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THE ZONING ORDINANCE OF THE TOWNSHIP OF CLAYBANKS

An ordinance to establish zoning districts and thereby to regulate and promote: the health, safety, and general welfare of the people of the Township of Claybanks; the location and use of structures and land, including the permitted and special uses of same, the height and size of structures, the dimensions of yards and other open spaces, the use, size, and type of signs, parking and loading requirements, the density of population; to encourage the use of lands in accordance with their character and adaptability; to limit the improper use of land; to conserve natural resources and energy; to meet the needs of the State's residents for foods, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of land shall be situated in appropriate locations and relationships; to avoid overcrowding of population; to provide adequate light and air; to lessen congestion on public roads and streets; to reduce hazards to life and property; to authorize special uses; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services; to promote the most advantageous uses of land, resources, and properties; to provide for enforcement and amendment of this Ordinance; to provide for the completion, extension, substitution, or elimination of non-conforming uses; to provide for a Zoning Board of Appeals and to define the powers and duties thereof; to designate and define the powers and duties of the official or officials in charge of the administration and enforcement of this Ordinance; to provide for payment of fees for all types of zoning permits and zoning actions; to provide penalties for the violation of this Ordinance; and to repeal the previous Zoning Ordinance of Claybanks Township. This Ordinance is enacted under the authority of Act 110 of the Public Acts of 2006, as amended.

The Township of Claybanks, County of Oceana, State of Michigan ordains:

ARTICLE 1
TITLE, PURPOSES, AND LEGAL CLAUSES

101 SHORT TITLE

This Ordinance shall be known and may be cited as: “The Claybanks Township Zoning Ordinance.”

102 REPEAL AND SAVINGS CLAUSE

Effective on the effective date of this Ordinance, all previous zoning ordinances are repealed. Repealed ordinances shall be treated as still remaining in force for the purpose of instituting or sustaining any action for the enforcement of any penalty or liability incurred under such repealed ordinances.

103 ZONING ORDINANCE AS LAND USE PLAN

The provisions of this Ordinance constitute, and have been designed in order to implement, a Land Use Plan for Claybanks Township, and thereby achieve the goals set forth on page one of this Ordinance. This Ordinance also has been designed and adopted after giving reasonable consideration to, among other things, the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

104 VALIDITY AND SEVERALTY CLAUSE

If a court of competent jurisdiction shall declare any part of this Ordinance to invalid, such ruling shall not affect any other provision of this Ordinance.

If a court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular lot, district, use, or structure, such ruling shall not affect any other lot, district, use or structure.

105 CONFLICT WITH OTHER PROVISIONS OF THIS ORDINANCE, WITH OTHER LAWS OR ORDINANCES, OR OTHER PRIVATE RESTRICTIONS OR COVENANTS

- A. Where any condition imposed by this Ordinance upon the use of any lot or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this or any other law, then in such case the provision which is more restrictive or which imposes a higher standard shall govern.
- B. This Ordinance is not intended to abrogate any easement, subdivision restriction, or other private agreement; provided that where any provision of this Ordinance is more restrictive or imposes a higher standard, then the provisions of this Ordinance shall govern.

106 PERIOD OF EFFECTIVENESS

This Ordinance shall remain in full force and effect henceforth, unless repealed.

107 EFFECTIVE DATE: PUBLICATION

This Ordinance shall take effect upon publication of a notice that such Ordinance has been adopted, pursuant to section 11a of Act 184 of 1943, as amended.

Made, passed, and adopted by the Township Board of the Township of Claybanks, this 13th day of May, 1996.

ARTICLE 2
ADMINISTRATION AND ENFORCEMENT

201 ADMINISTRATION

The Township Board shall appoint a Zoning Administrator and any necessary assistants to administer this Ordinance. Such officers shall have the powers of a police officer.

202 DUTIES OF ZONING ADMINISTRATOR

- A. Provide forms for and receive applications for all permits, petitions, and/or appeals authorized by this Ordinance, including but not limited to: special use permits, ordinance amendments, appeals, variances, and other matters.
- B. To process and verify that all applications, petitions, and appeals submitted under this Ordinance are properly filled out and that all necessary supporting data is submitted; and conduct necessary investigations.
- C. Maintain written records of all official actions.
- D. Administer the Zoning Ordinance pursuant to the terms thereof, as well as the general policies of the Township Board, Planning Commission, and Zoning Board of Appeals.
- E. Issue, deny, or rescind permits pursuant to this Ordinance.

203 ZONING AND BUILDING PERMITS REQUIRED; EXCEPTIONS

No building permit shall be issued until a zoning permit is first issued. Zoning permits are required for and shall be obtained prior to the use, construction, enlargement, alteration, conversion, or moving of any structure or any part thereof, except under the following circumstances:

- A. The erection and/or placing of a temporary portable structure incident to any on-going construction operation in any district, so long as the placement of said structure shall conform to the setback and height requirements of the district in which it is located.
- B. Repairs of a minor nature such as painting and general maintenance which do not change the use, occupancy, area, structural strength, fire protection, exits, or ventilation of a structure.

204 REQUIRED COMPLIANCE WITH THIS ORDINANCE

Except as hereinafter specifically provided to the contrary:

- A. No structure or land shall be used, and no structure or any part thereof shall be erected, moved, or altered unless in conformity with this Ordinance.
- B. No structure shall be erected or altered in violation of the lot area, width, and coverage, minimum floor area, yard setback, height, off-street parking, open space, accessory building, water supply and sanitary sewage facilities, access, signs, and other requirements of such structure as provided in the zoning district in which such structure is located.
- C. No structure shall be erected or altered to accommodate or house a greater number of persons or families than is provided for by the requirements of this Ordinance for such structure for the district in which such structure is located.
- D. The maintenance and use of lands and structures in compliance with this Ordinance shall be a continuing obligation upon the owner and occupiers of such land and structure.

205 PERMITS – VOIDABLE

- A. Any zoning, building, special use permit, or any variance or other permit issued under this Ordinance shall be deemed null and void if there has not been undertaken, on a material and

substantial basis, commencement of construction on the project within one (1) year of issuance of said permit.

- B. The Zoning Administrator may suspend or revoke any permit issued in error or on the basis of incorrect information supplied by the applicant or its agents or if the development is or will be in violation of any other ordinance of the Township, County, State, or Federal Government, or if the construction or use of the premises deviates from the plans or information submitted with the application upon which such permit was issued.

206 FEES, CHARGES, AND EXPENSES

The Township Board shall establish a schedule of fees, and a collection procedure for zoning and special use permits, appeals, variances, and other matters pertaining to the Ordinance. The schedule of fees shall be posted at the Township Hall, and may be altered or amended by the Township Board. The schedule of fees shall be deemed a minimum or base fee, and in addition the Township may charge its actual costs and expenses incurred in the review of such permits, appeals, or other petitions submitted pursuant to this Ordinance, which costs may include but shall not be limited to: publication fees, professional engineering or site plan review fees by such professionals as the Township may engage, and attorney fees incurred by the Township in reviewing and drafting documents necessary to the review or grant of any such application. No permits, appeals, or variances shall be issued until such costs, fees, and expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals or the Planning Commission until preliminary charges and fees have been paid in full. No part of any fee shall be refundable.

207 VIOLATIONS – NUISANCES PER SE

Any use of land or of any structure, including tents and mobile homes, which are erected, constructed, reconstructed, altered, converted, maintained, used, or changed in violation of this Ordinance, or without obtaining a zoning permit, is prohibited and hereby declared to be a nuisance per se.

208 CIVIL RELIEF

Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance or any permit or other approval granted hereunder, or any lawful order or determination of the Township Board, Planning Commission, Zoning Board of Appeals, Building Inspector, Zoning Administrator, Zoning Enforcement Officer, Authorized Township Official, or any authorized deputy sheriff, issued pursuant to this Ordinance shall be responsible for a municipal civil infraction punishable by a civil fine and other relief in accordance with or as provided by the Claybanks Township Civil Infraction Ordinance, as may be amended from time to time.

209 ENFORCEMENT OF ZONING BY CORRECTIVE ACTION AND LIEN

Upon the violation of this Ordinance, and in addition to all other remedies provided herein, the Township Board may correct the violation and assess the premises for the cost thereof, which said assessment shall become a lien upon the premises and shall be collected in the same manner as township property taxes.

**ARTICLE 3
ZONING BOARD OF APPEALS**

301 ESTABLISHMENT AND MEMBERSHIP

There shall be a Township Zoning Board of Appeals consisting of five (5) members who shall be appointed, governed, and conduct themselves in accordance with the provisions of Article 6, Act 110, of Public Acts of Michigan, 2006, as amended. The first member shall be a member of the Planning Commission. The remaining members shall be appointed by the Township Board. One member shall be a member of the Township Board. No elected official shall serve as chairperson. No employees or contractors to the Township Board may serve on the Board of Appeals. Terms of office are three (3) years except for those serving as representative from the Planning Commission or Township Board. For such representatives, terms are limited to the time they are members of their respective boards.

302 MEETINGS; POWERS AND DUTIES OF CHAIRMAN; RECORDS

Meetings of the Township Zoning Board of Appeals shall be held at the call of the chairman, who shall be elected by the members of the Board, and at such other times as the Board may specify. The chairman may administer oaths and compel the attendance of witnesses. The Board shall maintain a record of its proceedings, to be filed with the Township Clerk as a public record.

303 SUBMITTAL REQUIREMENTS

- A. Applications for variances shall be submitted to the Zoning Administrator who will review the application for completeness and validity, then transmit it to the Zoning Board of Appeals. Applications not meeting the requirements shall be returned to the applicant for completion.

- B. A valid application for a variance to the ZBA shall consist of the following:
 - 1. Six (6) copies of a site development plan drawn to scale, which is sufficient to describe the nature of the request.
 - 2. A completed application form as provided by the Township.
 - 3. Payment of a fee, in accordance with a fee schedule, as determined by the Township Board from time to time.
 - 4. A legal description and/or parcel number of the entire property that is the subject of the request.
 - 5. A statement with regard to compliance with the standards of Article 14, as applicable.
 - 6. Other materials as may be required by the ZBA.

304 DUTIES; RULES; HEARING AND DECISION OF APPEALS; RIGHT TO AND GROUNDS FOR APPEALS

- A. The Township Zoning Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the Zoning map. It may fix rules and regulations to govern its procedures.

- B. It shall hear and decide appeals from and review any order, requirement, or determination made by the Zoning Administrator. The Zoning Board of Appeals may reverse or affirm, wholly

or partly, or may modify the order, requirement or determination as in its opinion ought to be made, and shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a building or zoning permit.

C. It shall hear and decide all matters referred to it or upon which it is required to pass pursuant to this act. The concurring vote of a majority of the members of the entire Zoning Board of Appeals shall be necessary to reverse or modify an order, requirement, or determination of the administrative officer or to decide in favor of the applicant on any matter.

D. An appeal may be taken by a person aggrieved or by any officer or board of the Township, County, or State.

305 TIME TO APPEAL AND NOTICE OF APPEAL; TRANSMISSION OF RECORD

Such appeal shall be taken within thirty (30) days of date of issuance of the order or determination of order appealed from, by the filing with the officer from whom the appeal is taken and with the Zoning Board of Appeals, a Notice of Appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all documents constituting the record of the action being appealed.

306 STAY OF PROCEEDINGS PENDING APPEAL

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by the circuit court, with notice to the officer from whom the appeal is taken.

307 HEARINGS AND NOTICES THEREOF; RIGHT TO BE HEARD; DISPOSITION OF APPEALS

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and decide the same within a reasonable time. Any party may appear in person or by agent. When a Notice of Appeal has been filed in proper form, the Board shall immediately place the appeal upon the calendar for hearing, and cause notice stating the time, place, and object of the hearing to be served personally or by registered return receipt mail at least ten (10) days prior to the date of such hearing, upon the party or parties making the request for appeal. Notice shall also be given to all persons who reside in or own property within three hundred (300) feet of the premises in question by first class mail or personally to the respective owner at the address in the last assessment roll.

308 DIMENSIONAL VARIANCES

Following a hearing in accordance with the terms of this Article, the Zoning Board of Appeals shall have the power to authorize variances from dimension requirements such as lot area and width, setbacks, building height and area regulations, off-street parking and loading space setbacks, and from all other provisions of this Ordinance if the proposed variance:

- A. Will not be contrary to public interest and will insure that the spirit of this Ordinance shall be observed; and
- B. Does not permit the establishment within a district any use which is prohibited, or any use or dimensional variance for which a special use permit is required; and
- C. Will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the property of the applicant is located; and
- D. Is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable; and
- E. Where the strict letter of this Ordinance would cause practical difficulties or unnecessary hardships; and
- F. There are extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district, and have not resulted from any act of the applicant; and
- G. Relates to property that is under control of the applicant, and the property cannot be reasonably put to any conforming use.

The following additional rules shall apply in the granting of any variance:

- H. In granting a variance, the Board may specify, in writing, such conditions in connection with the granting that will, in its judgment, secure substantially the objectives of this Ordinance in the same manner as provided for in the termination of Special Use Permits.
- I. No more than the minimum variance from the terms of this Ordinance shall be granted which is necessary to relieve the practical difficulty or unnecessary hardship.
- J. No application for a variance which has been denied shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions.
- K. The Zoning Board of Appeals may require a reasonable performance bond, to insure compliance with the requirements and provisions of the variance granted.

309 INTERPRETATIONS

The Zoning Board of Appeals shall have the power to hear and decide, in accordance with the provisions of this Ordinance, applications for interpretations of this Ordinance, and may make decisions on any other questions on which the ZBA is authorized to pass. In exercising all of its powers, the ZBA shall apply the standards of this Section.

- A. Text Interpretations: The ZBA may hear and decide upon requests for the interpretation of the provisions of this Ordinance. In deciding text interpretations, the ZBA shall be governed by the following rules.
 - 1. Text interpretations shall be narrow and address only the situation to be interpreted, be based on a thorough reading of this Ordinance and not have the effect of amending this Ordinance.

2. Interpretations shall give weight to practical interpretations by the Zoning Administrator if applied consistently over a long period of time.
 3. Records shall be kept of all interpretations.
 4. Where the intent of this Ordinance is unclear and the facts cannot be read to support only one (1) interpretation, the benefit of doubt shall go to the property owner.
 5. Nothing contained in this Section shall be construed to give or grant to the ZBA the power or authority to alter or change the language of this Ordinance.
- B. Map Interpretations: When there is any question as to the location of any boundary line between Districts, upon a request for an interpretation of the zoning map, the ZBA shall establish the boundary based upon the map and all available information relating thereto and shall establish the boundaries to carry out the intent and purposes of this Ordinance and the Master Plan.

310 USE VARIANCES

Use Variances are prohibited.

311 ALTERNATE MEMBERS

The Township Board may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings, or has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals. The records maintained by the Zoning Board of Appeals shall reflect the attendance and participation of an alternate member.

312 CLASSIFICATION OF USES NOT SPECIFICALLY MENTIONED ELSEWHERE IN THIS ORDINANCE

The Zoning Board of Appeals shall have the power to classify the use or proposed use of a structure or land which is not specifically mentioned in this Ordinance, by making reference to a comparable permitted, special or prohibited use or structure, for the purpose of regulating an unclassified use or structure. Once a use has been classified the determination shall be forwarded to the Planning Commission to draft ordinance language as appropriate for Board review.

313 DECISION OF THE BOARD OF APPEALS, APPEALS TO THE CIRCUIT COURT

The decision of the Zoning Board of Appeals shall contain the findings and determination of the Board in each case. The signature of the chairman or vice chairman of the Board shall be affixed thereon. Persons having an interest affected by the decision shall have the right to appeal to the Circuit Court for Oceana County, which appeal shall be brought within thirty (30) days of issuance of the decision.

ARTICLE 4
AMENDMENTS

401 AMENDMENT INITIATION

This Ordinance may be amended as provided by law. Only the Township Board may amend this Ordinance, including the Official Zoning Map. Proposals for amendments may be initiated by the Township Board on its own motion, by the Planning Commission, or by petition of owner(s) of property to be affected by the proposed amendment.

