XII.
5. If approved, publish a notice describing the nature and extent of the PUD in a newspaper within fifteen (15) days of the date of its approval by the Township Board.

11.7 Public Hearing Requirements

At least one public hearing shall be conducted on applications for all PUDs. The date and time of the public hearing shall be set by the Planning Commission during Step 3 described above.

The notice shall 1) describe the nature of the proposed PUD and whether or not this is a hearing to rezone the property; 2) indicate the property subject to the application (an address if one exists and either a tax identification number or a legal description); 3) state where and when the application will be considered; 4) indicate when and where the application, preliminary site plan and other materials may be inspected by the public and; 5) state when and where written comments on the application will be received.

1. Publication

Notice including the date, time and place of a public hearing must be posted outside the Township Hall and published once in a newspaper of general circulation in Bay Township. The publication must occur not less than fifteen (15) before the date of the public hearing.

2. Delivery

Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in Bay Township.

Notice shall be given not less than fifteen (15) days before the date the application will be considered for action by the Planning Commission. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following: a) describe the nature of the request; b) indicate the property that is the subject of the request including a legal description, or property tax identification number and a listing of all existing street addresses within the property, however street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

11.8 Design and Approval Standards

Before taking action upon a preliminary PUD Site Plan and final single or mixed use PUDs, the Planning Commission must insure compliance with the following standards:

a. Design Standards

1. Perimeter Setbacks/Greenbelt Buffer Zone

All PUD projects shall establish and maintain perimeter setbacks of one hundred (100) feet, which may be reduced at the discretion of the Planning Commission in accordance with Sections 11.15 or 11.16. Setback areas shall be maintained as a greenbelt buffer zone. Perimeter greenbelt buffer zones shall be one hundred (100) feet in width, which may also be reduced at the discretion of the Planning Commission. Such greenbelt buffer zones shall be maintained as vegetated open space or be re-planted with native vegetation consisting or trees, shrubs and/or groundcovers to create an effective visual buffer between a PUD and adjacent land uses. Refer to Appendix B for a list of allowable native plant species.

Pedestrian and bicycle pathways may occupy setback areas, and such areas may be used for stormwater management and/or snow storage. Pathways, if proposed, shall be six (6) feet or less in width; be designed and built to meet American Association of State Highway Transportation Officials (AASHTO) Standards; exist within a ten (10) foot dedicated easement; utilize mulch, crushed stone, or other natural surfaces; be non-lighted; meander to avoid tree removal, minimize impact on neighboring and on-site land uses; and be intended for non-motorized use only.

2. Density and Open Space Requirements

The maximum number of single and two-family dwelling units permitted in a single or mixed-use PUD shall be based on a density of one (1) lot or condominium unit per three (3) acres of land area, excluding land areas in, dedicated to, improved for, or occupied by any of the following:

i. Surface waters, wetlands or floodplains;
ii. Existing or proposed public or private road right-of-ways;
iii. Existing or proposed constructed utility and stormwater drainage structures and/or easements;
iv. Existing or proposed parking areas; or
v. Existing buildings, including historic structures or sites.

Lots and condominium units may vary in size. There shall be no minimum parcel size except what is deemed necessary for adequate septic disposal as required by the Northwest Michigan Community Health Agency. There will be no maximum parcel size. Rather, the total land area dedicated to single and two-family residential lots or condominium units and all other improvements shall not exceed forty (40%) percent of the parent parcel(s) preexisting area.

Not less than sixty percent (60%) of the total land area shall be dedicated open space to be held in common association ownership. Open space shall consist of contiguous acreage not split by an existing public road or public highway. Any of the following natural and cultural features existing at a proposed PUD should be located within the sixty percent (60%) open space area to the greatest extent feasible, including but not limited to: scenic vistas; pathways or other recreation areas internal to the development and intended for use by PUD landowners/association members; historic sites and structures; wetlands; and floodplains.

Such open space shall be set aside by the applicant through an irrevocable conveyance acceptable to the Township. The conveyance shall insure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use without approval by the Planning Commission for single use PUDs and by the Township Board for mixed use PUDs. Forms of conveyance may include:

i. A recorded deed restriction to which Bay Township is a party and signatory;
ii. Covenants that run with the land in perpetuity; or
iii. A conservation easement established in accordance with the provisions of P.A. 197 of 1980, as amended.

3. Gross Site Density Calculation

Additional units may be developed by the applicant through natural and cultural resource conservation in accordance with density-bonus incentives outlined in Table 1.

Table 1: Example Conservation Points/Density Bonus Incentives and Credits

Example Calculation for Hypothetical 200-acre parcel					
CONSERVATION POINT SYSTEM CHART	**LAND AREA**		**CONSERVATION POINTS**	**(POINTS x AREA)**	**POINTS PER LAND TYPE**
	acres	**%**			
Conservation Lands/Buildable Lands:					
•*Active Farmland*	**0**	**0%**	**0.8**	**0.8 x 0.0**	***0***
•*Inactive Farmland*	**55**	**28%**	**0.7**	**0.7 x 0.28**	***0.196***
•*Woodlands*	**30**	**15%**	**0.5**	**0.5 x 0.15**	***0.075***
•*Scenic Viewsheds*	**5**	**3%**	**1.0**	**1.0 x 0.03**	***0.03***
Unbuildable Lands:					
•*Wetlands*	**15**	**8%**	**0.8**	**0.8 x 0.08**	***0.064***
•*Steep slopes (>18%)*	**20**	**10%**	**0.4**	**0.4 x 0.1**	***0.04***
Shorelines	**0**	**0%**	**1.0**	**1.0 x 0.0**	***0***
Adjoining Conservation Lands			**0.4**		***0.4***
TOTAL Open Space	**125**	**62.5%**			
TOTAL Development Lands	**75**	**37.5%**			
TOTAL Lands	**200**	**100%**			
Conservation Bonus	***Add 0.5 pt. - If land percentage exceeds 60%***		**0.805 + 0.5**		***1.305***
CREDITS					
Environmental Contamination Clean-up			**0.3**		
Innovative Stormwater Treatment			**0.5**		***0.50***
Pathways			**0.2**		
Recreation Areas			**0.3**		
Water frontage (at least 500.0 lineal ft. or more and vegetated buffer required)			**1.0**		
Wetland Buffers (25.0 ft. no-grade buffer and 40.0 ft. building setback buffer required)			**0.8**		
Significant plant/wildlife habitat			**0.6**		
Historic/Archeological Sites and/or Structures			**0.3**		
Total Conservation Points:					***1.805****
*In this example the applicant/developer is entitled up to **2 additional units** beyond the density established in underlying zoning district.					

***To determine additional units earned through conservation, applicants may round up to the nearest whole number when a decimal place is one-half (i.e. 0.5) or greater.**

4. Layout of Residential Lots and Non-Residential Uses

   Residential lots and non-residential buildings and improvements shall be laid out to the greatest extent feasible, as follows:

   i. On soils most suitable for septic systems. Hydric soils and soils containing a permanent high water table or hydric inclusions are to be avoided.
   ii. Within the outside one-hundred (100) feet of the edge of a woodlot, or along the far edge of open fields adjacent to any woodland.
   iii. Below the crest of ridgelines, and in other locations least likely to block scenic vistas as seen from public roads and surface waters.
   iv. On areas not actively being used for agricultural purposes, or on soils not designated as prime, unique, or important farmland soils, or timberland soils important on a national or regional basis.
   v. Plans for residential lots proposed to be created on pre-development slopes of eighteen percent (18%) or greater must be accompanied by a stamped, detailed plans and a statement from a licensed architect or professional engineer indicating that the steep slope may be safely developed, and explanation of the construction methods to be used in overcoming foundation and other structural problems potentially presented by steep slope conditions, preserving the natural vegetation and drainage, and preventing soil erosion.

   Special land use approval must also be obtained for lot creation in pre-development areas of twenty-five percent (25%) slope or greater in accordance with Article XIII.

5. Setbacks

   Lot and building setbacks shall be as follows:

   i. Waterfront lots proposed within a PUD shall comply with Article VI: Waterfront Overlay District within this Ordinance.
   ii. Side setbacks shall be fifteen (15) feet, and may be modified or waived by the Planning Commission if in accordance with Sections 11.15 or 11.16.
   iii. Front and rear building setbacks shall be established on the basis of underlying zoning district regulations according to Article V, though front and rear setbacks may be modified or waived by the Planning Commission if in accordance with Sections 11.15 or 11.16.

6. Access

   Each building site, lot, dwelling unit or other use shall have access to a public road by way of a public or private road.

7. Roads

   PUDs shall provide for vehicular access to all uses and areas. All roads must either be public roads or provide dedicated easements and shall be designed by a Professional Engineer in compliance with the Private Road provisions of this Ordinance, see Section 4.32.

8. Signs

   All signs shall conform to requirements of Article XV of the Bay Township Zoning Ordinance.

9. Lighting

   All exterior lighting fixtures, whether attached to a building or freestanding, shall be of unified design and shall be fully shielded, shaded and downward directed. Lighting fixtures shall be located so as not to illuminate the night sky or produce glare outside of the boundaries of the development. Light fixtures/poles shall be fourteen (14) feet or less in height.

10. Parking Areas

    Common parking areas, if proposed, shall be designed and constructed to adequately serve the needs of all buildings and uses within the PUD. Such areas are encouraged to utilize permeable surfaces such as permeable pavement, porous pavers, etc.

    Common parking areas shall be screened from view from adjoining property as deemed appropriate by the Planning Commission for the setting in accordance with Sections 11.15 or 11.16, or underlying zoning district in which a PUD is located. Screening can be accomplished by existing trees or other vegetation or by landscaped native plant buffers or greenbelts.

    Common parking areas shall provide stormwater management systems that infiltrate to groundwater to prevent off-site impacts of any kind. The use of innovate stormwater management, treatment and disposal is strongly encouraged, such as rain gardens, grassed waterways, constructed wetlands, etc. The direct discharge of stormwater from parking areas to natural watercourses, wetlands, or other surface waters is prohibited.

11. Driveways and Access

    Access to the PUD from adjoining public roads shall be designed and constructed to insure the safety of vehicles and pedestrians. Clear vision areas shall be maintained at adjoining public roads and at public and private road rights-of-way in accordance with Private Road provisions of this Ordinance, See Section 4.32.

12. Snow Removal

    Adequate areas shall be provided for the storage and disposal of snow removed from roadways, walkways, and parking areas during the winter months.