402 AMENDMENT PROCESS

- A. Petitioner, if applicable, submits application and fees to the Zoning Administrator or designated agent.
- B. Zoning Administrator transmits application to Planning Commission, which sets hearing date, and publishes and provides required notices of public hearing.
- C. Planning Commission holds hearing and makes recommendation. A summary of the comments received at the public hearing are forwarded to the Township Board with the Planning Commission's recommendation.
- D. The Township Board either enacts or rejects the proposed Ordinance amendment as proposed by the Planning Commission. If the Township Board considers departures from the amendment proposed, it shall refer the same back to the Planning Commission for a report within a time period specified by the Township Board.

403 REQUIRED APPLICATION INFORMATION

A petition for a change in the Zoning Ordinance (text or map) made by a property owner shall include a detailed description of the amendment proposal, including the following information:

- A. A legal description of the property.
- B. A map of the property, to scale, correlated with the legal description and clearly showing the property location.
- C. The name and address of the petitioner.
- D. The petitioner's interest in the property.
- E. Date of filing with the Zoning Administrator.
- F. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
- G. The desired change and reasons for such change.

404 FACT FINDING BY PLANNING COMMISSION

- A. The Planning Commission shall identify and evaluate all facts relevant to the petition and shall report its findings in full, along with its recommendation for disposition of the petition, to the Township Board within ninety (90) days of the filing date of the petition.

B. The facts to be considered by the Planning Commission shall include, but not be limited to, the following:

1. Whether the proposed zoning change is justified by a change in the conditions since the original Ordinance was adopted, or by an error in the original Ordinance.
2. The precedents and the possible effects of such precedents, which would likely result from approval or denial of the petition.
3. The ability of the Township or other governmental agencies to provide any service, facilities, and/or programs that might be required if the petition were approved.
4. Any significant and negative environmental impacts which would occur if the petitioned zoning change and resulting development were approved; including, but not limited to, surface water drainage problems, wastewater disposal problems, or the loss of locally valuable natural resources.

C. All findings of fact shall be made a part of the public record of the Planning Commission and the Township Board.

405 COMPREHENSIVE REVIEW OF ORDINANCE

The Planning Commission, at intervals of not less than three (3) years, shall examine the provisions of this Ordinance and shall submit a report to the Township Board recommending changes, if any, deemed desirable in the interests of public health, safety, and welfare.

ARTICLE 5
GENERAL PROVISIONS REGARDING ESTABLISHMENT OF
ZONING DISTRICTS AND OFFICIAL ZONING MAP

501 ESTABLISHING OF ZONING DISTRICTS AND ZONING MAP

The Township is hereby divided into the following zoning districts: Residential and Agricultural. These zoning districts are delineated as shown on the zoning map adopted by the Township Board, and which, with all information appearing thereon, is a part of this Ordinance. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map retained by the Township Clerk shall be the final authority.

502 INTERPRETATION AND LOCATION OF ZONING DISTRICTS AND BOUNDARIES ON OFFICIAL ZONING MAP

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules for interpretation shall apply:

- A) A boundary indicated as approximately following the centerline of a highway, street, alley, railroad, or easement shall be construed as following such centerline.
- B) A boundary indicated as approximately following recorded lot line, bounding a parcel, section line, quarter section line, or other survey line shall be construed as following such line.
- C) A boundary indicated as approximately following a shoreline shall be construed as following the actual shoreline.
- D) A boundary indicated as approximately following the centerline of a stream or other inland body of water shall be construed as following such centerline.
- E) A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

503 RESIDENTIAL DISTRICT DEFINITION

Sec. 4 – N ½ of NW ¼ except for Oceana Co. Park

Sec. 8 – All of Gov't lots 1, 2 & 3, plus SW ¼ of SE ¼ and S 359 ft of NW ¼ of SE ¼

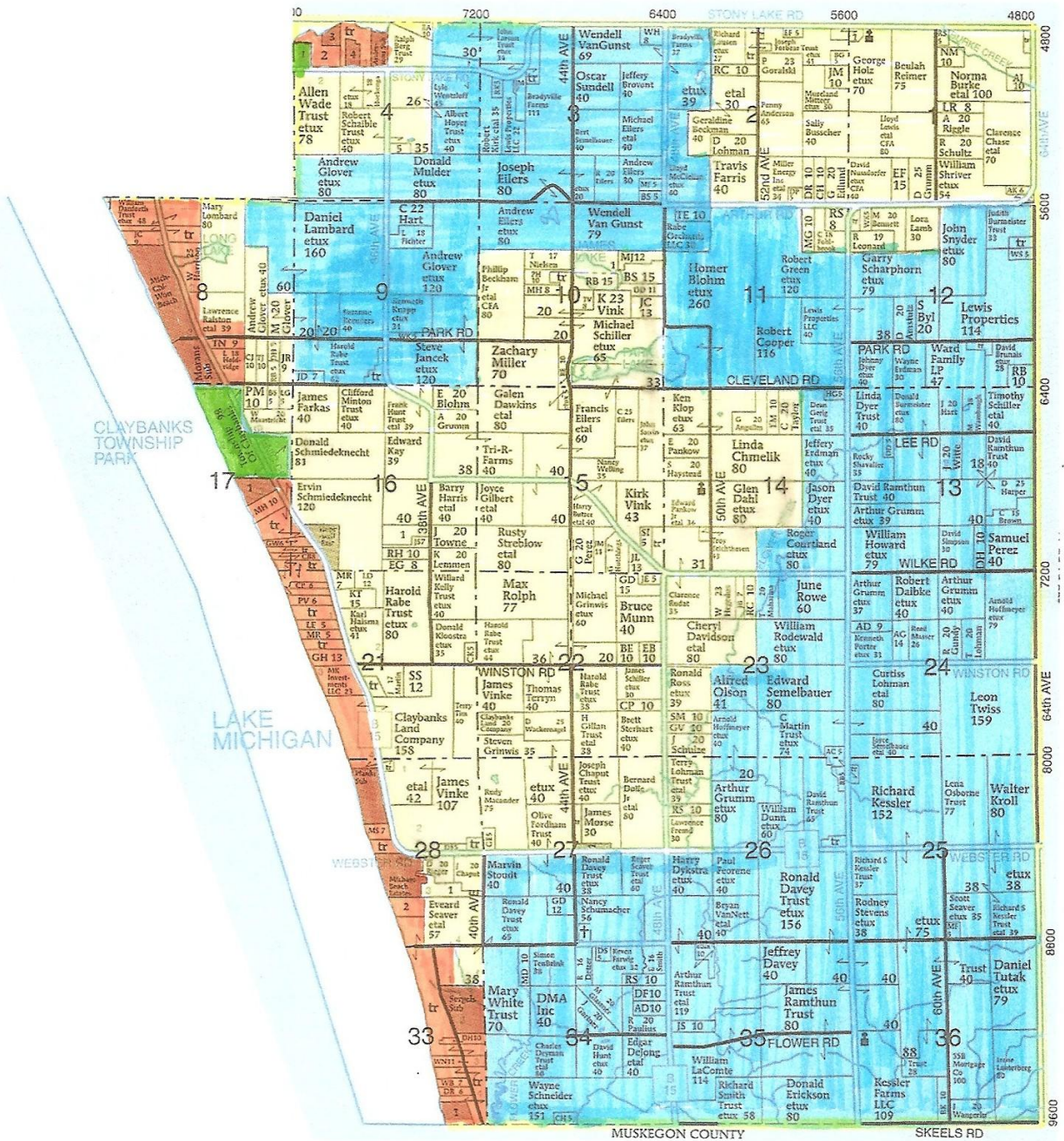
Sec. 17 – All of Gov't lot 3

Sec. 16 & 21 - All W of Scenic Dr.

Sec. 28 – All W of Scenic Dr., All of Michago Beach, Michago Beach #1 & Michago Beach # 2, and Gov't lot 4 except for E 57.34 a.

Sec. 33 – All except for the E ½ of NE ¼ of NE 1/4

504. Zoning District Map Claybanks Township



Map Legend

Agricultural Preservation District



Rural Preservation District



Residential District



Parklands



ARTICLE 6
SUPPLEMENTAL ZONING REGULATIONS

601 APPLICATION OF SUPPLEMENTAL REGULATIONS

The following regulations of structures and land and the uses thereof are applicable to all zoning districts regardless of classification unless specifically limited in this Article 6.

602 RESIDENTIAL ACCESSORY BUILDINGS AND PRIVATE GARAGES

Section 602 applies to accessory buildings (including detached private garages) wherein the principal use is any residential structure. Section 602 does not apply to agricultural related accessory buildings.

A) NUMBER OF AND AREA LIMITATIONS APPLICABLE TO PRIVATE GARAGES

Every residential structure in the Township shall be entitled to have, as a permitted use, one attached private garage sufficient to contain three motor vehicles, provided that such garage does not exceed a maximum area size of nine hundred (900) square feet. The attached garage must have at least one common wall with an entry door to the dwelling.

B) NUMBER AND APPROVAL OF ACCESSORY BUILDINGS AND ADDITIONAL PRIVATE GARAGES

The following provisions apply to detached garages and accessory buildings such as Storage Accessory Buildings (for storage of tools, recreational vehicles, boats, snowmobiles, motorcycles, campers, trailers, etc.) and Special Purpose Accessory Buildings (e.g., pool house, greenhouse, sauna, playhouse, art or hobby studio, etc.). No accessory building or detached garage (or combined area of accessory buildings and/or private garages, if more than one) shall occupy more than thirty (30) percent of the area of any rear yard (front yard for lake front houses). Every residential structure in the township shall be entitled to have, as a permitted use, in addition to the one attached private garage referenced in paragraph 602(A) above, additional accessory buildings and/or private detached garages which shall in their total not exceed a maximum area size of one thousand two hundred (1,200) square feet unless authorized as a special land use pursuant to Article 10. These additional structures, that are larger than one hundred twenty (120) square feet, are limited to three (3).

C) STANDARDS FOR ALL ACCESSORY BUILDINGS

The following provisions apply to construction standards of all garages and accessory buildings.

1. In all cases, building permits shall be required for the placement, erection, or construction of any accessory building, attached or detached garages with a floor area of over one hundred twenty (120) square feet. Accessory buildings of one hundred twenty (120) square feet in area or less shall not exceed two (2).
2. All accessory buildings should be well maintained and be compatible with neighborhood character in appearance. The use of accessory buildings shall create no unusual noise, smoke, odor, nuisance, or traffic patterns.
3. All accessory buildings must be of usual and approved erection or construction. All attached garages must be of frame or masonry construction.
4. Detached accessory structures shall be a minimum of ten (10) feet from another building.

603 ACCESSORY BUILDING AS DWELLING

No garage or accessory building shall be used for dwelling purposes.

604 BASEMENT AS A DWELLING

Except as may be approved as a special use, no basement structure shall be used for occupancy unless a completed story is situated immediately above the basement structure and such story is used as a dwelling.

605 WATER SUPPLY AND SANITARY SEWERAGE FACILITIES

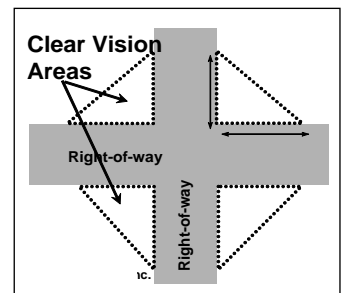
A) No structure for human occupancy shall be erected or used unless it shall be provided with a potable water supply and a means of collection, treatment, and disposal of wastes as certified by the Oceana County Health Department.

B) No drain field for a septic tank system shall be located nearer to the normal high water line of any surface body of water than allowed by then current regulations of the Oceana County Health Department. Nor shall any such drain field be located in an area where the normal high water table level is higher than allowed by then current Oceana County Health Department Regulations.

C) No portion of any sanitary sewage facility shall be located within the lot area designated as the minimum side yard setback required for that district. For the purpose of excluding such sewage facilities, the side yard shall be deemed to extend to and from the front and back lot lines.

606 VISIBILITY AT INTERSECTIONS

No fence, wall, hedge or other vegetation, sign, or structure, shall be higher than three (3) feet above street grade on any corner lot or parcel within the triangular area formed by the intersecting street right-of-way line at points which are thirty (30) feet distance from the point of intersection, measured along the street right-of-way lines.



607 EXEMPTIONS FROM HEIGHT REGULATIONS

The following structures shall be exempt from the height requirements of this Ordinance: spires or belfries; chimneys; ventilators, skylights; water tanks; bulkheads; utility poles; power lines; radio and television broadcasting and other receiving antennae; silos; parapets; and other necessary mechanical appurtenances; provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the Civil Aeronautics Administration, and other public authorities having jurisdiction.

608 SWIMMING POOLS

No swimming pool shall be constructed or placed in the front yard of any lot, or in the case of a corner lot, in the side yard bordering on the street. Swimming pools, existing or to be built, shall be enclosed by a fence, walls, or other structure which shall be at least five (5) feet in height measured from the outside. Any opening under the bottom of the fence shall not be more than four (4) inches in height. A fence or other enclosure shall be of a type that impedes climbing by small children, and shall be equipped with a gate that is self-closing and latching with a latch on

the pool side of the gate. The entranceway shall lead to the shallow end of the pool. If a fence or wall meeting these requirements encloses the pool and the principal structure located on the premises, a separate pool fence meeting the above requirements need not be constructed.

609 DOGS AND CATS

A) In Residential zoning districts, the number of dogs and cats per household be limited to a maximum number of three (3) dogs and three (3) cats. An exception to this limit will be in the case of a litter of puppies or kittens which will not be counted for a period of sixteen (16) weeks from their birth.

B) All dogs and cats shall be confined to the owner's lot, and shall not become a nuisance, by way of persistent noise or otherwise.

610 HOME OCCUPATION REQUIREMENTS

A) The home occupation must be contained in the dwelling and not more than twenty-five percent (25%) of usable floor area of the dwelling shall be occupied by a home occupation.

B) There shall be no noise, smoke, odor, or traffic patterns other than is usual in a residential area.

C) There shall be no outward appearance alteration of the dwelling.

D) There shall be no more than one (1) employee other than members of the resident family.

E) Home occupations that meet the above requirements, in accordance with the spirit and intent of this ordinance and in keeping with the character of the neighborhood shall be permitted.

F) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one (1) sign as permitted by the Residential District regulations. The permitted sign shall be located on the same property as the home occupation.

G) No retail or other sales of merchandise or products shall be conducted upon the premises except for incidental products related to the home occupation or those goods actually produced on the premises.

611 KEYHOLE DEVELOPMENTS

A) Required frontage – In all zoning districts there shall not be less than seventy five (75) feet of lake or stream frontage, as measured along the high water mark, per each lot, parcel, and dwelling unit possessing or accessing water frontage.

B) Application of frontage requirement – The required frontage shall apply to all lots, parcels and dwelling units on abutting, or accessing any lake or stream in all zoning district, regardless of whether access to the lake or stream is by common-fee ownership, easement, park, single-fee ownership, condominium arrangement, association, license, lease, or other means.

C) Waterfront access via easement, private park, etc. (e.g. keyhole development) – No easement, private park, common area, lot or access property abutting or adjoining a lake or stream shall be used to permit access to a lake or stream for more than one (1) dwelling unit (occupants thereof) unless additional access use is approved as a special land use

D) Lot compliance – A separate waterfront lot shall not be created unless said lot meets the minimum width and area standards of the underlying zone district.

612 BUILDINGS ON CORNER LOTS

A) Where designation of front and side street questions arise, determination shall be made by the Zoning Board of Appeals.

B) Required set-back of all buildings from the designated side street road-right-of-way shall be a minimum of one-half (1/2) of the required front street set-back. In residential zones, where the corner lot abuts another lot facing the side street, buildings in the rear one-half of the corner lot shall be located no nearer to the side street than the required front set-back on that side street.

C) Where the principal building is situated on an angle toward the street corner, the required set back from both streets shall be the same as the required front set back.

613 RESTORATION OF DAMAGED STRUCTURES

Any structure damaged in whole or in part by fire, storm, vandalism, or other reason (including dilapidation), must be repaired or demolished within six months of the date of such damage, and all debris (i.e., including but not limited to ruined or damaged furnishings, appliances, or building material) shall be removed from the site within sixty (60) days of the damage.

Violation of the provision shall entitle the Township, in addition to any other remedy authorized by law, to correct the violation and any costs incurred shall be charged to the property and be assessed and collected as a levy against such property as provided in Section 209 of this Ordinance.

614 CAMPING

A) One recreational unit may be temporarily placed on five acres or more that does not contain a principle dwelling for use as a temporary dwelling for not to exceed six months in any one calendar year by Zoning Permit. Permits are issued by the Claybanks Township Zoning Administrator. A waste disposal system is required and must be approved by the Oceana County Health Department.

B) A recreational unit may be a travel trailer, camping trailer, motor home, truck camper, slide in camper, chassis mounted camper, tent or similar unit, primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted or drawn by another vehicle which is self-propelled. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors.

C) Water wells and facilities for disposal of any waste water must be approved by the Oceana County Health Department.

D) All trailers or motor homes that would require a license by the State of Michigan shall have a valid license. All recreational units must be removed when the permit expires.

E) No permit is required for camping on any parcel for a total period of fourteen (14) days or less in any one year. The recreational units must be self contained with no waste water discharge and removed when not in use.

615 LARGE LIVESTOCK FACILITIES

Any intensive livestock management facility, as recognized by the Michigan Department of Agriculture shall adhere to Generally Accepted Agricultural and Management Practices for the facility and shall demonstrate compliance with said standards.

616 PRIVATE ROADS

The plan for any development entailing a private road must conform to the requirements of the Oceana County Road Construction Specifications that are applicable at the time of the development plan submittal. A certification of compliance must be contained in the plan. Private roads are only allowed in the Residential District.

617 OUTDOOR WOOD FURNACES

Outdoor wood furnaces are not allowed in the Residential District. Outdoor wood furnaces in the other districts shall be placed behind the dwelling and within the required setback provisions of the district.

618 REQUIRED PARKING AND LOADING SPACES

- A. Required Parking Space: Within any district, no building, structure or premises shall be used, erected or structurally altered except that there be provided, on the same lot as the principal use they are intended to serve, off-street parking spaces in accordance with the following schedule:
 - 1) Residential: One parking space, adequate for two vehicles, required for each dwelling unit or for each sleeping unit in such cases as tourist homes, auto courts.
 - 2) Places of public Assembly: One (1) parking space for each five (5) seats or pews.

- B. Required Loading and Unloading Spaces: There shall be provided and maintained on all property the use of which requires the receipt or distribution by vehicles of materials and/or merchandise adequate off-street loading and unloading space. Any use of public streets or other public ways for loading or unloading purposes shall be deemed to be a violation of this ordinance.

619 SITE CONDOMINIUMS

A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership, pursuant to the Condominium Act 59 of 1978, which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.

B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon as allowed in the zoning district provided the unit meets the development requirements for the zoning district in which it is located.

C. A site development plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Planning Commission in accordance with the Site Development Plan Review process.

ARTICLE 7
NONCONFORMING BUILDINGS AND USES

701 CONTINUATION OF NONCONFORMING STRUCTURES AND USES

Nonconforming structures and nonconforming uses of structures and land which were lawful at the time of the commencement of such use may be continued subject to this Article 7. The nonconforming nature or use of a structure or land shall not be extended or increased in any manner unless such new use or structure complies with the provisions of this Ordinance. However, nothing in the Ordinance shall prohibit the improvement or modernizing of a lawful nonconforming structure provided that such improvement or modernizing does not increase the nonconformity of such structure. Any lawful conforming structure may be repaired during its normal useful life to correct normal wear and tear.

702 ABANDONMENT

Whenever a nonconforming use of a structure or land shall be abandoned for a period of more than three hundred sixty (360) consecutive days, such use shall not thereafter be re-established unless such use conforms to this Ordinance.

703 NONCONFORMING USE BROUGHT INTO COMPLIANCE – NO REVERSION

If a nonconforming structure or a nonconforming use of a structure or land is changed or altered in any manner so as to bring it into compliance with the provisions of this Ordinance applicable, such structure or use of structure or land shall not thereafter be changed back to a nonconforming use or structure.

704 RESTORATION OF DAMAGE

Any lawful nonconforming structure damaged by fire or other act of God, may be restored provided that such restoration does not exceed eighty percent (80%) of assessed value of the structure. If the cost of such restoration exceeds eighty percent (80%) of the assessed value, then the restoration or rebuilding may still be undertaken if bringing the structure into compliance with this ordinance would work a material hardship or material expense to the owner.

ARTICLE 8
SIGN REGULATIONS

801 DEFINITIONS

“Signs” means billboards, bulletin boards, free standing signs, illuminated signs, portable signs, banners, flags, wall signs, painted walls, or any other structure or device regardless of size. This definition also includes spotlights intended to draw the public’s attention.

802 GENERAL SIGN REGULATIONS

A) Subject to provisions of this Article 8, applications for the erection, placement, or utilization of signs shall be treated as a request for special use and subject to the special use permit process as set forth in Article 10. Provided further that a special use permit for the erection, placement, or use of a sign shall not violate any of the conditions of this Article 8, or any other relevant portion of this Ordinance.

B) No sign shall be erected at any location, whereby reason of the position, size, shape, color, movement, or illumination it may interfere with, obstruct the view of, be confused with any authorized traffic sign, signal, or device so as to interfere with, mislead, or confuse traffic. Consideration of traffic visibility and injurious effects on adjacent properties is essential. All signs shall be designed, constructed, and maintained so as not to change the essential character of such area and no part of any sign shall be located in any public right-of-way.

C) Permanent on-premises signs shall be allowed without permit on any property selling agricultural products, if the signs are equal to or less than thirty two (32) square feet in size. Additionally, permanent signs shall be allowed without permit on off-premises property equal to or less than sixteen (16) square feet in size and with the property owner’s permission.

803 SIGNS IN ALL DISTRICTS

A sign in any district shall be allowed without permit as follows:

A) Signs not exceeding six square feet in surface display area and placed no nearer to the street line than fifteen feet on property that is currently for sale or rent.

B) Signs not exceeding six square feet in surface display area on property that serves as a home occupation location.

C) One sign per subdivision or development not to exceed eighteen (18) square feet in surface display area and placed no closer to any street right-of-way than one-third (1/3) the minimum front setback.

D) A sign identifying a place of worship, or school shall not exceed twelve (12) square feet in surface display area.

E) Signs may be illuminated by non-flashing reflected light. The source of illumination shall not be visible.

ARTICLE 9
PARKING AND LOADING REQUIREMENTS
Deleted in its entirety

ARTICLE 10
SPECIAL USES

1001 PURPOSE

The functions and characteristics of an increasing number of new kinds of land uses combined with experience regarding some of the older, familiar kinds of uses calls for a more flexible and equitable procedure for properly accommodating these activities in the community. The forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situation, and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses that will also allow practicable latitude for the investor, but that will also allow practicable latitude for the security of the health, safety, convenience, and general welfare of the community's inhabitants.

In order to accomplish such a dual objective, provision is made in this Ordinance for a more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure use possessing these particularly unique characteristics are designated as SPECIAL USES and may be authorized by the issuance of SPECIAL USE PERMITS with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

The following sections, together with references in other Articles, designate what uses require a Special Use Permit.

1002 APPLICATION PROCEDURE

Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. Additional fees may be required; see Section 206.

The application shall include the following:

- A) Form supplied by the Zoning Administrator to be filled out in full by the applicant.
- B) Seven (7) copies of a site development plan

1003 NOTICE OF PUBLIC HEARING, REVIEW, FINDINGS, AND ISSUANCE OF SPECIAL LAND USE PERMITS

A) The Planning Commission shall publish one notice of public hearing, not less than fifteen (15) days in advance of such hearing. It shall also notify by regular mail or personal delivery the applicants and all property owners within three hundred (300) feet of the subject property. Such notice shall describe the nature of the request, the property involved, and state the time and place of the hearing, and indicate when and where written comments will be received concerning the request.

B) The Planning Commission shall review the proposed development, pursuant to the standards and requirements set forth in Section 1004 prior to taking any action regarding the special land use permit.

C) The Planning Commission shall make a recommendation to the Township Board on issuance or denial of the special land use permit, including any limitations or conditions deemed appropriate by the Planning Commission. The Township Board shall make a final determination, which may affirm, affirm with modification, or reject the Planning Commission's recommendation. The Township Board shall issue any such special land use permit with all conditions and limitations specified in writing.

1004 GENERAL STANDARDS FOR MAKING DETERMINATIONS

The Planning Commission shall review the application in terms of the following standards:

A) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.

B) Will be served adequately by essential public facilities and services, such as highways, police and fire protection, drainage structures; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.

C) Will not create excessive additional requirements at public costs for public facilities and services; and will not be detrimental to the economic welfare of the community.

D) Will not involve uses, activities, processes, materials, equipment, and/or conditions of operation that will be hazardous, detrimental, or a nuisance to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, vibrations, glare, or odors.

1005 CONDITIONS AND LIMITATIONS

A) Prior to granting any Special Land Use Permit the Township Board may impose additional conditions or limitations upon the location, construction, maintenance, or operation of the structure or use authorized by the Special Land Use Permit as may be necessary for the protection of the public interest.

B) Conditions of a Special Land Use Permit shall be the continuing obligation of permit holders. The Zoning Administrator shall make periodic investigations of uses authorized by a Special Land Use Permit to determine compliance with all conditions.

C) In authorizing a Special Land Use Permit, the Township Board may require that a cash deposit, bond, letter of credit, or other financial guarantee in such reasonable amount as the Township Board shall determine to be appropriate, be furnished by the Applicant to ensure compliance with the terms of the Special Land Use Permit and with other requirements such as the construction of drives, walks, utilities, parking, landscaping, and the like. The financial guarantee shall be deposited with the Township Clerk at the time of issuance of the permit authorizing the use or activity. As work progresses, the Township Board may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

1006 TERMINATION OF SPECIAL USE PERMIT

Special Use Permits may be terminated in the event that there is a material violation of the terms or conditions of such special use permit by the owners or occupants of the property granted the Special Use Permit. In such event, the Special Use Permit shall be terminated pursuant to the following procedures:

- A) The Zoning Administrator, Planning Commission, or Township Board shall provide the owner of the property with a written statement detailing the alleged violation or nonconformity with the terms and conditions of the special use permit. Such statement shall be deemed an order to correct the alleged violation or deficiency.
- B) In the event that such violation or such deficiency has not been cured within thirty (30) days after the issuance of such statement, then the Township Board shall review the matter at a regular meeting or special meeting called for such purpose. The owner(s) shall be provided written notice of such meeting, and may be present at such meeting to present their position and facts supporting their position.
- C) If the Township Board determines that there does exist a material violation or nonconformity, with respect to the terms and conditions of the Special Use Permit, which was not cured within thirty (30) days, then the board may in its discretion take the following action:
 - 1. Defer the matter for up to an additional thirty (30) days in order to give the owner(s) additional time to complete cure of any deficiency or nonconformity, if such attempts at cure have previously been undertaken but have not yet been completed; or
 - 2. If the owner(s) has filed a request to amend the Special Use Permit such that the alleged violation or nonconformities with the existing Special Use Permit would no longer be deemed violations or nonconformity, the Board may defer further action until the hearing on the permit amendment is reviewed and a determination made by the Board as in the case of an application for an original permit; or
 - 3. Terminate the Special Use Permit.

1007 DECISION OF THE TOWNSHIP BOARD; APPEAL TO THE CIRCUIT COURT

The decision of the Township Board shall contain the findings and determination of the Board in each particular case. Any persons having an interest affected by the determination of the Board shall have the right to appeal to the Circuit Court for Oceana County, which appeal shall be brought within thirty (30) days of issuance of the decision by the Township Board.

1008 SPECIFIC CONDITIONS AND REQUIREMENTS – DEVELOPMENT OF NATURAL RESOURCES

- 1. In addition to the information required for site development plan review, the application for Commercial Extraction and Processing of Soil, Sand, Gravel, or Other Mineral Resources, shall include the following:
 - a. A written legal description of all of the lands proposed for the use.
 - b. Seven (7) copies of a plan for mineral removal, drawn and sealed by a registered civil engineer, and including the following, at a minimum:
 - i. A north arrow, scale, and date;

- ii. Shading indicating the extent of land area on which mineral removal operations and activities will take place;
 - iii. The location, width, and grade of all easements or rights-of-way on or abutting the lands;
 - iv. The location and nature of all structures on the lands;
 - v. The location and direction of all water courses and flood control channels that may be affected by the mineral removal operations;
 - vi. Existing elevations of the lands at intervals of not more than five (5) feet;
 - vii. Typical cross sections showing the estimated extent of overburden, and estimated extent of mineral material location in, or on the lands, and the water table;
 - viii. Mineral processing and storage areas (including crushing, washing, asphalt plants, etc.);
 - ix. Proposed fencing, gates, parking areas, and signs;
 - x. Roads for ingress to, and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities and movement of vehicles;
 - xi. A map showing access routes between the subject lands and the nearest (County) paved arterial or collector road;
 - xii. Areas to be used for ponding;
 - xiii. Proposed method of managing overburden (e.g., seeding, grading, erosion and sedimentation control, etc.); and
 - xiv. The area anticipated to be mined in a five (5) year timeframe. Extraction operations encompassing more area than the initial 5-year estimate shall have a separate approval process.
- c. A narrative description and explanation of the proposed extraction operations and activities, including:
- i. The date of commencement.
 - ii. Proposed hours and days of operation.
 - iii. Estimate of type and quantity of mineral materials to be removed.
 - iv. Description of extraction and processing methods, including dewatering, proposed equipment and the noise rating of each type thereof.
 - v. A summary of the procedures and practices that will be used to ensure compliance with the conditions of this subsection.
 - vi. Description of size of trucks and daily volume of traffic entering and leaving the site, and on-site circulation pattern.
- d. A site rehabilitation plan including the following:
- i. A written description of planned site rehabilitation and end-use(s), including potential methods of accomplishment.
 - ii. A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
 - iii. A plan showing:

- (A) Final grades of the lands as rehabilitated, at contour intervals not exceeding five (5) feet;
 - (B) Water courses, ponds, or lakes, if any;
 - (C) Landscaping and plantings;
 - (D) Areas of cut and fill; and
 - (E) All of the components of the proposed end-use(s);
- e. A description of the proposed methods or features that will ensure that the end-use is feasible, and can comply with all applicable requirements of this Ordinance.
- f. Each site rehabilitation plan shall be reviewed by the Planning Commission and shall comply with all of the following standards and requirements:
- i. Topsoil shall be replaced on the site to a depth of not less than six (6) inches, except where the end-use activities or features do not involve the planting of lawns or growing of vegetation.
 - ii. Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use. Final slopes shall have a ratio of not more than one (1) foot of elevation to three (3) feet of horizontal distance.
 - iii. The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall be replaced and slopes shall be graded and stabilized before mineral removal operations or activities are commenced in another area of the site.
 - iv. Plantings of grass, shrubs, trees, and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end-uses, and enhance the beauty of the site as rehabilitated.
 - v. No machinery shall be erected or maintained within one hundred (100) feet of any exterior property line. No cut or excavation shall be made closer than fifty (50) feet to any road right-of-way line or property line in order to ensure subterranean support to surrounding property. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located within two hundred (200) feet of any Residential district or use. Measure shall be taken to minimize noise from equipment including but not limited to generators.
 - vi. No business buildings or structures of a permanent nature shall be erected, except when such building is a permitted use within the district in which the excavation pit is located.
2. The Planning Commission shall request that the Oceana County Road Commission recommend routes for truck movement to and from the site in order to minimize the wear on public roads, and to prevent hazards and damage to properties in the community. Access roads within the area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the Planning Commission to minimize dust, mud, and debris being carried onto the public road. Portions of driveways or roadways may be required to be paved to minimize nuisance dust.

3. Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon stockpiling techniques of excavated material upon the site.
4. Mineral resource extraction operations shall not operate prior to 7:00 a.m. or after 6:00 p.m., Monday through Friday. Saturday operations shall not operate prior to 8:00 a.m. or after 5:00 p.m. Operations shall not operate any time on Sundays or holidays. Crushing operations shall receive separate scheduled approval.
5. Access to the site shall be located according to County and/or State requirements as applicable.
6. The Planning Commission may request studies regarding dewatering processes to ensure that groundwater resources are not unreasonably disrupted by the operation.
7. The Planning Commission may require compliance with such other conditions as may be necessary to ensure compliance with the terms of this subsection. Such conditions may include, though need not be limited to, weed control, erosion and sedimentation control, fencing and visual screening including berms, requirements for groundwater monitoring wells, preservation of trees and other vegetation, and fuel loading and storage requirements.
8. An applicant for a permit shall submit a performance bond in accordance with the requirements of this Ordinance, naming Claybanks Township as the insured party, and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the permit. The bond shall have such other terms and shall be in such amount as is recommended by the Zoning Administrator as reasonably necessary to ensure compliance with all of the terms and conditions of this subsection and the permit.
 - a. The performance bond shall not be refunded, reduced, or transferred until the mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection by the Zoning Administrator.
 - b. The timely and faithful compliance with all of the provisions of the performance bond shall be a condition of any mineral removal operations. In the absence of any such compliance with the terms of the performance bond, or if the special use is revoked, expires, or is not renewed, the Planning Commission need not approve the renewal of any permit, even if the applicant has otherwise complied with all other terms and provisions of the current permit.
9. All owners/operators of property involved in mineral resource extraction operations shall be required to carry personal injury and property damage insurance while any unreclaimed or unrehabilitated area exists, in the amount of not less than \$1,000,000 for each person or property injured or damaged and not less than \$300,000 for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be submitted annually with the Township Clerk.

To ensure compliance with the permit, the Zoning Administrator shall conduct periodic inspections and shall file a written annual report to the Planning Commission. The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission.

1009 SPECIFIC CONDITIONS AND REQUIREMENTS – PRIVATE CAMPGROUNDS

1. Campsites shall not be located within one hundred (100) feet of any property line.
2. Minimum lot area shall be twenty (20) acres.
3. Retail commercial uses may be permitted within the campground provided that the following requirements are met:
 - a. All commercial uses allowed shall occupy no more than two thousand (2,000) square feet.
 - b. No merchandise for display, sale or lease shall be located in any manner outside the main building, except for those specific items approved by the Planning Commission.
 - c. All commercial uses shall be setback two hundred (200) feet from any property line.
4. Each campsite shall have a minimum area of 1,500 square feet.
5. Common area shall be provided at the ratio of one thousand (1,000) square feet for each campsite.
6. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.

1010 SPECIFIC CONDITIONS AND REQUIREMENTS – ANIMAL HOSPITALS/CLINICS

- A) No animal hospital or clinic may be located in a residential district.
- B) No animal may be left outside between 9:00 p.m. and 7:00 a.m.
- C) All pens must be a minimum of one hundred fifty (150) feet from any adjacent property line.
- D) Waste material may not be disposed of on the premises unless the parcel is five (5) acres minimum, and such method of handling and disposal shall not cause a threat of polluting the underground water table, or create a nuisance caused by odor, run-off or like conditions.

1011 SPECIFIC CONDITIONS AND REQUIREMENTS – HORSEBACK RIDING STABLES

Such facilities may be permitted in Agricultural Districts as a special use, as follows:

- A) Roadways shall be adequate to service guests, but no more extensive than is necessary and shall be maintained in a condition adequate for ingress and egress and on-site movement of emergency vehicles.

- B) The location and improvement of the proposed trail system must be reasonably safe and not cause significant environmental damage. The proposed trail system will not unreasonably affect adjoining property.
- C) The proposed plan for operating the trail system, including hours of the day for use, safety, emergency facilities, regulation and control of trails and off-trail areas, trail relationship to available toilet and waste disposal facilities, is found by the Township Board to be adequate for environmental protection, health, safety, or trail users and the general community.
- D) Assembly and rest areas shall include adequate parking areas, toilet facilities and solid waste containers.

1012 SPECIFIC CONDITIONS AND REQUIREMENTS – PRIVATE PARKS/WINTER SPORTS AREAS

Private parks and winter sports areas in Agricultural Districts may be allowed as special uses as follows:

- A) No structure, parking area or other improvement shall be placed closer than fifty (50) feet from adjoining public or private right-of-way, property lines, or waterway.
- B) When a trail system is proposed, the plan shall show the location of the trails system and include hours of the day or night use, safety, and emergency facilities, regulation and control of trails and off-trail areas, trail relationship to available toilet and waste disposal facilities and said plan must be found by the Township Board to be adequate for environmental protection, health and safety of trail users and the general community.
- C) Assembly areas shall include adequate ingress and egress roads, parking areas, toilet facilities and solid waste containers.

1013 SPECIFIC CONDITIONS AND REQUIREMENTS – GUN RANGES, GUN AND SKEET CLUBS

Such facilities, if used for commercial purposes or used regularly for noncommercial purposes, may be allowed in Agricultural Districts with conditional uses, as follows:

- A) Minimum lot area is forty (40) acres.
- B) Minimum front, side and rear yards of two hundred fifty (250) feet.
- C) Hours of operation – 9:00 a.m. until 9:00 p.m.
- D) The shooting range shall not be closer than one quarter (1/4) mile from all dwelling, residentially zoned districts, and farm animals.
- E) Rifle and pistol ranges shall have adequate backstops that meet the approval of the Township Board.

1014 SPECIFIC CONDITIONS AND REQUIREMENTS – NATURAL GAS PROCESSING PLANTS

Such facilities may be allowed in Agricultural Districts as a special use, as follows:

- A) To the extent reasonably possible, the plant shall be screened from view of adjacent roads and private property by vegetation and/or berming or other means.
- B) Neighboring properties and adjoining roads shall be screened from the direct glare of lights located on the plant property, by means of screening or construction of the light fixtures.
- C) The applicant shall be responsible for preparing, maintaining, and updating an emergency response plan, which plan shall deal with fire, community evacuation, communications, incident warnings, spill containment, and prevention measures.
- D) Financial assurances shall be provided to insure that at the conclusion of the useful life of the plant that the property will be reasonably restored.
- E) The foregoing provisions shall not limit the Township Board, which shall be free to impose such other terms and conditions as it shall deem appropriate in the attendant circumstances and then existing available technologies.

1015 WIND ENERGY HARVEST SITE

(Total revision dated 3-14-11)

- A. Introduction: A Wind Site Assessment or a Wind Energy Harvest Site (commonly referred to as a “wind farm”) may be approved by the Planning Commission as a special land use in the Agricultural Preservation zoned area, upon compliance with the conditions of this ordinance. The purpose is to provide a regulatory scheme for the designation of properties suitable for the location, construction and operation of wind energy conversion facilities in Claybanks Township, to protect the health, welfare, safety, and quality of life of the general public, and to ensure compatible land uses in the vicinity of the areas affected by wind energy facilities.
- B. Small Turbines: A single small turbine to service the energy needs of the property where the structure is located shall be defined as follows:
 - 1. A single wind turbine generator to service the energy needs of only the property where the structure is located may be approved in the agricultural preservation and the rural Preservation zones as a right of use if the total height does not exceed sixty (60) feet and is set back at least two (2) times the total height from property lines and road right of ways.
 - 2. A single wind turbine generator to primarily service the energy needs of the property where the structure is located may be approved in the agricultural preservation and the rural Preservation zones as a special use per Section 10, provided the following:
 - a. The total height shall not exceed one hundred twenty (120) feet.
 - b. The rotor diameter shall not exceed thirty five (35) feet.
 - c. The tower shall be set back a minimum of two (2) times the total height from all property lines, inhabited structures and road right of ways.
 - d. Except for the above requirements the other requirements of section 1020 do not apply.
- C. Definitions: For the purposes of this section, the following terms and phrases shall be defined as provided below:
 - 1. **ANSI**. The American National Standards Institute.

2. **Applicant.** The legal entity, which includes an individual or a business that seeks to secure a special land use permit under this ordinance.
3. **Background Sound (L90).** Background sound refers to the sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment, that is, when transient sounds from flora, fauna, and wind are not present. Background sound levels vary during different times of the day and night.
4. **Blade Reflection.** Blade reflection is the intermittent reflection of the sun off the surface of the blades of a wind turbine generator.
5. **Blade Clearance.** In reference to a horizontal axis rotor, the distance from grade to the lowest point of the rotor's swept arc.
6. **Emission.** Sound energy that is emitted by a noise source (WTG) is transmitted to a receiver (dwelling) where it is immitted (see "immission).
7. **Horizontal Axis Wind Turbine (HAWT).** A wind turbine generator designed with a rotor mounted on a horizontal axis of rotation. The rotor thus sweeps through a vertical plane perpendicular to the motion of the wind.
8. **IEC.** The International Electrotechnical Commission.
9. **Immission.** Noise immitted at a receiver (dwelling) is transmitted from noise source (WTG) that emitted sound energy (see "emission").
10. **Inhabited Structure.** Any structure that is, or is likely to be, occupied by persons or livestock. This includes, but is not limited to dwellings, places of business, places of worship, schools, and barns.
11. **Low Frequency Noise (LFN).** Sounds with energy in the lower frequency range of 20 to 200 Hz.
12. **Measurement Point (MP).** The location where sound measurements are taken such that no significant obstruction blocks sound from the site.
13. **Met Tower (Meteorological Tower).** A guy-wire supported tower, containing instrumentation such as anemometers that is designed, and used for the assessment of wind resource on site.
14. **Nacelle.** The structure that is mounted on top of the tower and houses the rotor support shaft, mechanical and electrical components, and generator.
15. **Non-participating Property.** Any property within the notification area other than a Participating Property.
16. **Notification Area.** All land within Claybanks Township.

17. **Owner/operator.** The person or entity with legal ownership of the WTG, including successors and assigns, that has the authority and responsibility to operate the WTG on a day-to-day basis. An Owner/operator must have the legal authority to represent and bind decisions.
18. **Operations & Maintenance Office (OMO).** A local facility constructed for the purpose of operating and maintaining the Wind Energy Harvest Site including the storage of spare parts and consumable materials.
19. **Participating Landowner.** A landowner whose property (or portion thereof) is currently leased or proposed to be leased for the production, siting or development of a Wind Energy Harvest Site.
20. **Participating Property.** A property on which a WTG is located or proposed to be located, pursuant to an agreement with the Owner/operator.
21. **Project Boundary.** The external property boundaries of parcels owned by or leased by the WTG developers, upon which the Wind Energy Harvest Site is or shall be located. It is represented on a plot plan view by a continuous line encompassing the project area, within which all WTG(s) and related equipment associated with the WTG project are or shall be located.
22. **Rotor.** An element of a wind turbine generator that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
23. **SCADA Tower.** A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition system (SCADA).
24. **Setback.** The minimal allowable horizontal distance as measured from the Project Boundary to a structure.
25. **Shadow Flicker.** Alternating changes in light intensity caused by the movement of wind turbine generator blades casting shadows on the ground or a stationary object.
26. **Shadow Flicker Receptor.** An inhabited building affected by or potentially affected by shadow flicker, plus an additional one hundred (100) foot area surrounding the exterior of the inhabited building; and the entire outdoor public area surrounding schools, churches, public buildings and public roads within the area affected by or potentially affected by shadow flicker.
27. **Spectrum.** The description of a sound wave's resolution into its components of frequency and amplitude.
28. **Supervisory Control and Data Acquisition (SCADA).** A control system designed to acquire data and perform both automatic and manual control function to the Wind Energy Harvest Site.

29. **Total Height.** The height from grade to the highest vertical point of the swept rotor arc. In the case of wind turbine generator with horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter.
30. **Tower.** The tubular structure, above grade, that supports the nacelle and rotor assembly.
31. **Wind Energy Harvest Site (Wind Farm).** A Wind Energy Harvest Site is a location where any number of commercial grid-connected wind turbine generators are sited for the purpose of extracting kinetic energy from the wind, generating electricity, and supplying the electricity to the transmission utility (“grid”).
32. **Wind Energy Harvest Site Construction Application.** An application to the Planning Commission seeking special land use approval to construct a Wind Energy Harvest Site.
33. **Wind Site Assessment Application.** An application to the Planning Commission seeking special land use approval to erect one or more anemometer towers (Met Towers”) on lands deemed necessary by the applicant for wind resource assessment.
34. **Wind Turbine Generator (WTG).** A device designed to extract energy from the wind and supply it in the form of electrical energy that is suitable for use by the local electrical transmission utility.

D. Application Requirements: The construction of a Wind Energy Harvest Site typically involves a two-phased process, whereby the feasibility of a Wind Energy Harvest Site is first tested through the conducting of a Wind Site Assessment and then, if testing is successful, a Wind Energy Harvest Site is constructed. Accordingly, each of these two phases shall require separate special land use applications meeting the requirements set forth below:

1. Wind Site Assessment Application. An applicant seeking special land use approval (special land use permit) for a Wind Site Assessment shall submit a site plan complying with the requirements of Article 10, and the following information:
 - a. Additional site plan elements:
 - i. The proposed location, size, height and type of all Met towers intended to assess the wind resource.
 - ii. The location of all buildings and any other structures on the subject assessment site as well as any buildings and dwellings on adjacent properties within 1½ times the proposed Met tower height.
 - iii. The features of the site including the location of roads both public and private, wood lots, property lines, and any other feature deemed pertinent by the Planning Commission.
 - b. The names, addresses, and phone numbers of the applicant, the owner/operator (if different), the owner of all equipment proposed to be installed, and the owner(s) of the land(s) within the project boundary.

- c. A copy of that portion of the applicant's lease with the land owner(s) granting authority to install one or more Met towers for the purpose of conducting a Wind Site Assessment, which shall include a provision requiring the applicant to remove all equipment and restore the site upon cessation of the Wind Site Assessment.
 - d. Proof of the applicant's public liability insurance for the Wind Site Assessment in a minimum sum of one million dollars (\$1,000,000), naming the property owner and the Township as additional insured.
 - e. A Met tower shall not be located on a site in excess of thirty-six (36) months. The Planning Commission may approve an extension of the permit upon proper proof of need or necessity.
 - f. An approved Wind Site Assessment application shall not be considered or construed to mean future approval of a Wind Energy Harvest Site construction application.
2. Wind Energy Harvest Site Construction Application. An applicant seeking special land use approval for Wind Energy Harvest Site construction shall submit a site plan complying with the requirements of Article 10, and the following additional materials and information:
- a. A finalized site plan, bearing the certification(s) of all licensed engineering consultants and agencies required by law, showing in detail the following information:
 - i. The proposed location of all wind turbine generators and access roadways.
 - ii. The proposed location of the Operations and Maintenance Office, and all substations, permanent Met Towers and/or SCADA Towers comprising the proposed Wind Energy Harvest Site, if applicable.
 - iii. The proposed location of all underground and/or overhead cabling.
 - iv. The physical size and electrical nameplate capacity of the proposed wind turbines, including the total height and the swept rotor diameter.
 - v. The method, materials and color of fencing, if any.
 - vi. The method and type of tower lighting, if required.
 - b. A visual representation, including scale elevations of the proposed Wind Turbine Generators and perspective drawings or photographic representations showing the WTGs in relation to the landscape and surrounding land uses.
 - c. A copy of the applicant's lease with the participating landowner(s) for the Wind Energy Harvest Site, which must include a provision requiring the applicant, or owner/operator, to remove all equipment to a minimum depth of four (4) feet from

the natural grade and restore the site upon cessation of Wind Energy Harvest Site operations.