13. Access for Emergency Services

    Routes for police, fire, and emergency medical services vehicles shall be provided to all buildings and uses in accordance with fire and safety agency standards and guidelines. Such routes shall be maintained to assure access to all buildings and uses in the PUD year-round under all weather conditions. Review and approval is required from police, fire and emergency services agencies in accordance with Section 11.6. Failure to demonstrate adequate access for police, fire, medical and other medical services may be a basis for PUD denial by the Planning Commission or Township Board.

14. Loading, Service, and Storage Areas

    Areas used for the delivery or pickup of goods or materials, or for servicing vehicles or equipment, shall be screened from view from adjoining property as deemed appropriate by the Planning Commission in accordance with Sections 11.15 or 11.16. Areas used for the storage of waste materials shall be screened from view from adjoining properties and public roadways. Screening may be provided by existing trees and other vegetation, or by landscaped native plant buffers or greenbelts.

15. Stormwater drainage

    Stormwater runoff from improved areas shall be managed to prevent off-site impacts. Each PUD shall be provided with a storm drainage system that maintains stormwater runoff at a predevelopment rate. Stormwater plan review and approval is required from county and/or state agencies in accordance with Section 11.6. Failure to demonstrate stormwater plan approval from county and/or state agencies may be a basis for PUD denial by the Planning Commission or Township Board.

16. Integration of Natural Features

    Lots, buildings, roads, and other improvements shall be situated to minimize alteration of floodplains, stands of mature trees, productive woodlots, and farmland.

17. Utility Service
    Utilities services shall be installed underground.

18. Dry hydrants or underground water storage tanks may be required as a condition of approval.

b. Approval Standards

1. The use or uses established in a proposed PUD shall be consistent with the Township's Master Plan and Zoning Ordinance. The type of development authorized by the PUD zoning will be consistent with the intent and purpose of the Master Plan, the Zoning Ordinance, as well as with the intent and purpose of the underlying zoning district in which the PUD is located.

2. The proposed PUD will create recognizable and substantial benefit to the community in addition to the property owner/developer. The granting of PUD approval will result in a recognizable and substantial benefit to the users of the PUD and the Township. Such benefits would not likely be realized if the PUD approval was not granted.

3. The proposed PUD will not unreasonably burden public roads, facilities, utilities and services. The use or uses established in the PUD will not result in a material burden on police and fire services nor on other public services or facilities.

4. The proposed PUD will not unreasonably impact use and development of surrounding properties. The use or uses established within the PUD will not diminish the opportunity for surrounding properties to use and develop their property as zoned. The proposed PUD shall not generate noise that results in an unreasonable interference with the comfortable use and enjoyment of properties within the PUD or at adjacent properties.

5. The proposed PUD must be under single ownership or control. An individual or single legal entity as a landowner or having control has responsibility for completing the project in conformity with the approved final site plan and any conditions of approval.

6. Natural and cultural features and amenities, including waterbodies and waterways, natural and artificial drainage ways, shorelines, wetlands, floodplains, groundwater recharge/discharge areas, historic places and structures, woodlots, etc., shall be meaningfully incorporated into the design and construction of the PUD. The PUD shall be designed so as to result in a minimal disturbance of the natural topography.

7. Buildings and improvements must be completed prior to use and occupancy unless such use or occupancy will not impair the health, safety, and general welfare of the users or occupants of the PUD or of users and occupants of adjoining property. The Planning Commission may establish conditions applicable to completion of buildings and other improvements.

8. As a condition of approval of a PUD site plan, the Planning Commission may require a performance guarantee of a sufficient sum to assure the installation or construction of those features or components of the approved PUD considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed PUD.

   Features or components, hereafter referred to as “improvements,” may include, but shall not be limited to, survey monuments and irons, streets/roads, curbing, landscaping, fencing, walls/berms, screening, vegetated buffers, snow removal, emergency vehicle access, lighting, drainage facilities, pathways, sidewalks, paving, common driveways, roads, parking, common potable water facilities (if any), common septic and/or sewage treatment and disposal facilities (if any), utilities and similar items. Improvements do not include the entire PUD.

   When required, performance guarantees shall be deposited with the Township Clerk before any land clearing, excavation or other construction activities commence at or within a PUD. Performance guarantees shall be processed in the following manner:

a) Prior to the issuance of any Township zoning permits for lots within a PUD, the applicant or their agent shall submit an itemized estimate of the cost of the required improvements that are subject to the performance guarantee, which shall then be reviewed by the Planning Commission and Zoning Administrator. The amount of the performance guarantee shall be one-hundred percent (100%) of the cost of purchasing materials, installation and construction of the required improvements, plus the cost of necessary engineering, planning, legal and inspection costs borne by the Township and a reasonable amount for contingencies.
b) The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, surety bond, or other surety instrument acceptable to the Township.
c) Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a land use permit for the subject PUD, provided in consultation with the Planning Commission it is in compliance with all other applicable provisions of this Zoning Ordinance and other applicable Bay Township ordinances.
d) The Zoning Administrator, upon written request of the Applicant, shall rebate portions of the performance guarantee upon the Zoning Administrator's determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
e) When all of the required improvements have been completed, the Applicant shall send written notice to the Zoning Administrator of the completion of all improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of reason(s) for any rejections.
f) If partial approval is granted, the Applicant shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
g) The Zoning Administrator/Township Clerk shall maintain a record of required performance guarantees.

11.9 Actions Following Final PUD Approval

Three (3) copies of the approved final site plan shall be signed and dated by the Planning Commission Chair and the applicant. A copy of the Planning Commission's approving report or recommendation shall be attached to each signed final site plan. A mixed use PUD application shall require similar action by the Township Board.

One (1) site plan shall be provided to the applicant. One (1) shall be provided to the Township Clerk for inclusion in the Bay Township Zoning Ordinance. One (1) copy shall be provided to the Zoning Administrator for inclusion in his or her files of Township approval of the PUD.

11.10 PUD Rezoning Considerations

a. Single Use PUDs

The Planning Commission approval or conditional approval of a single use PUD has the effect of rezoning of the subject property.

If a final application for a single use PUD is approved by the Planning Commission, a notice describing the nature and extent of the new PUD zone shall be published in a newspaper within fifteen (15) days after approval by the Planning Commission.

b. Mixed Use PUDs

After receiving the recommendations from the Planning Commission, the Township Board shall place the request for review approval of a mixed use PUD on the agenda for the next available, regularly scheduled Township Board meeting.

1) The Township Board shall review the record compiled before the Planning Commission, the findings of fact made by the Planning Commission concerning the mixed use PUD eligibility criteria; permitted uses within the mixed use PUD; any requested waivers, reductions or modifications of the dimensional regulations applicable to the proposed mixed use PUD; the mixed use PUD approval standards and any recommended waivers of those approval standards; any conditions and performance guarantees recommended by the Planning Commission; and the Planning Commission's ultimate recommendation.

2) If the Township Board accepts the Planning Commission's recommendations concerning any waivers, reductions or modifications of the dimensional regulations applicable to the proposed PUD; concerning the waiver(s) of any PUD approval standards; and concerning any conditions and performance guarantees to be imposed with final mixed use PUD approval and if the Township Board finds that the proposed mixed use PUD meets the eligibility criteria and approval standards, then the Township Board shall grant approval for the proposed mixed use PUD by adopting a zoning ordinance amendment rezoning the property on which the mixed use PUD will be located to a PUD zone and authorizing development of the property pursuant to the site plan approved by the Planning Commission. In rendering its decision, the Township Board may adopt as its own the findings of fact made by the Planning Commission, may modify the findings of fact made by the Planning Commission based on the evidence presented to the Planning Commission, may remand the matter to the Planning Commission for consideration of additional evidence the Township Board considers relevant and further recommendations by the Planning Commission, or may itself hold a public hearing after giving the notice required under Sections 11.6 and 11.7, gather any additional evidence it considers relevant, and make its own findings of fact in accordance with Section 11.8 concerning the factual determinations made by the Planning Commission.

If a final application for a mixed-use PUD is approved by the Township Board, a notice describing the nature and extent of the PUD zone shall be published in a newspaper within fifteen (15) days after approval by the Township Board.

11.11 Statement of Compliance Required

All buildings, structures and improvements within an approved final PUD shall be established in strict compliance with the approved final site plan and any conditions of approval. All buildings and improvements shall be constructed as illustrated on the approved final site plan. No project related construction of any type is allowed until final PUD approval.

Following completion of site plan elements, including but not limited to the construction of buildings, shared facilities, roads, utilities, structures and other improvements, the applicant shall provide a statement, prepared by an independent professional (a licensed surveyor, professional engineer, registered landscape architect) certifying that all common buildings, shared structures, and improvements have been constructed in compliance with approval granted.

11.12 Recorded Affidavit Required

An affidavit in a form acceptable to the Bay Township Attorney containing the information outlined in this Article shall be recorded with the Charlevoix County Register of Deeds within thirty (30) days following approval:

a) Date of approval of the PUD by the Planning Commission (in the case of single-use PUDS) or Township Board (in the case of mixed-use PUDS).
b) Legal description of the property.

c) A statement by the applicant(s) certifying that the property will be developed in accordance with:
    1. The site plan and other information approved by the Planning Commission or Township Board, and
    2. All conditions associated with approval of the PUD.

    This statement shall specifically indicate that no modifications shall be made to the PUD as approved; to the final site plan or other information provided by the applicant; or to any conditions associated with approval of the PUD, unless approved under the modification provisions of this Article.

    Three (3) certified copies of the affidavit shall be provided to the Zoning Administrator. One (1) copy shall be attached to his or her copy of the signed site plan. One (1) copy shall be placed in the Planning Commission's record of proceedings on the PUD. One (1) copy shall be provided to the Township Clerk for inclusion in the Township Board's record of proceedings on the PUD.

11.13 Modification of an Approved PUD

a. Minor modifications to a PUD may be approved by the Planning Commission by mutual agreement between the Township and applicants or successors in interest as follows:

    1. Reorientation of buildings provided no such structure is moved more than twenty five (25) feet from the original plan location; the move is determined to be necessary based on site conditions not previously known; the intent, concept, and objectives of the PUD are not circumvented; and no greater impact is exerted on adjacent properties.

    2. Redistribution of the dwelling units among the proposed structures, provided building heights are not increased, and the density of dwelling units is not increased.

    3. Minor realignment of roads, pedestrian ways, parking areas based on the need to respect site features (topography, soils, bedrock, vegetation) or to accommodate minor reorientation of buildings.

    4. Increase in total land area, with the additional undeveloped land to be protected open space or not proposed to be developed at the time of acquisition.