- d. The wind turbine generator manufacturer's specifications indicating:
 - i. The rated nameplate output, in kilowatts or megawatts, of the wind turbine generators.
 - ii. Safety features and sound characteristics.
 - iii. Type of materials used in foundation, tower, blade, and/or rotor construction.
 - iv. Manufacturer's MSDS (Material Safety Data Sheet) documentation including the type and quantity of the materials, lubricants, and coolants used to sustain the operation.
 - v. A discussion of the SCADA system employed to control and operate the Wind Energy Harvest Site.
- e. A sound impact study (noise report) prepared in accordance with Subsection D, below:
 - i. The study shall include sound level information, reported in both dBA and dBC, and shall show sound level contours in 5 dB increments overlaying an aerial view and property survey map out to two (2) miles of the proposed Wind Energy Harvest Site boundary.
 - ii. Predictions shall be made for the wind speed, direction and operating mode that would result in the worst case Wind Energy Harvest Site nighttime sound emissions.
- f. A background sound level study, dBA and dBC (as LA90 and LC90), shall be performed defining the background noise level for all inhabited structures within two (2) miles of the proposed Wind Energy Harvest Site boundary.
- g. Proof that the applicant has obtained or applied for approval from all other agencies having jurisdiction, including the following:
 - i. Federal Aviation Administration.
 - ii. County Road Commission and/or MDOT, as applicable.
 - iii. County Drain Commission.
 - iv. Other agencies having jurisdiction.
- h. Proof of the applicant's or Wind Energy Harvest Site owner's liability insurance for the Wind Energy Harvest Site at a level of five million dollars (\$5,000,000), increased annually by the estimated multiplication factor for the agricultural class, as

determined by Oceana County or other taxing authority of jurisdiction; provided that, if the factor is less than 1.0, then 1.0 shall be the factor used.

- i. A plan for resolving health-related complaints that can be reasonably attributed to the operation of the wind turbine generators, including, but not limited to, sleep deprivation, headaches, dizziness or nausea.
- j. A plan for resolving claims by property owners within two (2) miles of the site where the inability to sell a property or a reduction in the value of a property can be reasonably attributed to the presence and/or operation of the wind turbine generators.

E. Sound Studies and Requirements. All studies or tests related to sound conducted in accordance with this ordinance shall meet the following standards and requirements:

1. Qualified Independent Acoustical Consultant. Persons conducting baseline and other measurements and reviews related to the application for a WTG or for enforcement actions against operating WTGs shall demonstrate competence in the specialty of community noise testing. An example is a person with Full Membership in the Institute of Noise Control Engineers (INCE). Others must demonstrate their qualifications and show field measurement experience with background data and wind turbine generator noise emission. The Professional Engineer (PE) certification does not test for competence in acoustical principles and measurement; a PE without adequate further qualification is not considered to be qualified under this ordinance. The Qualified Acoustical Consultant can have no financial or other connection to the WTG developer or related company. Any person or entity performing tests or studies under this ordinance shall provide proof of their qualifications to the Planning Commission.

2. Measurement. Standardized acoustical instrumentation and sound measurement protocol shall meet all the requirements of the following ANSI and IEC standards:

ANSI S1.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)
ANSI S1.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260)
ANSI S1.40 Verification Procedures for Sound Calibrators
ANSI S12.9 Part 3 Procedures for Measurement of Environmental Sound
ANSI S12.18 Measurement of Outdoor Sound Pressure Level
IEC 61400-11 WTG systems –Part 11: Acoustic noise measurements

3. Background Sound Level. Because WTGs can potentially operate continuously, the background sound levels studies shall focus on the quieter periods which are often the evening and night. Sounds from the WTG of interest, near-by birds and animals or people must be excluded from the background sound test data. Nearby electrical noise from streetlights, transformers and cycling AC units and pumps etc., must also be excluded from the background sound test data. Several contiguous ten (10) minute tests may be performed in one hour to determine the statistical stability of the sound environment. Further, background L90 sound levels documenting the pre-construction baseline conditions should be determined when the ten (10) minute

maximum wind speed is less than 2 m/s (4.5 mph) near ground level/ microphone location 1.5 m height.

4. Immission spectra imbalance. The spectra shall be determined not to be in balance when the C-weighted sound level is more than 20 dB greater than the A-weighted sound level. For the purposes of this requirement, the A-weighted sound level is defined as the long-term background sound level (LA90) +5 dBA. The C weighted sound level is defined as the dBC measured during the operation of the wind turbine generator operated so as to result in its highest sound output.
5. Low Frequency Noise (LFN). LFN is deemed to be excessive when the difference between a C-weighted sound level and an A-weighted sound level is greater than 20 decibels at any measurement point outside a residence or other occupied structure.
6. Measurement Point. The Measurement Point shall be located so as to not be near large objects such as buildings and in the line-of-sight to the nearest turbines. Proximity to large buildings or other structures shall be twice the largest dimension of the structure, if possible. Measurement Points should be at quiet locations remote from street lights, transformers, street traffic, flowing water and other local noise sources.
7. Measurement Wind Speed. For measurements conducted to establish the background noise levels (LA90 10 min, LC90 10 min, and etc.) the maximum wind speed, sampled within 5m of the microphone (Measurement Point) and at its height, shall be less than 2 m/s (4.5 mph) for valid background measurements. For valid WTG noise measurements conducted to establish the post-construction sound level the maximum wind speed, sampled within 5m of the microphone (Measurement Point) and at its height, shall be less than 4m/s (9mph). The wind speed at the WTG blade height shall be at or above the nominal rated wind speed and operating in its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WTG blade height shall be selected to reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone (Measurement Point) to less than 4 m/s (9 mph).

For purposes of models used to predict the sound levels and sound pressure levels of the WTG

to be submitted with the Application, the wind speed shall be the speed that will result in the worst-case dBA and dBC sound levels at the nearest non-participating properties to the WTG. If there may be more than one set of nearby sensitive receptors, models for each such condition shall be evaluated and the results shall be included in the Application.

8. Spectrum. The WTG manufacturer is required to supply a one-third octave band frequency spectrum of the wind turbine generator sound emission at 90% of rated power. The published sound spectrum is often presented as A-weighted values but C-weighted values are also required. This information shall be used to construct a model of the Wind Energy Harvest Site's sound immission levels at locations of interest in and around the WTG. The frequency range of interest for wind turbine generator noise is approximately 6 Hz to 10 kHz.

F. Review Procedure: A Wind Site Assessment Application and Wind Energy Harvest Site Construction Application shall be evaluated by the Planning Commission pursuant to the procedures detailed in this Section and Article 10. The applicants and the entire Notification Area shall be notified by regular mail or personal delivery of the public hearing, in accordance with the notice requirements of the Zoning Act.

G. General Standards: In addition to meeting the requirements of Article 10, all Wind Site Assessments and Wind Energy Harvest Sites shall comply with the following standards for approval:

1. No portion of any tower or blades shall display any name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter. A nacelle may have lettering that exhibits the manufacturer's and/or owner's identification.
2. All wind turbine generators within a Wind Energy Harvest Site shall be finished in a single, non-reflective matte finished color that minimizes the visual impact of the project.
3. Structures within the site, including any wind turbine generator, Met tower, and SCADA tower, shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other state or federal authority having jurisdiction over the site. If lighting is required, the lighting as installed shall not exceed FAA minimum standards.
4. The minimum vertical blade tip clearance from grade shall be sixty (60) feet for a wind turbine generator employing a horizontal axis rotor.

H. Setback Requirements:

The following setbacks and separation requirements shall apply to all wind turbine generators within a Wind Energy Facility.

1. On a participating property, each wind turbine generator shall be set back from the nearest inhabited structure a distance of no less than 1500 feet.
2. A wind turbine generator within the project boundary shall be set back not less than 3000 feet from the property line of the nearest non-participating property, measured from center of the unit at the base of the tower.
3. No wind turbine generator shall exceed five hundred (500) feet in total height.
4. Any Met tower or SCADA tower shall be located not less than one and one-half (1 ½) times the total tower height to any dwelling, road right of way or property line of any non-participating property.
5. Any wind turbine generator within a Wind Energy Harvest Site shall be located not less than two (2) times the Total Height from the nearest wind turbine generator tower

or any road right of way, measured from the center of the unit at the base of the tower.

I. **Noise Requirement:** The following noise requirements shall apply to a Wind Energy Harvest Site.

1. The noise level for participating properties shall not exceed 47 dBA.
2. The noise level for non-participating properties shall not exceed 40 dBA, measured at the adjacent property line.
3. Low frequency noise levels due to wind turbine generator operation as measured inside or outside any inhabited structure or at any property line shall not exceed 10 decibels (measured as dBC) above the pre-development background noise level (measured as dBA).

J. **Shadow Flicker and Blade Reflection:** The Wind Energy Harvest Site shall be designed and sited to prevent shadow flicker and/or blade reflection from having a negative impact on any shadow flicker receptor, as defined herein.

1. A Wind Energy Harvest Site shall be designed so that shadow flicker or blade reflection does not discernibly impact any shadow flicker receptor for more than 10 hours per year.
2. Based on demonstrably valid complaints, field verification and modeling by a qualified consultant, if necessary, shall be paid for by the owner/operator and hired independently by the Planning Commission.
3. The owner/operator shall be responsible for mitigating the problem within 30 days from a final determination of any shadow flicker or blade reflection demonstrably attributed to the operation of the Wind Energy Harvest Site. Mitigation involving significant construction or physical modification shall be completed within 90 days, unless an extension is granted by the Planning Commission for due cause.

K. **Electromagnetic Interference:** Each WTG and Testing Facility shall be designed, constructed, and operated so as not to cause interference with television, microwave transmission and reception, navigational, or radio reception within the notification area or neighboring areas.

L. **Stray Voltage Assessment and Requirements:**

1. The applicant shall conduct and include a report of a preconstruction stray voltage test on all livestock facilities located within and one mile beyond the wind farm boundary.
2. Following construction of the wind farm, the applicant shall conduct a post-construction stray voltage test on all livestock facilities within and one mile beyond the wind farm boundary.

3. The tests shall be performed by a certified stray voltage investigator approved by the Planning Commission.
4. Applicant shall seek written permission from property owners prior to conducting testing on such owners' property. Applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.

M. Reporting Requirements:

1. The owner/operator shall notify the Claybanks Township Clerk of any extraordinary event within 24 hours of that event. "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the township or its residents.

Additionally, the owner/operator shall provide the Claybanks Township Clerk and the residents of any occupied dwelling within two (2) miles with a hotline phone number for reporting of any such extraordinary events to an individual or manned facility designated by the owner/operator that can be contacted at any time.

2. An annual report shall be submitted to the Claybanks Township Clerk which shall contain the following:
 - a. Annual proof of liability insurance pursuant to subsection D, 2, h.
 - b. Annual proof of decommissioning funds pursuant to subsection Q, 2.
 - c. A summary of all complaints, complaint resolutions and extraordinary events.

N. Ownership change: The special land use permit is transferrable to a new owner/operator of the Wind Energy Harvest Site. The proposed new owner or operator shall be required to register with the Township Clerk, prior to the transfer of ownership or operation of the Wind Energy Harvest Site. The new owner/operator shall conform to all requirements of this Section.

O. Operational Requirements: The operation of a Wind Energy Harvest Site shall conform to operational requirements that reasonably protect the public from excessive danger due to weather conditions.

P. Complaint Resolution:

1. Serious Violations: Except as otherwise provided in this Section, the owner/operator of the Wind Energy Harvest Site shall respond within five business days to any complaint or complaints deemed by the Township Zoning Administrator to require immediate attention due to actual or probable endangering of persons or property. Testing, if required, and paid for by the Owner/operator, will commence within ten (10) working days of verification of the validity of the complaint. The owner/operator shall provide a mitigation plan within five (5) working days of being notified of the

violation, which shall be implemented as quickly as needed to mitigate or avoid the actual or probable damage. Any costs attributable to mitigation or elimination of serious violations shall be borne by the owner/operator.

2. Other Violations: Except as otherwise provided in this Section, if the Township Zoning Administrator determines that a violation of the Ordinance or the special land use permit has occurred, and the violation is determined neither to be an emergency nor a serious violation as determined above, the Township Zoning Administrator shall provide written notice to the owner/operator alleged to be in violation of this Ordinance or special land use permit. The Township Zoning Administrator and the involved parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the written notice of violation. The Owner/operator shall pay for any necessary testing if the Owner/operator is subsequently determined to be in non-compliance. The Owner/operator is responsible for mitigating the problem within thirty (30) days from the final determination of any cause attributed to the operation of the WTG. At the discretion of the Township Zoning Administrator, mitigation involving significant construction or physical modification may have up to ninety (90) days to be completed.
3. If a complaint is not mitigated to the satisfaction of both the affected party or parties and the Township Zoning Administrator, nothing in this ordinance, the special land use permit or the landowner lease agreement shall preclude the Township or the landowner from pursuing appropriate legal action

Q. Removal/Decommissioning:

1. Should any wind turbine generator discontinue producing power for a minimum of one (1) year, the owner/operator shall be required to provide a status report to the Township Board. A review of the status report by the Township Board may result in a request for the affected wind turbine generator(s) or the entire Wind Energy Harvest Site to be decommissioned. Failure to comply with a decommissioning request may result in the issuance of a stop operation order by the Township Zoning Administrator, and revocation of the special land use permit in accordance with Section 1006.
2. The owner /operator shall post and maintain decommissioning funds in an amount equal to the net costs of decommissioning the Wind Energy Harvest Site; at no point shall decommissioning funds be less than one hundred percent (100%) of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State-chartered lending institution chosen by the owner/operator and participating landowners posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the Township Attorney. No work can begin on the Wind Energy Harvest Site before the decommissioning bond is issued and accepted.

3. The Township Clerk shall be notified within thirty (30) days of any changes in the status of a Wind Energy Harvest Site, including cessation of use, a change in its ownership, or a change in the terms of the underlying lease to the subject property.

R. Inspections:

Upon the provision of reasonable prior notice to the owner/operator, the Township Zoning Administrator, and/or his or her designated representative, may inspect any property for which special land use approval has been granted pursuant to this Section to determine whether the site complies with the applicable requirements of law and the terms of the special land use approval.

S. Effective Date:

This Ordinance shall become effective seven days after its publication or seven days after the publication of a summary of its provisions in a local newspaper of general circulation.

Section 1016 WIRELESS TELECOMMUNICATIONS FACILITIES AND WIRELESS TELECOMMUNICATION ANTENNAS (Effective 10-23-05)

Wireless Telecommunications Facilities may be approved by the Zoning Commission as a special use in Agricultural zoned areas, upon compliance with the following conditions:

- A. Definitions. For the purposes of this Section, the following terms are defined:
 1. Wireless Telecommunication Antenna: The device through which wireless telecommunication signals, as authorized by the Federal Communications Commission, are transmitted or received. Not included are AM/FM radio antenna, television antenna, satellite dishes, and licensed amateur radio facilities.
 2. Wireless Telecommunications Equipment Shelter: The structure in which the electronic receiving and transmitting equipment for wireless telecommunications is housed.
 3. Wireless Telecommunications Facility: A facility consisting of all structures and equipment involved in transmitting and/or receiving telecommunications signals from mobile communication sources and transmitting those signals to a central switching computer which connects the mobile communication sources and transmitting those signals to a central switching computer which connects the mobile unit to the land-based telephone system. These facilities include but are not limited to private and commercial mobile radio service facilities, personal communication towers (PCS), and cellular telephone towers. Not included in this definition are AM/FM radio towers, television towers, satellite dishes, and federally licensed amateur radio facilities.
 4. Wireless Telecommunication Tower: A structure intended to support equipment used to transmit and/or receive telecommunication signals including but not limited to monopoles, freestanding lattice structures and guyed lattice structures.

- B. Regulations and Conditions. All wireless telecommunications facilities and wireless telecommunications antennae shall be subject to the requirements of this section, as well as any other applicable provisions of this Ordinance. Wireless telecommunications facilities and wireless telecommunications antennae shall be permitted as follows:

1. Compliance with Federal Regulations:
 - a. All telecommunication towers shall comply with current regulations of the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) or any other federal or state agency with authority to regulate telecommunication towers and/or antennas.
 - b. In the event of a change in federal or state regulation, the owner of the telecommunication tower and/or antenna shall bring its facility into compliance with the revised regulations within six (6) months of the effective date of such regulation, unless a different compliance schedule is mandated by the state or federal agency.
2. Compliance with Building Codes: All wireless telecommunications facilities and towers shall be constructed in compliance with all applicable building codes, including the Electronics Industries Association/Telecommunications Industry (EIA/TIA) standards for the construction of antenna towers and antenna support structures.
3. General Site Location Requirements:
 - a) Co-location Requirements; Wireless telecommunications towers shall be designed to permit co-location by at least two (2) additional wireless telecommunications facilities.
 - b) Setback Requirements:
 - i. Towers shall be set back a distance of at least one and one-half (1 ½) times the height of the tower from the nearest property line, from roads, from residences and from outbuildings.
 - ii. Other structures associated with the wireless telecommunications facility (such as equipment shelters, guy wire anchors) shall comply with the setback requirements of the district in which the facility is located.
 - iii. The setback requirements of this section are minimums. The Zoning Commission may require additional setback distance as part of a conditional land use approval or for towers located within one thousand (1,000) feet of property zoned for residential use.
 - c) Tower Design: Wireless telecommunications towers shall be constructed as freestanding structures (monopole or lattice towers, as approved by the Zoning Commission) unless the applicant can demonstrate that such structure cannot accommodate the user or future co-locators. Towers shall have a neutral surface finish color to reduce visual obtrusiveness, except as otherwise required by a state or federal agency.
 - d) Signs: Wireless telecommunication towers shall not be used for advertising purposes nor shall such tower display any signs other than one sign, not to exceed two (2) square feet, which identifies the service provider and an emergency telephone number. These restrictions shall not apply to any safety signs placed on the security fence or tower.
 - e) Fencing: Wireless telecommunication facilities shall be enclosed by a security fence not less than six (6) feet in height. The Zoning Commission shall review the need for the installation of anti-climbing

devices and make a determination based on adjacent land use and zoning patterns.

- f) Screening: Wireless telecommunication facilities shall be effectively screened to obscure views of the tower base, equipment shelter, security fencing, or guy wire anchors from adjacent uses and public rights-of way. In locations where the visual impact of the tower will be minimal or where existing vegetation or topography provide an effective natural screening, the Zoning Commission may modify this requirement.
- g) Lighting: Wireless telecommunication towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative approved by the Zoning Commission shall cause the least disturbance possible to nearby properties.
- h) Equipment Shelter Design: The design and materials used in the construction of the equipment shelter shall, to the extent possible, blend the structure with the surrounding built or natural environment. The equipment shelter shall not exceed fifteen (15) in height.
- i) Off-street Parking: Wireless telecommunications facilities shall provide one (1) off-street parking space to accommodate maintenance vehicles. Driveways and parking spaces serving such facilities may have a gravel surface provided the surface is maintained in a dust-free condition and graded to maintain proper drainage.

4. Permitted Additional Antenna: A wireless telecommunications antenna shall be considered a permitted accessory use when placed on or attached to any structure which constitutes a principal use, including existing wireless telecommunications facilities, provided that all other applicable ordinance requirements are complied with.

5. Permitted Tower Replacement: A wireless telecommunications tower may be replaced for the purposes of accommodating the co-location of an additional wireless telecommunications antenna subject to the following review and approval process:

- a) An existing tower replacement that results in the addition of fifty (50) or fewer feet of additional tower height shall require site plan review and approval by the Zoning Commission.
- b) Tower replacements that result in the addition of more than fifty (50) feet in height shall require special land use review and approval by the Zoning Commission.
- c) Tower replacements that require the installation of tower lights shall require special land use review and approval by the Zoning Commission.

6. Application Requirements: In addition to the applicable requirements of this section, (Special Use Approval), the following information shall be provided in support of an application to construct a wireless telecommunications facility:

- a) Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunications tower is designed to collapse

- b) A report, which addresses the review criteria, contained in subsection 7, below. This report shall include a map depicting the existing and known proposed location of wireless telecommunications facilities, including wireless telecommunications antenna(s) attached to alternative tower structures, within Claybanks Township as well as within the proposed service area radius. Known proposed locations shall include, at minimum, pending telecommunication facility applications in adjacent communities, approved telecommunication facility applications in adjacent communities which have not yet been constructed, and sites which are a part of the applicant's long-term network development plan.
- c) The name, address, and telephone number of the person to contact regarding site maintenance or other notification purposes. The facility owner shall periodically update this information.
- d) A statement, which indicates the applicant's intent to allow the co-location of other antennas, provided that the cost of modifying the existing tower is borne by the co-locating entity and reasonable compensation is paid by the co-locating entity. In support of this statement, the applicant will send written notice to all potential entities offering an opportunity for co-location. Copies of the notifications shall be sent to the Township Zoning Administrator at the time a land use permit is requested.
- e) The Zoning Commission may require a visual impact assessment to determine the visual impact of the wireless telecommunications facility on scenic views.

7. Review Criteria: A wireless telecommunications facility shall not be approved unless the applicant can demonstrate that there is a need for the facility which cannot be met by placing a wireless telecommunications antenna on an existing tower or similar structure because:

- a) No existing towers or alternative structures have the structural capacity to support the proposed antenna nor can existing towers or alternative tower structures be reinforced to support the proposed antenna.
- b) No existing towers or alternative structures are located within the geographic area, which meets the systems engineering requirements.
- c) The cost of using an existing tower or other suitable structure or replacing an existing tower exceeds the cost of constructing a new wireless telecommunications facility.
- d) The installation or use of an alternative is unsuitable or is not feasible.

8. Removal of Abandoned Facilities: Any wireless telecommunications tower or antenna that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such tower or antenna shall remove the same within ninety (90) days of receiving an abandonment notification from the Township. Failure to remove an abandoned tower or antenna within ninety (90) days shall be grounds for the Township to remove the tower or antenna at the owner's expense. The Zoning Commission may require the applicant to post a bond or letter of credit in an amount equal to the reasonable cost of removal of the tower and/or antenna. If a bond or letter of credit is to be required, the Zoning Commission shall include the requirement as a condition of approval.

1017 SPECIFIC CONDITIONS AND REQUIREMENTS – HOME-BASED BUSINESSES

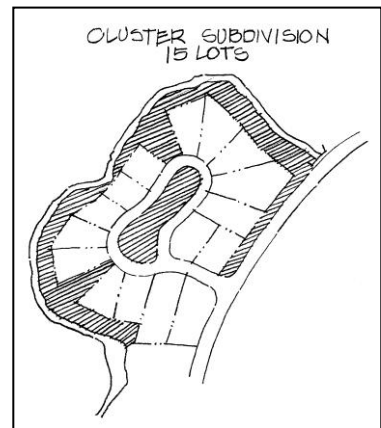
1. The home-based business shall not be used as an attempt to establish a commercial or industrial use in a residential area.
2. The parcel containing the home-based business shall be a minimum of two (2) acres and shall contain a single-family dwelling.
3. The home-based business shall be owned and operated by the owner of the dwelling located on the property, who shall reside within the dwelling.
4. No more than two (2) persons who are not residents of the dwelling may be employed on the premises at which the home-based business is conducted. This does not preclude the use of additional employees who may be employed by the home-based business but who work in other locations off the premises. These off-site employees shall not convene at the site which is the subject of the home-based business.
5. Any parking needed for employees of the home-based business shall be provided off the street. No more than five (5) spaces shall be needed by the home-based business. The parking spaces shall be screened and shall not be provided in a required yard.
6. The home based business may be conducted entirely within one (1) approved accessory building, the area devoted to the home-based business shall not exceeding nine hundred (900) square feet in area. All activities shall be conducted within this building and no outdoor storage of goods shall be permitted.
7. The home-based business shall not result in the alteration of the dwelling, or the construction of an accessory building that is not customary to dwellings and residential accessory buildings.
8. Buildings which must meet special building code requirements such as automatic fire suppression systems, explosion proof construction, paint booths, hazardous waste containment systems (except for the containment of small quantities of motor oil, lubricants, and anti-freeze), and other similar systems shall not be permitted.
9. One (1) sign shall be permitted, not exceeding six (6) square feet in area. The sign shall not be illuminated or higher than four (4) feet above grade.
10. Any traffic generated by the home-based business shall not be so great or occur at a time that would cause serious adverse effect within or upon the surrounding neighborhood, and determined by the Zoning Administrator.
11. No equipment or process shall be used on the premises which creates excessive noise, vibration, glare, fumes or odors, or electrical interference.
12. Storage of vehicles associated with the business shall either be wholly contained within the accessory structure or screened on site. In no case shall there be more than two (2) vehicles or pieces of equipment stored outside.
13. Only those goods or products which are clearly primary to the home-based business may be sold on the premises. No merchandise for sale shall be displayed for advertising purposes so as to be viewable from the street.
14. Home-based businesses existing at the time of the adoption of this ordinance may not be extended to occupy more land without receiving approval as a home-based business as required by this Ordinance.
15. The use shall not constitute a nuisance to surrounding property owners.

1018 SPECIFIC CONDITIONS AND REQUIREMENTS FOR GOLF COURSES

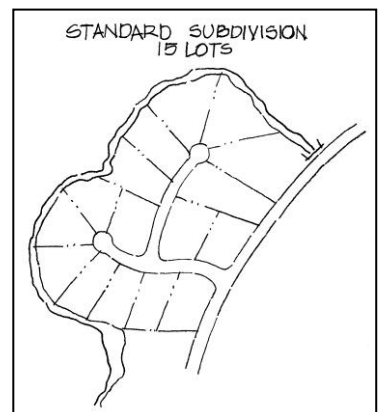
1. The site plan shall indicate the location of service roads, entrances, driveways and parking areas and shall be designed in relationship to the public road or street to ensure pedestrian and vehicular traffic safety.

2. Development features shall be shown on the site plan; including the main and accessory buildings, structures and parking areas and these areas shall be located to minimize adverse effects upon adjacent property.
3. Buildings and parking areas shall not be less than one hundred (100) feet from any property line or abutting Residential District or use, unless existing topographic conditions would provide additional screening. In this case the Planning Commission may reduce the required setback to no less than fifty (50) feet.
4. Whenever a swimming pool is to be provided, it shall be located at least one hundred (100) feet from abutting Residential District and shall be provided with a protective fence six (6) feet in height and entry shall be by means of a controlled gate.
5. The minimum site area for tennis, or other racket sport shall be two (2) acres and the courts shall be located at least one hundred (100) feet from abutting Residential District or use.
6. Where the site abuts a Residential District, screening shall be provided along that property line. Grass, plant materials, and sight obscuring fences or walls, of a type approved by the Planning Commission, shall be placed within the buffer strip.
7. A fifty (50) foot minimum natural vegetation strip between turf areas and natural water bodies, watercourses or wetlands must be maintained. The natural vegetation strip shall not be chemically treated.
8. The outdoor storage of trash or rubbish shall be screened.
9. Accessory uses may include; clubhouse/pro shop, managerial facilities, maintenance shed, toilets, lockers, restaurant and bar, driving range, tennis, racket sport, and swimming facilities.
10. Major accessory uses such as a restaurant shall be housed in a single building with the clubhouse. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage and pro shop or golf shop may be located in separate structures.
11. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
12. No building shall be erected to a height greater than that permitted in the district in which it is located.
13. The total lot area covered with principal and accessory buildings shall not exceed fifteen percent (15%).
14. All parking areas and access drives shall be paved.
15. No outdoor loudspeaker or call system shall be audible on adjoining property.
16. No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman or caretaker. Those living quarters, if any, shall be constructed as part of the main building or as an accessory use near the entry to the course.
17. A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a seventy five (75) foot front yard and a one hundred (100) foot side and rear yard setback. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.

18. A minimum of two (2) satellite restrooms or other acceptable facilities are required for each nine (9) holes. The facilities are to be located away from lot lines and painted or finished in an earth tone color. Such facilities shall be approved by the Oceana County Health Department.
19. Golf courses shall retain and preserve native vegetation over at least thirty percent (30%) of the total upland area of the course to reduce water demand, excessive soil erosion and heavy nutrient run off.
20. Water quality protective measures are required as follows:
 - a. Maintenance of erosion control barriers during construction and until all ground cover is established.
 - b. To the extent feasible, runoff must be directed to on-site holding/sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises.
 - c. Areas in proximity to fuel and chemical storage areas shall be designed to direct all runoff to an on site ponding area.
 - d. A chemical storage area must be designated within an accessory building.
 - e. The area must provide secondary containment to prevent the spread of spills.
 - f. All herbicide, insecticide, fungicide and rodenticide chemicals must be stored in a locked enclosure.
 - g. An inventory manifest of stored chemicals must be posted at the entrance of the building housing them.
 - h. At any time widespread or non-spot application of herbicide, insecticide, fungicide or rodenticide is to occur, notification signs must be posted at lot lines. The signs are to state the type and name of the chemical, date and time of application, and other appropriate information.
 - i. All chemical applications must be by a Michigan Department of Agriculture Licensed Applicator.
 - j. Chemicals shall meet the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA), and all appropriate State statutes and administrative directives.



Sample comparison;
Cluster vs. traditional



21. In order to ensure that the site can be restored to prior conditions should golf course construction not be completed, the Township may require posting of a performance guarantee or other acceptable security.

1019 SPECIFIC REQUIREMENTS FOR OPEN SPACE (CLUSTER) DEVELOPMENT

1. The purpose of the Open Space Cluster is to promote the continuation of a rural land use character, protection of

environmental resources, and preservation of active agricultural lands through clustering dwelling units rather than laying them out along public roads or in a grid or curvilinear pattern found in many traditional subdivisions. The objective is to provide a sense of rural character for the residents of the individual developments affected by these regulations as well as the Township as a whole. These regulations are also intended to foster the preservation of significant natural features, large open spaces, or active agricultural land that would otherwise be altered from their natural or undeveloped condition.

2. Allowed in the Residential District only.
3. Minimum open space shall be fifty (50%).
4. All dwelling units shall be single-family detached housing.
5. The maximum base density and number of dwelling units permitted in the open space cluster shall be determined through the submission of a parallel plan showing the number of dwelling units that may be developed under the existing zoning classification. The Planning Commission may require additional detail or information as it may determine necessary to evaluate the feasibility of the parallel plan. The parallel plan shall meet the following minimum requirements:
 - a. The parallel plan shall contain enough detail to permit the Township to evaluate the feasibility of development for each lot.
 - b. All lots or buildings shown on the parallel plan shall be located on buildable lots, which, for the purposes of this Section shall mean lots that are of sufficient size and shape to meet existing zoning requirements and accommodate a principal building, septic and well systems (where no public sanitary sewer or water system is to be used), and required streets and driveways.
 - c. Areas of wetlands, storm water control, water bodies, and other unbuildable areas shall not be included within buildable areas, but may be included in the lot area calculations.
 - d. In evaluating the feasibility of the parallel plan, the Planning Commission shall consider whether or not the plan would have been approved under the processes normally used to review site plans or subdivision plans, including such factors as access, lot orientation, street layout, and other considerations the Planning Commission deems appropriate.
 - e. The Planning Commission may authorize a five percent (5%) bonus density for an additional ten (10%) open space.
6. Design Standards:
 - a. Cluster areas shall be designed to avoid a suburban subdivision appearance. Generally, neighborhood clusters should range from 10-15 units per cluster for smaller developments (up to 50 total units) and 15-20 units for larger developments (50 or more total units).
 - b. Visual screening of dwellings from off-site street networks and open space preservation development boundaries shall be accomplished through the siting of residences, maximizing existing screens, and providing new natural screens and/or open space buffers where appropriate.