    5. Total land area increased by purchase of adjacent previously developed property, but the use of the newly acquired adjacent property is not proposed to change and is consistent with the previously approved uses for the PUD.

b. Major Modifications

    Major modifications to an approved PUD shall be subject to review and approval under a new application for PUD. Major modifications include, but are not limited to, increases in floor area of any building in excess of one-hundred twenty (120) square feet; or increases in the number of building sites, lots, or dwelling units; increases in land area occupied by non-residential uses; decrease in open space set-aside; or the addition of other buildings, structures, uses and improvements not originally included in the final PUD plan as approved.

11.14 PUD Plan Expiration and Renewal

The expiration, repeal and renewal of a PUD site plan, whether preliminary or final, shall be in accordance with the following standards:

a. Plan Expiration
    PUD approval shall automatically expire after twenty-four (24) months, following the effective approval date, if one or more of the following apply:

1. In the case of a final site plan no earthwork or construction activities are in evidence and no valid construction permits are in effect;

2. The project appears to be abandoned, there is no apparent interest in continuing the PUD as established, and no applications for renewal have been received;

3. No apparent effort is being made to market the PUD project or operate it as an active development; or

4. In the case of a preliminary site plan, the use proposals are different from the approved preliminary site plan.

b. Plan Renewal
To forestall automatic expiration, the PUD applicant shall request renewal of the PUD prior to the expiration date. Renewal shall be by formal action of the Planning Commission. Renewal requests shall be filed at least seven (7) days prior to the scheduled meeting date of the Planning Commission, but no formal public hearing is required. Renewals shall be for periods not to exceed twelve (12) months and only two (2) such renewals shall be permitted.

c. Rezoning or PUD Removal upon Plan Expiration
Upon PUD plan expiration or repeal, the Township within a reasonable period of time shall rezone the PUD parcel or otherwise remove the PUD designation pursuant to the Bay Township Zoning Ordinance.

11.15 Reasonable Conditions

The Planning Commission and Township Board may attach reasonable conditions with the approval of a site plan, special use or PUD. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; to protect the natural environment and conserve natural resources and energy; to insure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

1) Be designed to protect natural resources; the health, safety and welfare and social and economic well being of those who will use the land 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 insure compliance with those standards.

11.16 Waiver of PUD Standards

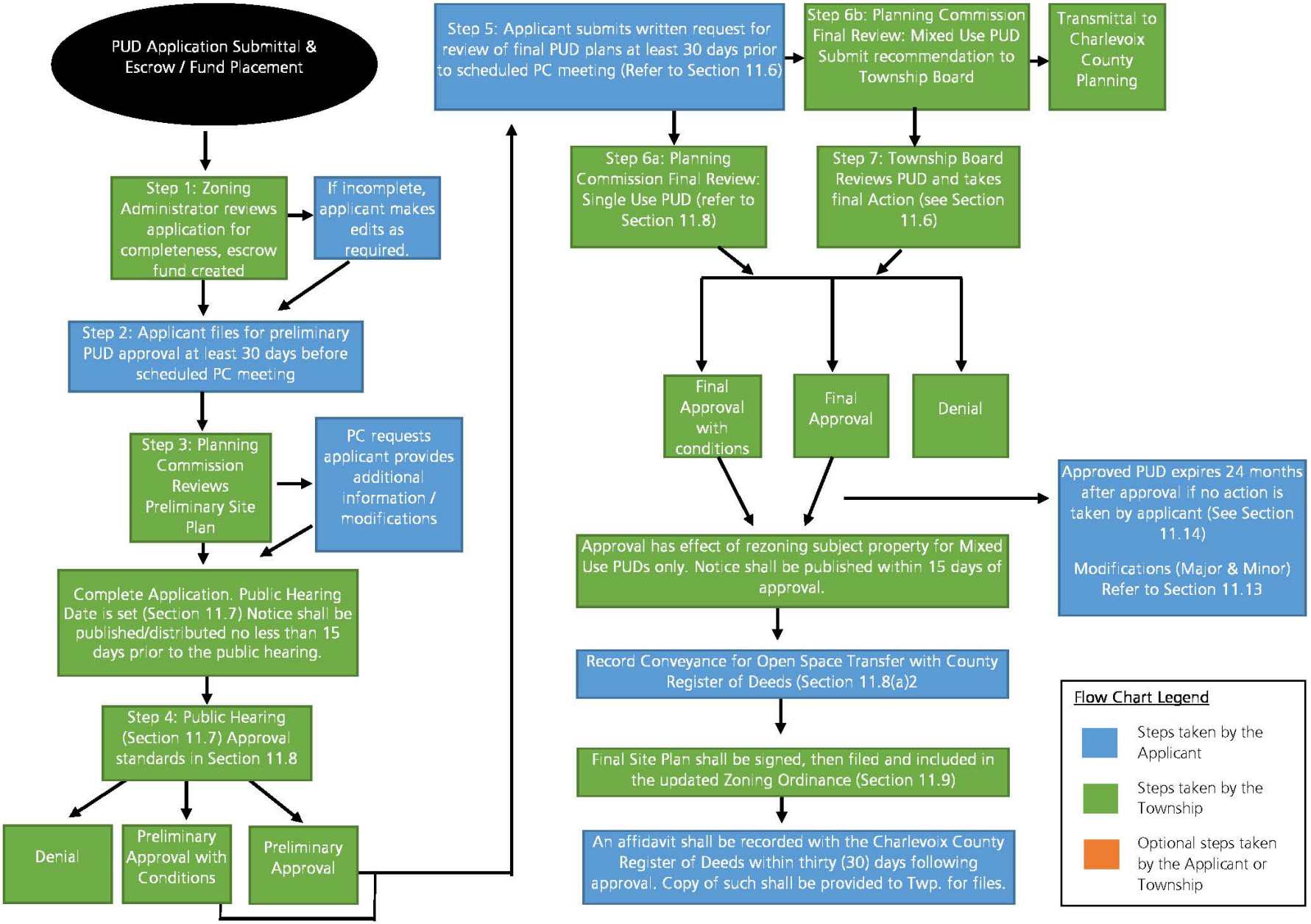
The Planning Commission may recommend and the Township Board may waive a PUD standard if all of the following findings are documented, along with the rationale for the decision:

1) No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.

2) The spirit and intent of the PUD provisions will still be achieved.

3) No nuisance conditions will likely be created by such waiver.

Figure 11.1 Planned Unit Development (PUD): Review Process, Article 11



Article XII
Site Plan Review

12.1 Purpose

The site plan review and approval process is intended to insure that land uses comply with zoning district regulations, other regulations and standards outlined in this Ordinance, and applicable county, state and federal statutes.

12.2 When Required

Site plan review and approval is required for the following uses:

a. For all uses in all zoning districts except as indicated below.

b. For all special uses in all zoning districts.

   Site plans shall be submitted with all applications for special use permits. The review of such site plans shall be concurrent with the Planning Commission's deliberations on the application for special uses.

c. For PUD's.

   A site plan shall be submitted at the time application is made for PUD approval. The review of the site plan shall be concurrent with deliberations on Planned Unit Developments.

d. For all site condominium and condominium subdivisions subject to the provisions of the Condominium Act (P.A. 59 of 1978, as amended).

e. For all platted subdivisions subject to the provisions of the Land Division Act (P.A.591 of 1996, as amended).

12.3 When Not Required

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

a. For single-family and two-family dwellings in any zoning district, with the exception of Accessory Dwelling Units (ADU's)

b. For agricultural buildings associated with agricultural operations permitted by right in the Agricultural and Residential zoning districts, or

c. For home occupations permitted as matter of right in any zoning district.

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

No grading, removal of vegetation, filling of land, construction of buildings, building foundations, driveways, roadways, walkways, parking areas, or other improvements of any kind are permitted until a site plan has been approved in accordance with the provisions of this Article.

12.5 Responsibility for Site Plan Review

The Planning Commission has sole responsibility for the review and approval of site plans.

12.6 Optional Pre-application Conference

Before submitting an application for site plan review, applicants are encouraged to meet with the Zoning Administrator or Planning Commission to discuss the site plan review process, to present a preliminary or conceptual site plan and to allow the Planning Commission to provide comments as to what portions of the site plan may be of special concern.

This optional, informal conference is intended to allow applicants to present concepts to the Planning

Commission, and to enable the Planning Commission to inform applicants of the Township's land use policies and other matters of specific interest or concern.

Statements made by applicants or the Planning Commission during pre-application conferences shall be for informational purposes only and not be legally binding.

12.7 Application and Review Process

Applications for site plan review shall be submitted to the Zoning Administrator not less than twenty days before the meeting at which the applicant wishes the Planning Commission to consider the application. Applications submitted less than twenty (20) days prior to such meetings shall not be accepted for consideration and will only be eligible for consideration at the Planning Commission's following monthly meeting.

Applications must be accompanied by the materials and information described below:

a. A completed application form and application fee;

b. An escrow fee. The Planning Commission may require the applicant to deposit money in escrow to cover actual costs of engineering, legal and planning consulting services during the review of applications; and

c. Fourteen copies of a site plan complying with the requirements of this Subsection. The site plan shall be an accurate, reproducible drawing at an accurate, reasonable scale showing the land subject to the application and all land within 100 feet of the land subject to the application.

Upon receipt of a completed application and site plan, the Zoning Administrator shall distribute copies of the site plan to all of the following agencies for review and comment:

1. The Charlevoix County Soil Erosion and Sedimentation Control Officer,
2. The Charlevoix County Drain Commissioner,
3. The Charlevoix County Road Commission and, if appropriate, the Michigan Department of Transportation,
4. The Northwest Michigan Community Health Agency,
5. Bay Township fire and ambulance service providers,
6. The Michigan Department of Environmental Quality and/or Michigan Department of Natural Resources and
7. Charlevoix County Planning Department.

Comments from reviewing agencies must be received in writing by the Zoning Administrator before the site plans will be distributed to the Planning Commission for consideration. In the event reviewing agencies have no comments or concerns, agency representatives may indicate same on their copies of the site plan with an appropriate comment and signature.

Upon receipt of agency comments, the Zoning Administrator may 1) forward the site plan to the Planning Commission for formal review or 2) return the site plan to the applicant for revisions as may be required for compliance with this Article. In the event a site plan is returned to an applicant, it shall be forwarded to the Planning Commission only following its revision in response to agency comments.