7. Entryways to open space clusters shall be designed consistent with the rural, natural character of the surrounding area and shall consist of natural vegetation rather than groomed, landscaped areas.
8. Development Setback
 - a. Any proposed building lot shall be located at least two hundred (200) feet from any previously existing public street right-of-way.
 - b. No native or natural vegetation shall be removed from the (200) foot setback, nor may any grading or changes in topography occur, except that necessary for entrance roads, required utilities, or drainage improvements. The Planning Commission may modify this requirement provided the applicant demonstrates that the clearing of existing vegetation would contribute significantly to the purpose and objectives of the open space cluster.
 - c. The Planning Commission may reduce this setback to not less than one hundred (100) feet if existing landscaping or topography provides a natural screen that substantially blocks the view to the proposed development.
 - d. The Planning Commission may require a landscape plan for the development setback area showing additional landscaping to enhance the screening of the open space cluster from the adjacent street. This landscaping may consist of existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof.
 - e. Open space cluster sites abutting more than one (1) public street shall be permitted to reduce the setback on the shortest side of the abutting streets to one hundred (100) feet without a natural screen. No native or significant vegetation shall be removed from the one hundred (100) foot setback, nor any grading or changes in topography occur, except that as may be necessary for entrance roads or utilities.
9. Open Space: Any open space provided shall meet the following considerations and requirements:
 - a. Open space areas shall be large enough and of proper dimensions so as to constitute a useable area, with adequate access, through easements or other similar arrangements, so that all properties within the entire development may utilize the available open space.
 - b. The development shall have a minimum of fifty percent (50%) open space. Any area used in the calculation of required open space shall have a minimum dimension of fifty (50) feet.
 - c. All land set aside as open space shall be deed restricted, protected by conservation easement, or other similar permanent restriction, to ensure that the open space remains in a natural and undisturbed condition in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s) be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development.
 - d. All open space shall be in the joint ownership of the property owners within the development. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space.

1020 SOLAR ENERGY SYSTEMS

A. PURPOSE

Intent and Purpose: To regulate the use of Solar Energy within Claybanks Township as a clean alternative energy source. Also to provide for the land development, installation and construction regulations for large photovoltaic solar farm facilities subject to reasonable conditions that will protect the public health, safety and welfare. These regulations establish minimum requirements and standards for the placement, construction and modification of large photovoltaic solar farm facilities, while promoting a renewable energy source for our community in a safe, effective and efficient manner.

B. APPLICABILITY

This ordinance applies to all solar energy installations within the Township of Claybanks.

C. SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

D. DEFINITIONS:

- a. Solar (photovoltaic) Panel: A panel designed to absorb the sun's rays as a source of energy for generating electricity.
- b. Solar Energy System: One or more solar panels and all the associated equipment involved in the conversion of solar energy to electrical energy primarily for residential, agricultural or commercial use.
- c. Solar Farm: An area of land designated for the purpose of producing photovoltaic electricity. The power generated is sold to electric companies for distribution throughout the power grid.

E. ALLOWABLE ZONING DISTRICTS

- a. Solar energy systems designed primarily to supply electric energy for the landowners use are allowed in all zoning districts. A zoning permit is required.
- b. Solar farms shall be allowed on marginal land that would not be used as cropland in the Agricultural Preservation and the Rural Preservation Districts. A special use permit is required.

F. SOLAR ENERGY SYSTEM REQUIREMENTS

- a. Solar energy systems designed primarily to supply electric energy for the landowners use and has a footprint not exceeding one half (1/2) acre are allowed in all zoning districts. A zoning permit is required.
- b. Setback provisions for each applicable zone shall apply to solar energy systems.
- c. No solar energy system not physically attached to a building shall be located forward of the front elevation of the residence, except that for lots fronting on Lake Michigan where no solar energy system not physically attached to a building shall be located closer to the lake than the elevation of the side of the dwelling facing on the lake.
- d. Solar energy panels, regardless of how they are mounted, shall be oriented and/or screened year-round so that glare is not directed toward neighbors or streets.
- e. For ground mounted systems a written maintenance and soil stability plan is required

G. SOLAR FARM SITE REQUIREMENT

The planning commission shall determine if a proposed site is considered to be marginal land that would not be used as cropland, taking into account how long the property was not used as cropland, soil type, contour and any other criteria necessary to make a determination.

H. SOLAR FARM DEVELOPMENT AND DESIGN STANDARDS.

- a. Minimum Lot Size: Photovoltaic solar farm facilities shall not be constructed on parcels less than twenty (20) acres in size.
- b. Height Restrictions: All photovoltaic panels located in a solar farm shall be restricted to a height of fourteen (14) feet.
- c. Setbacks: The required security fence shall be a minimum of ten (10) feet from a side or rear property line and a minimum of twenty (20) feet from any road or highway right-of-way.
- d. Maximum Lot Coverage: Maximum lot coverage restrictions shall not apply to photovoltaic solar panels. Any other regulated structures on the parcel are subject to maximum lot coverage restrictions.
- e. Safety/Access: The site shall be completely enclosed by locked perimeter security fencing to restrict unauthorized access. Such fencing shall be 6 feet in height as measured from the natural grade of the fencing perimeter. Electric fencing is not permitted
- f. Screening: The perimeter of the site shall be screened and buffered by installed evergreen vegetative planting whenever existing natural forest vegetation does not otherwise continuously obscure the large solar energy systems entire perimeter from adjacent parcels. The applicants plan must define the plan, including a timeline for affective screening. Failure to continuously maintain the required evergreen vegetative buffer shall constitute a violation of this ordinance and sufficient grounds for revocation of special use permit..
- g. All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
- h. Electrical Interconnections: All collection lines and interconnections within the site shall be located and maintained underground except in areas where technical or physical constraints make it preferable to install equipment above ground. This requirement excludes transmission lines and equipment meant to connect the project to the project substation and public utility substation all of which may be above ground.
- i. Glare: All solar arrays shall be designed to avoid glare and reflection of sunlight on local residences and roadways.
- j. Decommissioning: Following the operational life of the project, the applicant shall perform decommissioning and removal of all its components.
- k. Bonding for Site Decommissioning: The owner /operator shall post and maintain decommissioning funds in an amount equal to the net costs of decommissioning the Solar Farm; at no point shall decommissioning funds be less than one hundred percent (100%) of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State-chartered lending institution chosen by the owner/operator and participating landowners posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the Township Attorney. No work can begin on the Solar Energy Site before the decommissioning bond is issued and accepted.

I. SPECIAL USE PERMIT APPLICATION REQUIREMENTS

The application for a solar farm special use permit must include the following:

- a. The site must first be approved as marginal non-cropland by the Planning Commission.

b. All requirements for a site plan contained in article 14 of the Claybanks Township zoning ordinance.

c. Additional requirements are as follows:

- i. Location and height of all proposed solar arrays, buildings, structures, security fencing, screening and all aboveground structures and utilities associated with a solar farm.
- ii. The location of all existing and proposed overhead and underground electrical transmission or distribution lines within the site and within 1000 feet of the outside perimeter of the site.
- iii. Planned security measures to prevent unauthorized trespass and access and to warn off potential dangers during the construction, operation, removal, maintenance or repair of the solar farm.
- iv. A written description of the maintenance programs to be used for the solar arrays and other components of the facility, including decommissioning and removal when determined to be obsolete, uneconomic or abandoned. The description shall include maintenance schedules, types of maintenance to be performed, soil stabilization plan, and decommissioning and removal procedures and schedules if the solar farm becomes obsolete, uneconomic or abandoned.
- v. Proposed decommissioning bonding plan.
- vi. A copy of the manufacturer's safety measures.
- vii. Additional details and information as required by the planning commission during the special use approval process.

J. EFFECTIVE DATE - This ordinance shall take effect upon publication following its adoption.

Article 11
Residential Zone

1101 PURPOSE

This Zone is designed to permit the safe and healthful development of land customarily associated with waterfront development and is intended for single-family dwellings. These regulations are drawn to avoid contamination or destruction of lakes.

1102 PERMITTED USES

- A) One (1) family dwellings
- B) Accessory buildings, such as garages, shall be erected and maintained only as accessories to the dwelling situation on the same lot. (See Section 602)
- C) Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- D) Family daycare homes

1103 SPECIAL LAND USES

- A) Home Based Businesses
- B) Open Space Developments

1104 HEIGHT, SETBACK, AREA, AND OTHER REQUIREMENTS

- A) All lots shall have a minimum square foot area of forty three thousand five hundred-sixty (43,560) feet, (one acre) exclusive of public road right-of-ways. Minimum lot width shall be one hundred fifty (150) feet.
- B) Minimum yard setback from the road right-of-way shall be thirty (30) feet. Minimum rear yard setback shall be twenty (20) feet. Side yard setbacks shall be no less than ten (10) feet on either side, and shall have a minimum side yard setback of twenty five (25) feet when adding both side yard setbacks together.
- C) When measuring side yard setbacks, decks, steps and unenclosed porches are included as part of the building or structure and must not encroach into the side yard setback. The eave overhang is not included in the setback, however, if an eave overhang is greater than two (2) feet the amount that exceeds two (2) feet must be added to the required side yard setback distance.
- D) Architectural elements: If no other options are available in the opinion of the Zoning Administrator, existing dwellings shall be permitted to encroach upon the minimum setback requirements of this ordinance with architectural elements that are necessary to the integrity of the dwelling or health and safety of the occupants such as cornices, gutters, chimneys, fire escapes, and similar features.
- E) In the case of a handicap wheelchair ramp, the Zoning Administrator may waive setback requirements for existing dwellings at his/her discretion, if no other options are available to provide a ramp, provided that the applicant agrees to remove the ramp when it is no longer necessary on the property.
- F) No structure shall exceed two stories or thirty (30) feet in height, exclusive of walk-out basement.
- G) All dwellings shall have a minimum square foot floor area of seven hundred twenty (720) feet. Attached or detached private garages, porches, and breezeways shall not be included when calculating the floor area of a dwelling. All dwellings shall have a minimum twenty four (24)

feet along any side, front, or rear elevation. The maximum lot area to be covered by all structures on the lot shall be thirty percent (30%).

H) Setback provisions applicable to dwellings shall also apply to detached private garages and accessory buildings. Further, no detached private garage or accessory building shall be located forward of the front elevation of the residence, except for lots fronting on Lake Michigan where private garages or accessory buildings shall be located landward of the dwelling. Also, accessory buildings of one hundred twenty (120) square feet of floor area or less must be located landward of the dwelling or on the beach. No private garage or accessory building shall exceed sixteen (16) feet in height unless authorized under a special use permit under Article 10. All dwellings and accessory buildings, whether site-built, modular, or manufactured shall be required to comply with this Section 1104 and Section 1502.24.

I) Dogs and cats are allowed in residential districts, subject to Section 609. Fowl or rabbits may be kept in Residential Districts, provided: the fowl or rabbits are not kept for commercial purposes; they are kept on a lot at least five (5) acres in size; they are housed in a structure not to exceed two hundred (200) square feet of floor area for that purpose; the structure and confinement area of the fowl and rabbits shall be located at least one hundred (100) feet from any neighboring dwelling; the area shall be kept in a clean, healthful and inoffensive manner; and they shall be permanently confined. Horses, cattle, sheep, pigs, and other farming or domesticated animals shall not be maintained in the residential district.

1105 ENVIRONMENTAL PROTECTION OF DUNES AND LAKESHORE BLUFFS

A) Construction activity of any kind, including excavation associated with the construction of a driveway, access easement, roadway, tram, lift, stairway, or preparing a lot for construction and the clearing of vegetation shall not occur until an MDEQ construction permit has been secured.

B) On lots abutting Lake Michigan or Stony Lake, driveways and access easements shall be located landward of the principal building.

C) Contour changes and vegetative removal are limited to that essential to siting the structure and access to the structure.

D) On lots abutting Lake Michigan or Stony Lake, the natural topography shall not be changed between the dwelling and the lakeshore.

E) The cutting of vegetation along the lakeshore is regulated by state law and administered by the MDEQ.

F) Stairs and lifts are allowed to access the beach provided there is no contour change and minimal vegetation is removed.

ARTICLE 12
AGRICULTURAL PRESERVATION DISTRICT

1201 PURPOSE

This area contains the prime farmlands as defined by the United States Department of Agriculture (USDA) soil map as well as unique soils and conditions that are favorable to farming activities. Coincidentally this area also contains much of the Flower Creek drainage and all of the floodplain part of the stream.

Within this area the policy is to preserve farmland and prevent premature conversion of farmland to other uses. It is also the policy to protect Flower Creek from excessive development and the resulting contamination from septic system leaching and construction erosion. In order to further the Townships efforts to preserve farmland, zoning regulations have been adopted to emphasize the important public purpose of protecting food and fiber production and to minimize the extent to which potentially incompatible non-farm development will be permitted to encroach into these designated areas. No commercial or industrial businesses shall be allowed except for agricultural outlets for the selling of materials mostly produced on the property.

1202 PERMITTED USES

The following uses shall be permitted in the Agricultural Preservation District.

- A) Forestry.
- B) Essential service facilities
- C) Single family dwellings.
- D) Agricultural uses of land, including the keeping of farm animals and fowl, provided that same are housed more than one hundred fifty (150) feet from any dwelling house other than the dwelling house occupied by the owner of the farm animals or fowl. See section 615 for setback requirements for large livestock facilities.
- E) Structures necessary to enable agricultural uses of land or housing of farm animals and fowl, such as barns, granaries, milk parlors, similar structures and licensed agricultural worker's housing.
- F) Roadside stands for the sale of farm products, provided that seventy five percent (75%) of the products offered for sale shall have been produced on the premises. Adequate parking off of the public road shall be provided for all customers.

1203 SPECIAL LAND USES

The following structures and uses of land may be allowed as special uses subject to the provisions of Article 10.

- A) Home based businesses
- B) Development of Natural Resources
- C) Animal Hospitals/Clinic.
- D) Horseback Riding Stables

- E) Gun Ranges, Gun and Skeet Clubs
- F) Natural Gas Processing Plants
- G) Wind Energy Harvest Site
- H) Wireless Telecommunication Facilities and Antennas

1204 HEIGHT, SETBACK, AREA, AND OTHER REQUIREMENTS

A) The minimum lot size for land division is 40 acres. One non-farm split is allowed for any forty acre parcel under the following conditions:

The minimum lot size is one (1) acre

The maximum lot size is two (2) acres

Lot width must conform to the maximum 4 to 1 lot length to width requirement of the Michigan Land Division Act.

B) Minimum yard front setback shall be forty (40) feet. Minimum rear yard setback shall be fifty (50) feet. Side yard setbacks shall be no less than twenty five (25) feet on either side.

C) Except by issuance of a special land use permit, no structure except agricultural structures, or as provided in Section 607, shall exceed three stories or thirty five (35) feet in building height, exclusive of walk-out basement

D) All dwellings shall have a minimum square foot floor area of seven hundred twenty (720) feet. Attached or detached private garages, porches, and breezeways shall not be included when calculating the floor area of a dwelling. All dwellings (except for farm labor housing) shall have a minimum twenty-four (24) feet along any side, front, or rear elevation. The maximum lot area to be covered by all structures on the lot shall be thirty percent (30%).

E) Setback provisions applicable to dwellings shall also apply to detached private garages and accessory buildings. No detached private garage or other utility building shall exceed twenty (20) feet in height, except as may be approved by the Planning Commission as a special land use pursuant to Article 10.

F) All dwellings and accessory buildings, whether site-built, modular, or manufactured shall be required to comply with this Section 1204 and Section 1502.24.

G) A quarter of a quarter section reduced in size due to being part of a fractional section shall be considered to contain forty (40) acres for determining lot size in this district.

ARTICLE 13

RURAL PRESERVATION DISTRICT

1301 PURPOSE

This district accommodates low density residential use on lands not as well suited for agricultural use. Much of the area is either heavily wooded or has poor soil characteristics for farming. However there are significant pockets of farming operations in this area with good and or unique soils.