12.8 Content of Site Plans

Site plans shall illustrate the following features and information, unless waived by the Planning Commission for good cause:

a. North arrow, scale, and date of original submittal and last revision;
b. A vicinity map;
c. A legal description of the property;
d. The acreage of the property subject to the application;
e. The zoning classifications of the subject parcel and adjoining parcels, including those parcels which are adjoining but are separated from the subject property by a road right-of-way;

f. The location of proposed and/or existing lot lines and dimensions of same;
g. Building setbacks;
h. A grading plan showing finished contours at a minimum interval of 2 feet, and correlated with existing contours so as to clearly indicate cut and fill required (all finished contour lines are to be connected to existing contour lines at or before the lot lines);
i. A detailed description of measures to be taken to control soil erosion and sedimentation during and after completion of grading and construction operations. This description shall include the location of proposed retaining walls, dimension and materials of same, fill materials, typical vertical section, and plans for restoration of adjacent properties, where applicable;
j. The location and type of significant vegetation, including woodlots and individual trees twelve inches and larger in diameter at breast height;
k. The location and elevations of existing water courses and water bodies, including county drains, man-made surface drainage ways, 100-year flood plains, and wetlands;
l. The location of existing and proposed buildings, as well as the length, width, height, and area (in square feet) of each building;
m. The location of all existing buildings or structures within 50 feet of the subject property;
n. The proposed location of accessory structures, buildings, and uses, including, but not limited to, all flagpoles, light poles, storage sheds, transformers, air conditioners, generators, and similar equipment (details of the method of screening, where applicable, shall be included);
o. The name, location, dimensions, and associated right-of-way of all existing and proposed streets (public or private) and typical cross section of same (cross section shall show surface, base, and sub-base materials); location and typical details of curbs; location, dimensions, and details of all passing lanes and deceleration/acceleration tapers or lanes; and the location, width, surface elevations, radii, and grade of all access points to the site;
p. All driveways located within 100 feet of the site;
q. The location and design of parking areas and number of parking spaces and unloading areas, including information on proposed curbing, barrier-free access design, and dimensions for parking spaces, circulation aisles, and unloading spaces;
r. The design and dimensions for all exterior lighting, including any element relative to shielding light spillover onto adjacent properties and road-ways;
s. The location and design of all sidewalks, walkways, bicycle paths, and areas for public use;
t. The location, design, sizing, and easements related to all existing and proposed utility systems to be located on the site, including, but not limited to:

    1. Water lines and fire hydrants;
    2. Storm sewers;
    3. Sanitary sewer lines;
    4. Septic systems, if applicable; and
    5. Stormwater retention and detention areas.

u. The location, size, and specifications of all signs (freestanding and signs placed on or attached to buildings);
v. The location and specifications for all fences, walls, and other screening features with cross sections;
w. The location and specifications for all proposed perimeter and internal landscaping, and other buffering features (for each new landscape material, the proposed size at the time of planting must be indicated). All vegetation to be retained on the site must also be indicated, as well as its typical size by general location, or range of sizes as appropriate;
x. The location, size, and specification for screening of all trash receptacles and other solid waste disposal facilities; and

y. The number of employees on largest shift (If shifts overlap, indicate the number of employees for the largest 2 shifts which overlap).

12.9 Planning Commission Options for Action

The Planning Commission shall approve, approve with conditions or modifications, or deny an application for site plan approval within a reasonable period of time following the Planning Commission's first consideration of same. The Planning Commission's decision shall be based on a finding of fact that shall be incorporated into a statement containing the conclusions relative to the standards for site plan approval outlined below and which specifies the basis for the decision and any conditions imposed.

If the Planning Commission finds that the site plan complies with the provisions of this Article, the application and site plan must be approved. If the Planning Commission finds that the application and site plan do not comply with the provisions of this Article, then the application may be approved with conditions or denied.

At any point during its deliberations on an application, the Planning Commission may request that an applicant modify the site plan or present additional information deemed necessary before a decision on a proposed special use is granted. In such cases, the Planning Commission shall table consideration of the application until the amended site plan or additional information is made available by the applicant.

12.10 Conditional Approval

Reasonable conditions may be required with the approval of a site plan by the Planning Commission. These conditions may include those necessary to 1) insure that public services, such as police, fire, ambulance and similar services are capable of accommodating increased service or facility loads caused by the proposed land use or activity 2) protect the natural environment and conserve natural resources and energy 3) insure the use proposed on the site plan is compatible with adjacent uses of land and 4) promote the use of land in a socially and economically desirable manner.

When required, such conditions shall:

a. Be designed to protect natural resources, the health, safety, welfare and social and economic well being of those who will use the land use or activity under consideration, as well as those residents and landowners immediately adjacent to the proposed land use, and the community as a whole;

b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use; and

c. Be necessary to meet the intent and purpose of the Bay Township Land Use Plan and Bay Township Zoning Ordinance, and to insure compliance with the standards for site plan approval outlined below.

If the Planning Commission denies an application for site plan approval, the reason(s) for such denial must be included in the Planning Commission's record of proceedings on the application.

12.11 Standards for Site Plan Approval

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

a. Compliance with Zoning District Regulations
   All buildings, structures, uses and improvements shall comply with land use, lot area, setback, parking, sign, landscaping, screening and other regulations and standards established by zoning district regulations and all other applicable regulations contained in this Ordinance.

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

   The site shall be developed so as not to impede the normal and orderly development, improvement or

enjoyment of surrounding property for uses permitted in this ordinance. All buildings, structures, driveways, internal circulation routes, parking and storage areas shall be designed and located so as to minimize potential adverse effects and impacts on adjacent and nearby properties.

c. Preservation of Natural Features and Natural Landscape
Natural features (woodlots, wetlands, watercourses, ponds, shorelines, attractive vegetation etc.) shall be preserved and protected to the greatest extent possible. As many natural features of the landscape shall be incorporated into the design and layout of the site as possible so as to buffer it from adjacent incompatible land uses, to preserve the character of the surrounding area and community as a whole and to control soil erosion and stormwater runoff.

d. Drainage Provisions
Special attention shall be given to proper site drainage so that stormwater runoff will not affect neighboring properties or overload watercourses in the area. Stormwater management systems shall be designed in accordance with professionally accepted principles, and shall provide on-site retention or detention facilities designed to hold runoff from a 50-year frequency storm event. Naturally occurring and pre-existing drainage ways shall be used for the movement of stormwater.

Discharge of stormwater runoff from any site which may contain oil, grease, toxic chemicals, or other hazardous substances or polluting materials is prohibited unless measures to trap pollutants meet the requirements of the Michigan Department of Environmental Quality, based upon professionally accepted principles.

e. Soil Erosion
Proposed developments or uses shall not result in soil erosion or sedimentation problems.

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

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

h. Pedestrian and Vehicular Circulation
Proposed driveway entrances and exits, parking areas, service drive and other internal circulation routes are located and arranged so as to insure the safety and convenience of pedestrian and vehicular traffic. If proposed by an applicant, or required at the discretion of the Planning Commission, or as otherwise provided in this Ordinance, pedestrian and bicycle pathways shall be insulated as completely as reasonably possible from the vehicular circulation system.

i. Compliance with Applicable County, State and Federal Statutes
Site plans shall conform to all applicable requirements of state and federal statutes. Site plan approval and an occupancy permit may be conditioned on the applicant receiving necessary state and federal permits applicable to wetlands, lakes, streams, floodplains, hazardous substances, groundwater discharges, stormwater discharges, and the like.

12.12 Certification of Approved Site Plan

Three copies of an approved site plan shall be signed and dated by the applicant and Zoning Administrator. One copy shall be provided to the applicant, one shall be retained by the Zoning Administrator as part of the Township's permanent zoning file and one shall be made part of the Planning Commission's permanent record of proceedings on the site plan.

12.13 Completion Requirements

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

12.14 Expiration of Approval

Unless a zoning permit has been issued within one calendar year (365 consecutive days) of the date of site plan approval, approval shall expire and be of no effect unless the applicant and Planning Commission have mutually agreed to a six month extension of approval. The Planning Commission may, by mutual consent with the applicant, grant additional six month extensions at its discretion.

12.15 Resubmittal Required In Event of Expiration

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

12.16 Inspection and Certification Requirements

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

The Planning Commission may, as a condition of approval, assign such inspection duties to the Township's own independent professionals. In such cases, the cost for such inspections shall be born by the applicant.

12.17 Performance Guarantees

A performance guarantee in an amount equal to 1.25 times the cost of constructing improvements as determined by the applicant and verified by the Planning Commission or authorized consultant may be required to ensure completion of improvements subject to approval under this Article.

When a performance guarantee is required, it shall be deposited with the Township Clerk prior to the issuance of a zoning permit authorizing construction of approved buildings and improvements or prior to issuance of an occupancy permit in those cases where the guarantee is being required for improvements delayed due to weather conditions. The Township shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account.

If a performance guarantee is in the form of a cash deposit, it shall be rebated periodically by the Township on application by the applicant in reasonable proportion to the ratio of work completed on the required improvements.

Article XIII
Special Uses

13.1 Purpose

In addition to the uses permitted as a matter of right in each zoning district, this Ordinance allows the establishment of special land uses subject to the procedures, standards and regulations described in this Article. Applications for special use permits may be filed by any person owning property subject to an application.

Once approved, a special use becomes a permitted use on the property on which it is located, provided:

a. It was approved by the Planning Commission in conformance with the provisions of this Chapter;

b. It shall be deemed to effect only the lot, or portion thereof occupied by such use;

c. It is built, operated and maintained in compliance with the provisions of this Ordinance, and any conditions imposed at the time of its approval; and

d. It has not expired or terminated as provided in this Article.

e. It is filed by the applicant with the Register of Deeds within 45 days of the special use permit being approved and includes the findings of fact – a statement of all conditions agreed upon as a condition of approval. The special land use permit will not be issued until it has been recorded with the Register of Deeds.

Approved special uses shall be valid for as long as the use continues in conformance with the terms and conditions of its approval.

13.2 Procedures

a. Application

Applications for special use permits shall be submitted to the Zoning Administrator no less than thirty (30) days before the date of the meeting at which the Planning Commission will consider the application.

Applications submitted less than thirty (30) days before such meetings shall not be accepted for consideration at such meeting and will be considered only at the Planning Commission's subsequent monthly meeting.

Applications must be accompanied by the materials and information described below:

1. A completed application form and application fee,
2. Ten copies of a site plan described in Article XII, and
3. A typewritten statement describing how the proposed special use will comply with the general standards for special use approval listed in this Article.

b. Publication and Delivery of Public Notices

Upon receipt of an application for a special use, one notice that the application has been received and a public hearing scheduled shall be published in a newspaper and shall also be sent by mail or personal delivery to the owner(s) of property subject to the application and to the owners and occupants of all property within three hundred feet of the property subject to the application.

The notice must be published and delivered not more than fifteen and not less than five days before the date of the public hearing.
The notice shall 1) describe the nature of the special use being requested; 2) indicate the property subject to the request (an address, tax number, or legal description); 3) state the date, time and place

where the hearing will be held; 4) indicate when and where the application, site plan and other materials may be inspected by the public prior to the public hearing; 5) state when and where written comments will be received.

c. Planning Commission's Initial Review of Application

The Planning Commission shall review the application and site plan on the date described in the notice of receipt of same.

d. Planning Commission Decision on Application

Within a reasonable period of time after the public hearing, the Planning Commission shall approve, approve with conditions, or deny the application. The Planning Commission's decision shall be incorporated into a statement containing the conclusions relative to the special use considered and specify the basis for the decision and any conditions imposed.

At any point during its deliberations on an application, the Planning Commission may request that an applicant modify the site plan or present additional information deemed necessary before a decision on a proposed special use is granted. In such cases, the Planning Commission shall table consideration of the application until the amended site plan or additional information is made available by the applicant.

13.3 General Standards for Approval of Special Uses

Before approving, approving with conditions, or denying an application under the provisions of this Article, the Planning Commission must find that a proposed special use complies with the following standards and any other standards for specific special uses provided elsewhere in this Ordinance:

a. The property subject to the application is in a zoning district in which the special use is allowed by district regulations;

b. The special use, as proposed, complies with any specific standards applicable to that special use appearing elsewhere in this Ordinance;

c. The proposed special use will be consistent with the intent and purpose of the Township's Land Use Plan, as well as the intent and purpose of the zoning district in which it will be located;

d. The proposed special use will not result in the creation of demands on police and fire services or on other public services or facilities, in excess of the Township's financial ability to provide same;

e. The proposed special use will not diminish the opportunity for surrounding properties to use and develop their property as zoned;

f. The proposed special use will be designed, constructed, operated and maintained so as not to negatively impact the character of land uses in the surrounding area;

g. The proposed special use will not involve uses, activities, processes, materials or equipment that will create a nuisance for other properties in the vicinity by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap materials; and

h. The proposed special use will be harmonious with the existing or intended character of the general vicinity and will not be hazardous to existing or future nearby uses.

13.4 Conditional Approval

Reasonable conditions may be required by the Planning Commission with the approval of a special land use. Such conditions may include conditions necessary to: 1) insure that public services, such as police, fire, ambulance and similar services are capable of accommodating increased service or facility loads caused by the land use or activity; 2) protect the natural environment and conserve natural resources and energy; 3) insure the special use is compatible with adjacent uses of land and to promote the use of land in a socially and

economically desirable manner. Conditions imposed shall:

a. Be designed to protect natural resources; the health, safety, welfare and social and economic well being of those who will use the land use or activity under consideration as well as those residents and landowners immediately adjacent to the proposed land use;, and the community as a whole.

b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use; and

c. Be necessary to meet the intent and purpose of the Bay Township Land Use Plan and Bay Township Zoning Ordinance, and to insure compliance with the standards contained in the Zoning Ordinance.

13.5 Reapplication

An application that has been denied by the Planning Commission shall not be resubmitted within one year of the date of denial unless an applicant presents evidence that; 1) the special use proposed in the new application is of a substantially different nature than that originally considered by the Planning Commission or 2) that conditions relating to land use and development in the area of the property subject to the original application have changed to such an extent so as to justify reconsideration by the Planning Commission.

13.6 Jurisdiction of Zoning Board of Appeals

The Zoning Board of Appeals has no jurisdiction over decisions by the Planning Commission on applications for special uses.

13.7 Performance Guarantee

The Planning Commission may require a performance guarantee in the form of cash, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township, covering the estimated cost of improvements associated with the special use to insure that a special use complies with approval as granted.

If required as a condition of approval, a performance guarantee shall be provided by the applicant at the time approval is granted by the Planning Commission. If the performance guarantee is a cash deposit, it shall be rebated periodically by the Township Board on application by the depositor in reasonable proportion to the ratio of the work completed on the required improvements.

13.8 Compliance With Conditions of Approval Required

An approved special use shall be developed, constructed, maintained and operated in strict compliance with the approved site plan and any conditions of approval. All improvements and other functional elements shall be constructed as proposed by the applicant and as approved by the Planning Commission.

13.9 Inspection and Certification Requirements

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

The Planning Commission may, as a condition of approval, assign such inspection duties to the Township's own independent professionals. In such cases, the cost for such inspections shall be born by the applicant.

13.10 Termination Provisions

An approved special use shall remain valid for as long as the approved use continues to be maintained and operated in compliance with approval as granted by the Planning Commission. An approved special use shall expire and become null and void under any one or more of the following conditions:

a. When a new special use is established that replaces or supersedes the previously approved special use,

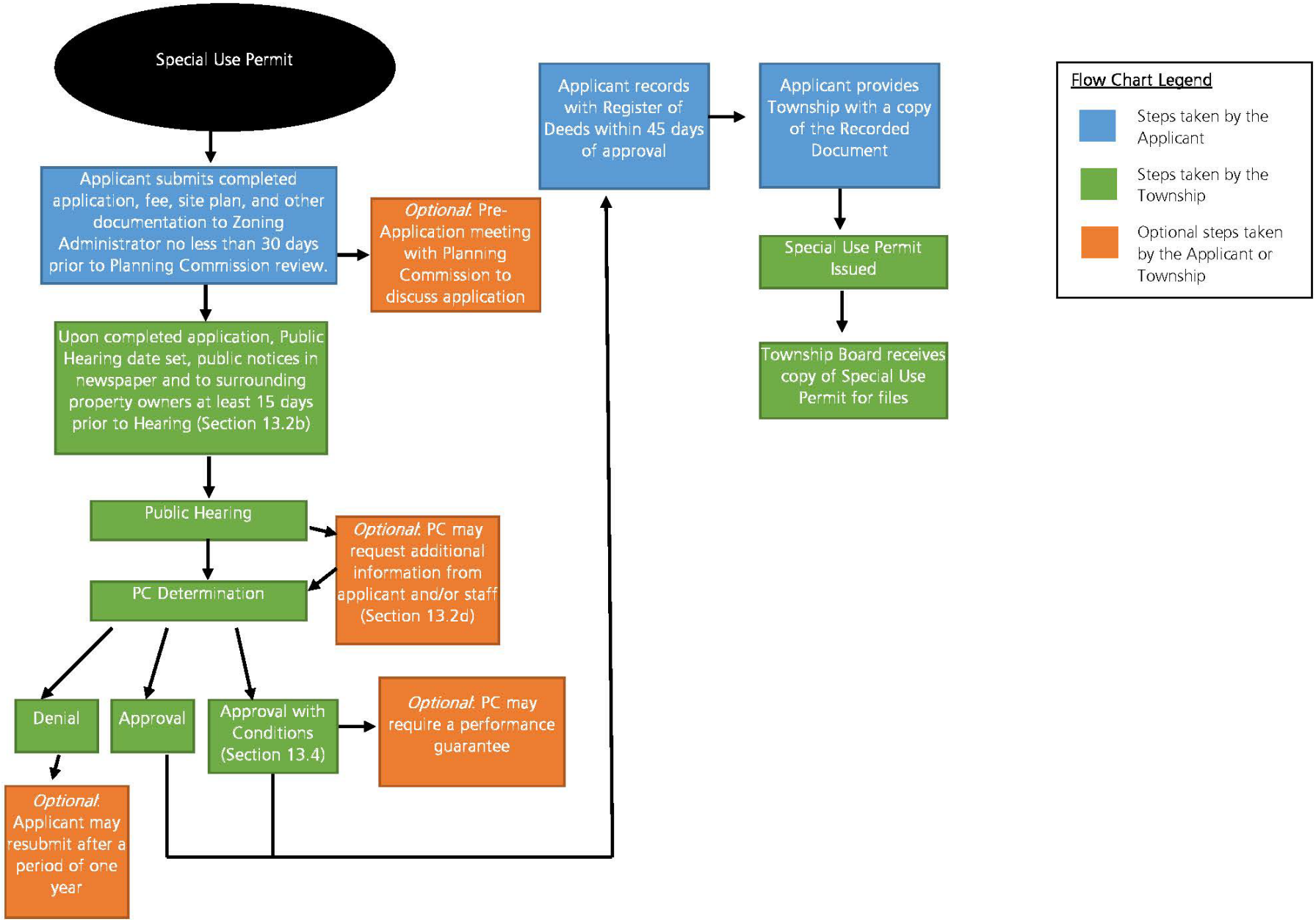
b. When the approved special use is replaced by a matter-of-right permitted use, and such approved

special use is included on a site plan approved by the Planning Commission or Zoning Administrator,

c. When an applicant or property owner requests the rescinding or removal of the special use, and such request is documented by the Planning Commission, or

d. When any conditions of approval are violated.

Figure 13.1 Special Uses: Approval Process, Article 13



Article XIV
Zoning Board of Appeals

14.1 Zoning Board of Appeals

The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its power as provided by the Michigan Zoning Enabling Act, Act 110, of the Public Acts of 2006, as amended, in such a way that the objective of this Ordinance shall be attained, public safety secured and substantial justice done.

14.2 Membership

The ZBA shall consist of five (5) regular members and two (2) alternate members:

a. One regular member of the ZBA shall be appointed from the Township Planning Commission.
b. The remaining four (4) members shall be selected from electors of the Township residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the Township. One (1) regular or alternate member may be appointed from the Township Board. No member appointed from the Township Board may serve as chairman of the Zoning Board of Appeals.
c. The two (2) alternate members shall be selected and appointed in the same manner and for the same term of office as regular members. An alternate member will be called to serve in the absence of a regular member if the regular member is unable to attend a meeting of the ZBA or is disqualified from participating in discussion of or voting on the matters scheduled to come before the ZBA due to a conflict of interest.
d. Once called to participate in a matter, the alternate shall serve, with all of the duties and responsibilities of a regular member, until the matter for which the alternate was called to serve is concluded by a final decision of the ZBA. Failure of a regular member or an alternate member to disqualify himself or herself from a matter in which the member has a conflict of interest constitutes malfeasance in office.
e. No employee or current contractor of the Township may serve as either a regular or alternate member of the ZBA.
f. Members of the ZBA may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office, upon written charges and after public hearing conducted by the Township Board.

14.3 Meetings

A quorum of three or more of its members, either regular members or an alternate member serving in the place of a regular member, is required for the ZBA to perform any of the functions assigned to it under this Ordinance. All meetings shall be open to the public and shall be held at the call of the Chairman and at other times as ZBA's rules of procedure may specify. The ZBA shall adopt rules of procedure and shall maintain a written record of its proceedings, including all findings and other official actions, all of which shall be filed in the office of the Township Clerk and shall be made available to the public in accordance with Section 9 of the Open Meetings Act (PA 267 of 1976, as amended).

14.4 Majority Vote of Required

A concurring vote of three or more members, either regular or alternate, who are eligible to vote at the meeting, is required for taking any action by the ZBA.

14.5 Appeals

The ZBA may hear appeals made by and grant variances to any aggrieved officer, department, board, bureau, or Bay Township property owner whose property is impacted by a decision of the Zoning Administrator or other official charged with the administration of this Ordinance. The ZBA may also interpret the location of zoning district boundaries, and may interpret the provisions of this Ordinance.

In rendering a decision, the ZBA may, by a concurring vote as required by section 14.4 above, reverse or affirm, in whole or in part, a decision or determination made by the Zoning Administrator or other official charged with the administration of this Ordinance from which the appeal was sought. Any person may appear at a hearing, in person or by duly authorized agent or attorney.

14.6 Limitations on Authority

The ZBA has no authority to overrule a Planning Commission decision on applications for Site Plan Review, Special Use Permits, or Planned Unit Developments.

The ZBA has no authority to grant variances that would allow the establishment of a use in any zoning district in which such use is prohibited, or when such use is permitted only in another district as a matter of right or as a special use.

14.7 Time Limitations on Appeals

An application for an appeal from a decision permitted under 14.5 above must be filed with the Zoning Administrator within sixty (60) calendar days of the issuance of the decision from which the appeal is taken.

Hearings on appeals shall be held within sixty (60) calendar days of filing an administratively completed appeal application. The sixty (60) calendar day time period shall not begin until the application is determined by the Township to be administratively complete.

14.8 Notice of Public Hearing

Notices stating the time, place and purpose of the public hearing shall be published in a newspaper of general circulation and shall be given by personal service or by U.S. mail postage paid, addressed to the parties seeking the appeal at the last known address provided to the Zoning Administrator, and to all owners of property located within 300 feet of the property subject to the request. Notices shall contain the address, if an address has been assigned to the property, the Tax I.D. Number for, and location of the property, which is the subject of the appeal. Such notices shall be published and given not less than fifteen (15) days before the public hearing.

14.9 Dimensional Variances

The ZBA may grant dimensional variances only when it is demonstrated, on the record of the hearing, that the strict enforcement of this Ordinance would result in a practical difficulty unique to the property. The applicant's personal or economic hardship shall not be a factor in the ZBA's consideration of the variance request. In establishing the existence of a practical difficulty, the applicant must address all the following for consideration by the ZBA in the preparation of Findings of Fact:

a. That there are unique circumstances or physical conditions of the property involved that do not apply to other properties in the surrounding vicinity, and/or Zoning District, such as exceptional narrowness, shallowness, or shape of the parcel, the presence of water or topographic conditions which render strict compliance with the applicable regulations, as applied to the parcel, practically impossible or unnecessarily burdensome.
b. The need for the requested variance is not the result of any property owner's actions in the chain of title, unless such action predated the enactment the Zoning Ordinance or the specific standard from which a variance is sought.
c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property.
d. That granting the requested variance would do substantial justice to the appellant property owner, as well as other property owners in the vicinity, or that granting a lesser variance than requested would give substantial relief to the applicant property owner as well as other property owners in

the vicinity.

e. That the granting of the requested variance will not cause an adverse impact on surrounding property or the use and enjoyment of property in the vicinity, or Zoning District.
f. That the granting of the requested variance will not adversely affect the purposes or objectives of the Ordinance.

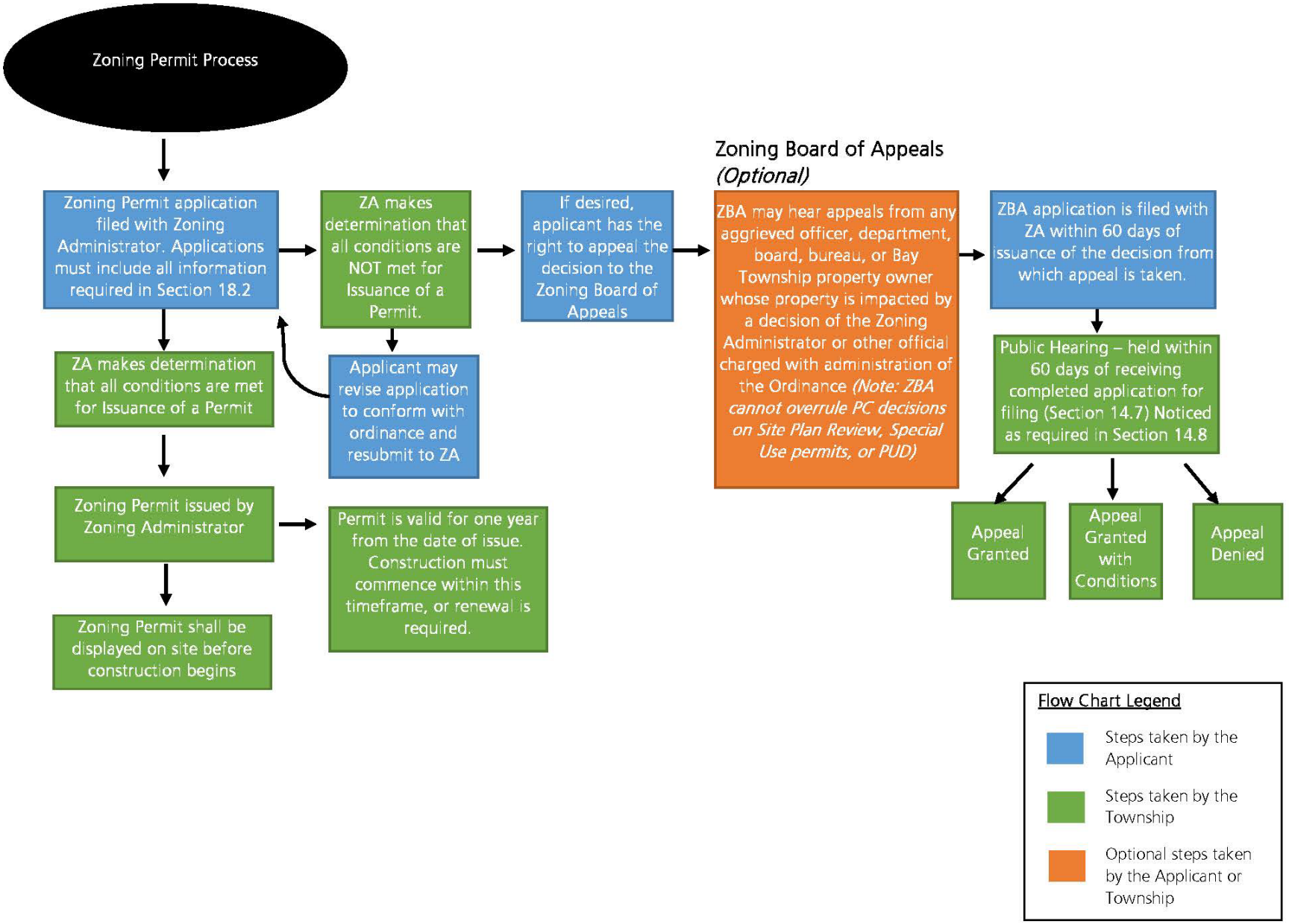
14.10 Zoning Board of Appeals Approval

The ZBA may require the appellant requesting a variance or modification to submit all necessary surveys, plans, or other information the ZBA may reasonably require. The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to comply with the spirit and purpose of this Ordinance.

14.11 Filing Fee

Applications for hearings before the ZBA shall be accompanied by a fee as established by the Township Board.

Figure 14.1 Zoning Permit Application & Approval Process, ZBA Appeals, Articles 14 & 18



Article XV
Signs

15.1 Purpose

The number and size of signs may be distracting to motorists and pedestrians, detract from the appearance of the landscape, and negatively impact property values. The number of signs can also reduce the effectiveness of signs needed to direct the public. The provisions of this Article are intended to apply the minimum amount of regulation in order to avoid these problems.

15.2 Regulations

The regulations set forth herein shall govern and apply to signs in all zoning districts. No sign shall hereafter be erected, moved or structurally altered unless it is in conformity with the provisions of this Ordinance and unless a permit is obtained for such use. Except where otherwise permitted in this Ordinance, the following regulations shall apply to the erection of all signs:

a. The size of a sign or sign surface shall be computed as including the entire area within a simple geometric form or combination of such forms comprising all the display area of the sign, and shall be calculated by multiplying the longest width by the greatest height. The sign area shall include open spaces or voids forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. Two sides of a sign structure are not added together to calculate sign area provided the sides have a 180-degree, back-to-back relationship. In the case of a broken sign (a sign with letters individually mounted to a wall), the total surface area shall be measured by multiplying the horizontal distance between the outer edges of the two furthermost letters by the maximum vertical height of any letters in the sign.
b. No sign shall project over a public right-of-way except in cases where signs are affixed to a structure that is built on the property line of a lot.
c. Signs not exceeding four (4) square feet in area may be utilized for traffic regulation only;
d. Signs shall be setback a minimum of ten (10) feet from the road right-of-way. Signs shall comply with applicable zoning district side yard setback.
e. No sign shall be erected upon the curve of a street which may cause any interference to sight distance in the determination of the Zoning Administrator;
f. No sign shall be so placed as to interfere with visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection;
g. Once the purpose of the sign has ended, ceases to exist, or is over, the sign(s) shall be removed within fourteen (14) calendar days. Anything formerly used to provide a structure for a sign, and not in use for any other purpose shall be removed.
h. No sign shall be internally illuminated.
i. No sign shall contain, include or be illuminated by a flashing light;
j. The source of any sign lighting shall not be visible beyond the property lines of the parcel upon which the sign is located; and
k. If any provisions of any other ordinance, statute or law of Charlevoix County or the State of Michigan impose greater restrictions than herein set forth, then the provisions of such ordinance or statute shall control.

The below table specifies the types of signs permitted in the zoning districts indicated. Where requirements of a specific zoning district and the specifications in the table differ the specific district regulation shall prevail.

Zoning District	Types of Signs Permitted
A - Agricultural	1. On-premise sign shall not exceed sixteen (16) square feet in area. There shall be no more than one (1) sign for each street upon which the property faces. 2. One (1) freestanding sign per permitted site condominium subdivision, Planned Unit Development (P.U.D.), or platted or other development. Such sign shall not exceed thirty-two (32) square feet in area and, if illuminated, the light source shall not be visible from adjacent properties.
R-1 Residential	1. On-premise signs shall not exceed twelve (12) square feet in area. There shall be no more than one (1) sign for each street upon which the property faces. 2. One (1) freestanding sign per permitted site condominium subdivision, Planned Unit Development (P.U.D.), or platted or other development. Such sign shall not exceed thirty-two (32) square feet in area and, if illuminated, the light source shall not be visible from adjacent properties.
Commercial & Village Overlay	1. On-premise signs shall not exceed sixteen (16) square feet in area. There shall be no more than one (1) sign for each street upon which the property faces. 2. For permitted professional or office uses, on-premise signs shall not exceed twelve (12) square feet. There shall be no more than one (1) such sign for each permitted use. 3. Signs affixed to, or painted on a building. The signs shall not exceed the maximum height limitations permitted in the zoning district. Where a sign projects more than three (3) inches from the face of the building, its lowest level shall be at least ten (10) feet above the ground.

15.3 Zoning Permits Required

No sign shall be erected, except as provided in Article 15.4, moved or structurally altered until a zoning permit has been issued for such sign by the Zoning Administrator under the provisions of Article XVIII.

a. If any sign is removed and a new sign erected in its place, a permit shall be obtained.
b. If any sign is removed for maintenance or updating and replaced on the same supports, a new permit will not be necessary if the size or type of sign is not changed.
c. If any sign is removed from one location and erected at a new location, a new permit shall be obtained.

15.4 Signs Allowed without a Permit

The following signs shall be permitted without obtaining a permit in any zone; however, this exemption shall not relieve the owner or agent from complying with the applicable provisions and regulations set forth in this Article.

a. Two (2) non-illuminated temporary signs during the period of time that a lot or building is for sale or lease. Such signs shall not exceed eight (8) square feet in area, and no more than two (2) such signs per lot or building is permitted.

b. One (1) temporary sign not over twenty (20) square feet in area with a maximum height of eight (8) feet during the time that construction work is being performed on a lot.
c. Non-illuminated signs not to exceed five (5) square feet shall be permitted. No more than one (1) such sign shall be permitted on each lot, or except where otherwise permitted in this Ordinance.
d. Signs inside a building.
e. Temporary non-illuminated signs, provided such signs shall not exceed eight (8) total square feet.
f. State-owned signs or signs provided by the State of Michigan as a part of a State-sponsored program or initiative.

Article XVI
Parking and Loading Requirements

16.1 Purpose

To permit and regulate the parking and loading of motor vehicles in all zoning districts.

16.2 General Regulations and Definitions

The following regulations and definitions shall apply in all zoning districts unless more restrictive, flexible, or specific regulations are established by Site Plan Review, Special Use, or PUD provisions.

a. A plan of the proposed parking and loading areas shall be submitted to the Zoning Administrator for all new commercial, industrial, multiple family and mobile home park uses.

b. A minimum area of two hundred (200) square feet, measured by a minimum width of ten (10) feet and a minimum depth of twenty (20) feet, shall be provided for each vehicle parking space, exclusive of aisles and access.

c. "Gross floor area" is the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from center line of walls separating two buildings.

d. The Zoning Board of Appeals may, without proof of unnecessary hardship, grant any applicant a variance on the requirements of this Article if the Board finds from the evidence presented that the intended use of a proposed building does not require parking or loading facilities to the degree specified herein. However, the Board shall require that adequate open areas be retained around such a building to permit development of required parking or loading areas should the use of the building change at a later date.

16.3 Parking Requirements

No building shall be erected or altered and no land use established or altered unless there is provided adequate off-street parking spaces in compliance with the following schedule:

Residential Uses - Two (2) spaces per dwelling unit

Commercial, Service and Office Uses - Three (3) square feet of parking per square foot of gross floor area

Industrial Uses - One (1) square foot of parking per square foot of gross floor area. In the case of uses not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the most similar use listed.

16.4 Loading Space Requirements

For every building in the Village Overlay zoning district, there shall be provided and maintained, off-street loading spaces in relation to floor area as follows:

a. Up to twenty thousand (20,000) square feet - one (1) space.

b. Twenty thousand (20,000) to fifty thousand (50,000) square feet - two (2) spaces.

c. Fifty thousand (50,000) to one hundred thousand (100,000) square feet - three (3) spaces.

d. One (1) additional space for each additional one hundred thousand (100,000) square feet or fraction thereof.

Each such loading space shall be at least ten (10) feet in width, fifty (50) feet in length, and fourteen (14) feet in height. No such space shall be located closer than fifty (50) feet to any lot in any residential or agricultural district, unless wholly within a completely enclosed building, or enclosed on all sides by a wall, which shall not encroach on any sidewalk or right-of-way.

Article XVII
Nonconforming Uses

17.1 Purpose

It is the intent of this Ordinance to permit legal nonconforming uses, structures, and lots to continue, be restored or reconstructed, extended, or substituted as provided herein until they are abandoned (Section 17.4) by the property owner. It is recognized that the establishment of zoning in 1974 created lots that do not meet the minimum lot size and dimensions of the Zoning Ordinance, as well as structures that are located in required setbacks, and uses that are no longer allowed. In addition to other amendments, the ordinance was amended to increase waterfront setbacks and to define a point from where the front yard setback would be measured. It is the desire of the Township to reduce nonconformities whenever possible while allowing the continuation of these uses, structures, and lots, in accordance with this Article 17 of the Zoning Ordinance.

17.2 Nonconforming Structures

Nonconforming structures are allowed to be expanded or be reconstructed subject to the following:

a. Expansion of existing nonconforming structures including vertical expansions, additions to the footprint, decks and porches, are subject to the following:
   1. Expansions meeting all Zoning Ordinance requirements are permitted with a zoning permit.
   2. Expansions not meeting all Zoning Ordinance requirements shall require Zoning Board of Appeals approval and meet the standards for approval of Section 14.9.

b. Reconstruction or restoration of a completely or partially demolished nonconforming structure may be permitted subject to the following:
   1. Reconstruction or restoration of a structure meeting all Zoning Ordinance requirements are permitted with a zoning permit.
   2. Reconstruction or restoration of a structure not meeting Zoning Ordinance requirements shall require Zoning Board of Appeals approval and meet the standards for approval of Section 14.9, except structures will not be permitted to be reconstructed or restored if encroaching on to adjacent properties or on any right-of-way.

17.3 Nonconforming Uses

The lawful use of any premise existing at the time of the adoption or amendment of the Bay Township Zoning Ordinance may be continued. If such nonconforming use is abandoned (Section 17.4), the future use of said premise must be in conformity with the provisions of the Bay Township Zoning Ordinance:

a. A nonconforming use of land or structure containing a nonconforming use must not be expanded to occupy a greater area of land or structure than was occupied at the effective date of this ordinance.

b. A nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;

c. A nonconforming use cannot be changed to another nonconforming use.

17.4 Abandonment of Nonconforming Use or Structure

If a property owner has abandoned the nonconforming use or structure for a period of one (1) year, then any subsequent use of the property or structure must conform to the requirements of this Ordinance. In determining if the property owners have abandoned a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

a. Utilities, such as water, gas, and electricity to the property have been disconnected.

b. The property, buildings, and grounds have fallen into disrepair.

c. Signs or other indications of the existence of the nonconforming use have been removed.

d. Equipment or fixtures necessary for the operation of the nonconforming uses have been removed.

e. Other information or actions that show evidence confirming the property owner has abandoned the nonconforming use or structure.

17.5 Lawful Lots of Record

a. Lawful lots of record that do not comply with the lot area and width requirements of this Ordinance are considered buildable, with a zoning permit, provided that all setback requirements can be met. In cases where setback requirements cannot be met, variances may be granted by the Zoning Board of Appeals provided approval is obtained from all applicable agencies.

b. The following provisions apply to undeveloped lots and will become operative upon application for a zoning permit:

If any nonconforming lot or lots are contiguous with other such nonconforming or conforming lots under the same controlling ownership, the owner(s) must be required to reconfigure or combine such lots to provide parcel(s), which must meet the minimum requirements for the district in which they are located. In those instances where it is not possible to meet the minimum ordinance requirements, the parcels must be joined to ensure less nonconformity.

Revised effective January 26, 2024

Article XVIII
Administration

The provisions of this Ordinance shall be administered by the Township Zoning Administrator appointed by the Board of Trustees. The Zoning Administrator shall be responsible for:

a. Receiving and processing applications for zoning permits,

b. Issuing zoning permits,

c. Inspecting premises for compliance, and

d. Instituting proceedings for the enforcement of the provisions of this Ordinance.

18.1 Zoning Permits

a. Zoning permits are required before any person shall excavate, fill, build, add to the exterior dimension of a building, add parking areas or move any building or structure. Zoning permits shall not be issued for any use or occupancy of any building or structure or any use of land that would violate the provisions of this Ordinance.

b. Zoning permits are valid for one (1) year from date of issue. Construction must start within one (1) year or a new permit must be obtained. There shall be no fee required for a renewal permit application.

c. Repairs and all normal maintenance of existing buildings and structures do not require a zoning permit, provided such repairs and maintenance do not conflict with other provisions of this ordinance and provided there is no change in the use or occupancy of such building or structure.

18.2 Zoning Permit Applications

Applications shall be filed in writing with the Zoning Administrator, and shall be signed by the applicant, or by his or her authorized agent. All applications shall be accompanied by an accurate scale drawing based on known, accurate monuments such as survey irons or stakes, illustrating the following information:

a. The dimensions of the lot lines encompassing the property subject to the application;

b. The location and dimensions of any proposed building or structure, or any addition to an existing building or structure, for which such application is being filed. The proposed use of such building(s), addition(s), or structure(s) must be indicated. Setbacks from lot lines must also be indicated;

c. The location of shorelines and streambanks;

d. The location and dimensions of any existing buildings and other structures. The type(s) and use(s) of such buildings must be indicated;

e. The name(s) of any adjoining public or private street(s);

f. The location and width of any private easement or right-of-way providing access from the property to a public road if the property has no frontage on such road;

g. Location of all existing structures bordering the property;

h. Evidence of ownership of the property subject to the application;

i. Evidence that all required federal, state, and county licenses or permits have been acquired or that applications have been filed for same;

j. If the property is subject to deed restrictions promulgated by a property owners or summer resort association, a statement from such association indicating its approval for such building, structure, or addition to such building or structure;

k. Other information with respect to the proposed structure, use, lot, and adjoining property as may be required by the Zoning Administrator; and

l. Written approval of the water supply and sewage disposal facilities, as obtained from the Northwest Michigan Community Health Agency.

Zoning permits shall be displayed on site before construction begins.

Article XIX
Amendments

The zoning amendment procedure is initiated when a property owner, a group of property owners, the Planning Commission or Board of Trustees seek a change in the rules or requirements of the Zoning Ordinance (a *text amendment*) or a change in the location of zoning district boundaries (a *rezoning*).

19.1 General Procedures

The general procedural steps for text amendments and rezonings are outlined below:

Step 1. Applicant

a. Inquires of the Zoning Administrator how one must proceed and obtains an application form.

b. Completes and files the application form with the appropriate application fee.

Step 2. Planning Commission

a. Reviews and studies the appropriateness of the proposed text amendment or rezoning. This review is based on established planning and zoning criteria, as set forth in the Bay Township Land Use Plan and applicable provisions of this Ordinance.

b. A public hearing on the request is scheduled. The Planning Commission must conduct a public hearing before submitting its recommendation on the application to the Charlevoix County Planning Commission and Township Board of Trustees.

Step 3. Notification of Public Hearing

a. Publication

The notice must be published in a newspaper two times. The first publication must occur not more than thirty and not less than twenty days before the date of the public hearing. The second notice must be published not more than eight days before the date of the hearing.

b. Delivery

1. Text Amendments

Not less then 20 days notice of the time and place of the hearing shall also be given by mail to each electric, gas, pipeline, and telephone public utility company and to each railroad operating within the district or zone affected that registers its name and mailing address for the purpose of receiving the notice.

2. Rezonings

Notice of public hearings must be delivered in person or by mail at least eight days prior to hearing to: 1) The owner of the property in question; 2) All persons who are assessed for real property within 300 feet of the property in question; and 3) All occupants of one and two family dwellings within 300 feet of the property in question. If these notices are sent by mail, an affidavit of mailing must be filed with the Planning Commission as proof that the proper persons were notified within the proper number of days.

Step 4. Planning Commission Conducts Public Hearing

a. Planning Commission opens public hearing.
b. Applicant presents proposal.
c. Public makes comments and asks questions.
d. Commissioners make comments and ask questions.
e. Applicant addresses comments and questions.
f. Planning Commission closes public hearing.
g. Planning Commission makes recommendation to Township Board to approve or deny text amendment or rezoning.

Within a reasonable period of time following the public hearing, the Planning Commission shall approve, reject or approve with changes the proposed text amendment or rezoning.

Step 5. Transmission of Planning Commission Recommendation to County Planning Commission

The Planning Commission's recommendation on the application is transmitted to the County Planning Commission for its review and comment. If the County Planning Commission's response has not been received by the Township within 30 days of receipt of the Township Planning Commission's recommendation, it shall be presumed that the county has waived its right for review. If such recommendation has been received, it shall be considered by the Township Planning Commission and forwarded to the Township Board with the Township Planning Commission's recommendation.

Step 6. Final Action by Township Board

The Board of Trustees may take any of the following actions:

a. Conduct additional public hearings, if desired. If additional hearings are desired, notification of such hearings shall be published not less than five and not more than fifteen days before the date of the hearing.

b. Refer the recommendation on the amendment back to the Planning Commission for further deliberation if the Board considers revisions, changes, additions or departures advisable.

c. Approve or reject the amendment as recommended by the Township Planning Commission.

d. If approved, a notice describing the nature and extent of the amendment must be published in a newspaper within 15 days of the date of its approval by the Township Board.

19.2 Guidelines for Decisions on Text Amendments and Rezoning Requests

The Planning Commission and Board of Trustees should consider the following guidelines when considering applications for text amendments and rezonings:

a. For proposed *text amendments* that would permit additional uses in a zoning district, it is important to consider the following questions:

1. Is the proposed use already provided for elsewhere in the Ordinance?

2. Is the proposed use compatible with the zoning district's permitted and special uses?

3. Is the proposed use or amendment supported by the Bay Township Land Use Plan?

4. Is the proposed use or amendment consistent with the overall purpose of this Ordinance and the purpose of the zoning district?

5. Would the proposed use be more appropriate in the district if allowed as a special use rather

than as a matter of right?

6. Is there an actual need to include the proposed use with the range of permitted and special uses already allowed in the district?

b. For proposed *text amendments* that would create additional regulations or modify or eliminate existing ones, it is appropriate to determine:

1. Does the proposed text amendment support implementation of the Bay Township Land Use Plan?

2. Is the proposed amendment in keeping with the intent and purpose of this Ordinance and with the objectives of valid public purposes?

3 Which problem or issue will the proposed amendment resolve or address? Can the problem or issue be resolved or addressed by another means? Is the proposed amendment a positive response to a problem not addressed by the Ordinance in its current form?

4. Is the proposed text change enforceable?

c. In the case of rezonings, it is very important to determine whether or not the range of matter-or-right and special uses allowed in the *proposed* zoning district will be appropriate in relationship to the range of matter-of-right and special uses allowed by zoning district regulations in the area surrounding the property subject to the rezoning request.

It is also appropriate to determine:

1. Whether or not there are substantial reasons why the property cannot be reasonably used as currently zoned?

2. Whether or not the proposed rezoning is supported by the Bay Township Land Use Plan.

3. Whether or not the proposed rezoning would be compatible with existing land uses in the area? Will it adversely affect property values?

4. Whether or not the proposed rezoning would establish a spot zone which would have the effect of granting a special privilege to one landowner not available to others?

5. Whether or not there has been a change of conditions in the area supporting the proposed rezoning?

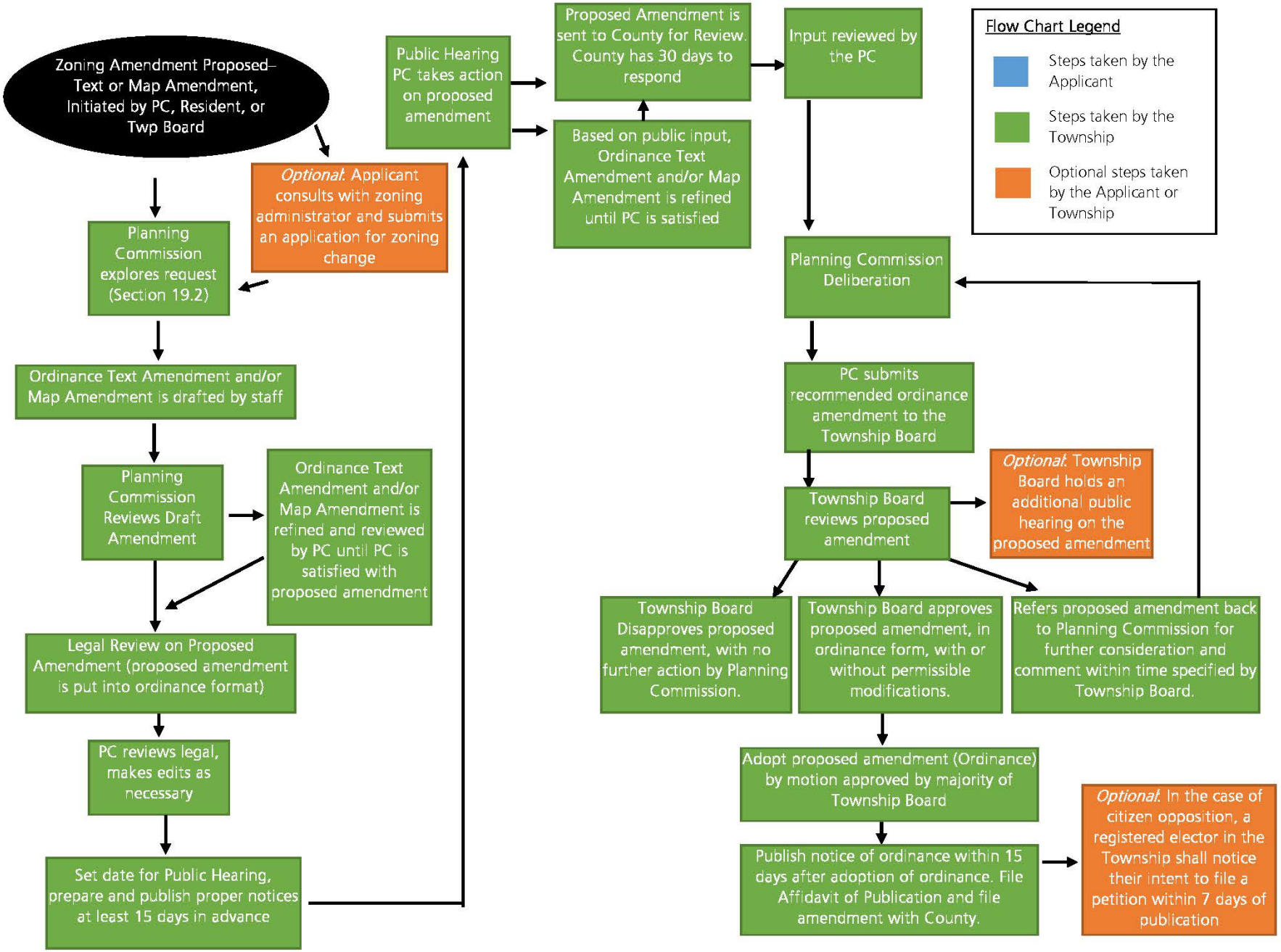
6. Whether or not the proposed rezoning would severely impact traffic, public facilities, and the natural characteristics of the area, or significantly change population density?

7. If the change is approved, what will be the probable effect on stimulation of similar zoning requests in the vicinity? Would this secondary effect negatively impact community plans and public services?

8. Whether or not the proposed zoning would set a precedent that would influence similar future rezoning requests?

9. Is the proposed boundary appropriate?

Figure 19.1 Zoning Ordinance Amendment: Adoption Process, Article 19



Article XX
Violations and Penalties

20.1 Municipal Civil Infractions

Any person who violates any provision of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine pursuant to the Township of Bay Municipal Civil Infraction Ordinance, as amended, plus costs and other sanctions, for each violation (as authorized by Section 24 of Act 184 of the Public Acts of Michigan of 1943, as amended, the Township of Bay Municipal Civil Infraction Ordinance, and other applicable laws).

20.2 Repeat Offenses

Repeat offenses under this Ordinance shall be subject to increased fines, as provided by the Township of Bay Municipal Civil Infraction Ordinance, as amended.

20.3 Separate Offense

Each day on which any violation of this Ordinance occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this Ordinance shall not exempt the offender from meeting the requirements of this Ordinance.

20.4 Authorized Township Officials

The Township's Authorized Township Officials (as defined by the Municipal Civil Infraction Ordinance, as amended), are hereby designated as the Authorized Township Officials to issue municipal civil infraction citations for violations of this Ordinance.

20.5 Nuisance Per Se

A violation of this Ordinance is deemed to be a nuisance, per se. In addition to any remedies available at law, the Township may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this Ordinance.