Within this district the policy is to preserve farmland and prevent premature conversion of farmland to other uses. The future residential density would be at an average of less than four dwelling units per 40 acres.

This district is designed for uncongested use with a minimum of services, for low density residential and agricultural purposes, as well as controlled special land uses.

1302 PERMITTED USES

The following uses shall be permitted in the Rural Preservation District.

- A) Forestry.
- B) Places of worship
- C) Public and private schools.
- D) Essential service facilities
- E) Parks and playgrounds.
- F) Single family dwellings.
- G) Agricultural uses of land, including the keeping of farm animals and fowl, provided that same are housed more than one hundred fifty (150) feet from any dwelling house other than the dwelling house occupied by the owner of the farm animals or fowl.
- H) Structures necessary to enable agricultural uses of land or housing of farm animals and fowl, such as barns, granaries, milk parlors, similar structures and licensed agricultural worker's housing.
- I) Roadside stands for the sale of farm products, provided that seventy five percent (75%) of the proceeds offered for sale shall have been produced on the premises adequate parking off of the public road shall be provided for all customers.
- J) Family day-care homes

1303 SPECIAL LAND USES

The following structures and uses of land may be allowed as special uses subject to the provisions of Article 10.

- A) Home Businesses
- B) Golf courses.

- C) Development of Natural Resources
- D) Private Campgrounds
- E) Animal Hospitals/Clinic.
- F) Horseback Riding Stables
- G) Private Parks/Winter Sports Areas
- H) Gun Ranges, Gun and Skeet Clubs
- I) Natural Gas Processing Plants
- J) Wind Energy Harvest Site
- K) Wireless Telecommunication Facilities and Antennas

1304 HEIGHT, SETBACK, AREA, AND OTHER REQUIREMENTS

A) The minimum lot area for land division is defined based on the sliding scale zoning procedure as shown in the chart.

Area of Lot Of Record	Maximum Additional Lots Permitted
Less than 10 acres	0
10 to 20 acres	1
20.1 to 40 acres	2
40.1 to 80 acres	3
80.1 to 160 acres	4

Minimum additional lot size is 5 acres.

Lot width must conform to a maximum 4 to 1 lot length to width requirement of the Michigan Land Division Act.

B) Minimum yard front setback shall be forty (40) feet. Minimum rear yard setback shall be fifty (50) feet. Side yard setbacks shall be no less than twenty five (25) feet on either side. See section 617 for setback requirements for large livestock facilities.

C) Except by issuance of a special land use permit, no structure except agricultural structures, or as provided in Section 607, shall exceed three stories or thirty five (35) feet in building height, exclusive of walk-out basement

D) All dwellings shall have a minimum square foot floor area of seven hundred twenty (720) feet. Attached or detached private garages, porches, and breezeways shall not be included when calculating the floor area of a dwelling. All dwellings (except for farm labor housing) shall have a minimum twenty-four (24) feet along any side, front, or rear elevation. The maximum lot area to be covered by all structures on the lot shall be thirty percent (30%).

E) Setback provisions applicable to dwellings shall also apply to detached private garages and accessory buildings. No detached private garage or other utility building shall exceed twenty (20) feet in building height, except as may be approved by the Planning Commission as a special land use pursuant to Article 10.

F) All dwellings and accessory buildings, whether site-built modular, or manufactured shall be required to comply with this Section 1304 and Section 1502.24.

G) A quarter of a quarter section reduced in size due to being part of a fractional section shall be considered to contain forty (40) acres for determining lot size in this district.

ARTICLE 14
DEVELOPMENT OR SITE DEVELOPMENT PLAN REVIEW

1401 PURPOSE

It is the purpose of this section to require site development plan review approval for certain buildings, structures, projects, and uses that can have a significant impact on natural resources, environmental quality, traffic patterns and the character of future development. Certain land uses possess characteristics which can become undesirable because their intrinsic needs, operations and/or appearance have influence beyond their own perimeter. It is hereby deemed prudent and necessary to apply limits and guidelines which will encourage environmentally, and economically sustainable development practices.

Site development plan review shall be applied to protect property values; to protect and promote public health, safety and general welfare by requiring access management, screening, buffering and landscaping of sites; to preserve groundwater and respect natural water cycles; to conserve natural features and resources; and to provide shade, conserve energy, provide visual and sound privacy and otherwise facilitate the creation of a convenient, attractive and harmonious community.

The requirements contained in this Article are further intended to reduce hazards to life and property due to fire, flooding, soil erosion, inadequate surface water drainage, inadequate sewage disposal systems, pollution, dust, fumes, noise, vibration, noxious odors, and other hazards, and to facilitate the provision of a system of roads, streets, parking and other public needs.

1402 SCOPE AND APPLICABILITY:

Site development plan review and approval shall be required in accordance with the procedures of this Ordinance prior to applying for a development permit or zoning permit for the construction, reconstruction, erection or expansion of any building or structure. Once a site development plan is submitted, no clearing of the site or land disturbances shall occur until site development plan approval is given and required performance guarantees are in place.

1403 APPROVAL REQUIRED: Site development plan review and approval is required for the following:

- a. All special land uses
- b. Developments with more than one dwelling per parcel, including but not limited to condominium projects developed pursuant to the Condominium Act. 59 of 1978 as amended.

1404 THE ZONING ADMINISTRATOR APPROVAL: Sites of 2 acres or under with developments comprised of or adding 10,000 square feet or less, except those designated by this ordinance for Planning Commission review and approval shall be reviewed and require approval by the Zoning Administrator.

1405 ZONING ADMINISTRATOR: In the event the Zoning Administrator rejects a site development plan or a substantial portion of a site development plan, the applicant shall have the right to review by the Planning Commission, which shall review the site development plan or

portion thereof in question, applying the same standards and method of review which is used in all planning commission site development plan reviews.

1406 REVIEW PROCESS:

- a. Consultation: A preliminary meeting with Zoning Administrator is recommended prior to the submission of a site development plan review application.
- b. Preliminary review: The applicant may choose to submit a sketch plan to the Planning Commission for preliminary input prior to the submittal of a full site plan.
- c. Final Submittal: The Zoning Administrator shall review the application and site plan for completeness. Complete plans shall be forward for Planning Commission review, as appropriate.

1407 INFORMATION REQUIRED: Information in possession of the Township may be used to the extent appropriate for the proposed development. The Zoning Administrator may waive informational requirements clearly not applicable to a particular development. Site development plan review materials shall consist of the following, as applicable:

- a. Application and review fee: The fee set by resolution of the Township Board for site development plan review shall be paid upon application. An application for site development plan review shall be made on a form supplied by the Zoning Administrator. A sufficient number of plans shall be provided for distribution and review.
- b. Proof of ownership or option interest, or permission from the owner to engage in site development plan approval.
- c. Legal description of the property.
- d. Project description.
- e. Storm water management plan.
- f. **Site development plan:** Site development plans shall be at a scale of not less than one (1) inch equals one hundred (100) feet with the following minimum information:
 - 1) The name and address of the person or firm who drafted the plan and the date on which the plan was prepared. Dates of updates to the plan shall also be recorded on the site development plan.
 - 2) North arrow, vicinity map, scale, parcel number(s) and address of the property.
 - 3) Property lines, parcel dimensions, total site area.

- 4) Location of existing and proposed structures, setbacks, dimensions and height. This information must also be provided for all accessory structures.
- 5) Area reference points for adjacent properties, such as drives and structures within 100 feet.
- 6) Existing land use and zoning classification of abutting properties.
- 7) Topography elevations at five (5) foot contour intervals based on USGS datum with arrows showing the direction of existing overland flow of storm water runoff.
- 8) A grading plan showing proposed contours and spot elevations clearly indicating proposed earth changes and proposed flow of storm water.
- 9) A statement as to the suitability of such soils regarding the intended use as well as any soil erosion & sedimentation control measures to be used.
- 10) Indication of natural features including vegetation. Significant vegetation shall be outlined and described as retained or removed.
- 11) Water courses and water bodies, and demarcation of the ordinary high water mark or floodplain.
- 12) Location and size of existing and proposed public utilities and respective easements.
- 13) Location of easements and existing public streets, in and abutting the site, including pavement width and right-of-way lines.
- 14) Location and dimensions of existing and proposed driveways and parking areas for customers, employees and commercial vehicles. Site circulation patterns shall also be included.
- 15) Location, size, of loading and unloading areas.
- 16) Location of snow storage areas or means for disposing of excess snow.
- 17) Location and design of all pedestrian and non-motorized transportation systems and fixtures needed to support them.
- 18) A landscape plan showing required planting and buffering features that comply with this ordinance.
- 19) Location and use of all common open spaces, recreation areas and facilities (if any) provided by the development for its users, and the method by which they will be maintained.
- 20) Location, type, height and design of all outdoor lighting to be used on the site.

- 21) Location and specifications for all solid waste disposal facilities, including recycling facilities (if any).
- 22) Location and design of all signs and advertising features, including diagram of height and size of said signs.
- 23) Location of fire lanes, fire lock box, hydrants, standpipes and security lighting.
- 24) Location and specifications for existing or proposed outside, above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as containment structures or clear zones required by governmental authorities.
- 25) A signature block for the applicant, Zoning Administrator and Chair of the Planning Commission to be signed once the final site development plan is approved.

1408 PROFESSIONAL REVIEW: Additional studies may be required of the applicant for developments with regional impact including but not limited to, stormwater or infrastructure impact assessment and, traffic studies. The applicant may either provide the necessary studies or the Zoning Administrator will obtain estimates to perform such studies. Funds to cover consultant fees shall be provided by the applicant and shall be held in escrow by the Township.

1409 CONDITIONS OF APPROVAL: As part of an approval to any site development plan, conditions or limitations may be placed for protection of the public interest. Such conditions shall be related to and ensure that the review standards of this ordinance are met. A record of conditions imposed shall be maintained. If the Site development plan is approved with conditions the applicant shall submit a revised Site development plan with other required documents demonstrating compliance to the Zoning Administrator for approval prior to the application for a zoning or development permit.

1410 STANDARDS FOR SITE PLAN APPROVAL: Prior to approving a site development plan, the Township shall require that the following standards be satisfied:

- a. Schedule of Regulations: The site development plan shall comply with the requirements for height, lot size, yard space, density and all other requirements as set forth in the district regulations.
- b. Other codes and standards: To the extent necessarily shown in the site development plan, it shall comply with other applicable Township ordinances and standards.
- c. Compatibility with surrounding land use and development: All elements shall be located, designed and organized in relation to topography, the size and configuration of the parcel, the character of adjoining property and the type and size of the buildings. The site shall be developed so as not to impede the normal and orderly development or improvements of surrounding property for uses permitted in this Zoning Ordinance.

d. Preservation of natural features: The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site.

e. Landscaping: Landscape buffers, and greenbelts shall be provided and designed in accordance with the provisions of this Ordinance. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of the property and for the privacy of occupants and neighbors.

f. Stormwater management: Drainage design shall recognize existing natural drainage patterns. Stormwater removal shall not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater on-site, using sound engineering practices.

g. Soil erosion control: Appropriate measures shall be taken to ensure compliance with state and local soil and sedimentation control regulations.

h. Wetlands Protection: The natural retention or storage capacity of any wetland, water body, or water course will not be substantially reduced or altered in a way which could increase flooding or water pollution at the site or other locations.

i. Emergency Access: All site improvements and structures shall be arranged so as to permit necessary emergency vehicle access and to comply with the locally adopted fire code.

j. Public streets and private roads: All uses must have access to a public street or a private road. All streets and curb cuts shall be developed in accordance with Oceana County Road Commission specifications.

k. Access Management: Streets and drives on a site shall be of a width appropriate to the traffic volume they will carry and shall have adequate paved areas for vehicles. Traffic mitigation techniques such as on-site parallel access lanes, rear access lanes, deceleration lanes and traffic calming measures may be required.

l. Site Circulation and Parking: Parking areas shall meet the requirements of this ordinance. All parking spaces and circulation patterns shall be marked. Curb stops or curbing may be required to prevent encroachment on required setbacks and screening. Provisions for on-site maneuvering of vehicles shall be made so as to discourage backing and movements of trucks on abutting public streets. On site traffic control signs shall be visible and understandable.

m. Pedestrian safety: The on-site pedestrian circulation system shall be separated as completely and reasonably as possible from the vehicular circulation system. In order to ensure public safety, special pedestrian measures such as sidewalks, crosswalks, and other such facilities may be required for the development. The site circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area as appropriate.

n. Site amenities: The site development plan shall provide outdoor common areas and associated amenities for employees, customers and/or residents which may include public trash receptacles, bike racks, seating areas, recreation areas, shade trees and similar facilities where appropriate.

o. Utility Service: The development must be adequately served by necessary public services and shall not impose an undue burden on public services and infrastructure. All utilities for new construction shall be placed underground. Any installations which must remain above ground shall be compatible with those on adjacent properties.

p. Lighting: Exterior lighting shall be arranged so it is deflected away from adjacent properties and so it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted. Design of lighting fixtures shall be compatible with those on adjacent properties. Light poles and fixtures shall be no higher than twenty-five (25) feet.

q. Signs: The size, location, and lighting of all permanent signs shall be consistent with the requirements of this Ordinance.

r. Accessibility: All sites shall be designed to comply with barrier-free requirements.

s. State and Federal Mandates: The site development plan shall demonstrate compliance with any state or federal statute, regulation or ruling, whether general or site specific, which is applicable to the property. This shall include without limitation any legally enforceable restrictions on development or improvements which have been communicated or required by a state or federal agency. It shall include, without limitation, requirements of laws, regulations, rulings or agency requirements concerning environmental protection, waste management, floodplains, soil and sedimentation, protection of ground or surface water resources, soil conditions, and the presence of hazardous materials in or contamination of soils, air and water pollution matters and provisions which are designed for or reasonably related to the protection of the public health, safety or welfare. The applicant shall demonstrate that all said statutes, regulations, rulings, or requirements have been satisfied by its site development plan and that there are no state or federal agencies which have required, or are in the process of requiring, any additional action, restriction or compliance. In the event a property is the subject of any governmental regulatory action or requirement, or without limitation, the property is located in the "facility" as defined by state or federal law, the state or federal agency responsible for the applicable regulation shall be notified in writing of the filing of the site development plan and any hearing regarding the application for approval.

1411 VALIDITY: Approval of site development plans not associated with a Planned Unit Development is valid for a period of 12 months. Failure to initiate material construction pursuant to an approved site development plan in that time shall render the approval null and void.

1412 REVOCATION: Any site development plan review approval may be revoked by the Planning Commission after determination that one or more of the following circumstances exist:

- a. A material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a Township Official.
- b. There has been a material departure from the commitments made and the requirements of an approved site development plan.
- c. Material and substantial pollution, impairment or destruction of the environment, or to another legally protected public interest, would occur if the project were to be constructed as previously approved.
- d. Failure to perform, unless due to actions or circumstances beyond the applicant's control.

Appeals for time extensions of up to 6 months may be submitted and shall be reviewed by the Planning Commission.

Revocation of an approved site development plan shall be communicated in writing with reasons therefore to the property owner. The Zoning Administrator shall also be notified to withhold any zoning permit until a new site development plan is approved.

1413 PERFORMANCE GUARANTEES: A performance guarantee may be required to ensure compliance with the approved site development plan.

1414 SITE DEVELOPMENT PLAN MODIFICATIONS: Minor modifications to a site development plan previously approved by the Planning Commission may be approved by the Zoning Administrator including, without limitation:

- a. Change in any building size, up to five percent (5%) in total floor area
- b. Relocation of a dumpster
- c. Drive relocations
- d. Modification of up to 10% of the total parking area
- e. Sign location
- f. The addition of small accessory buildings (of not more than one hundred twenty square feet in area)
- g. Movement of buildings or other structures by no more than ten feet
- h. Replacement of plant material specified in the landscape plan with comparable materials
- i. Changes in building materials to comparable or higher quality materials
- j. Change in floor plans which do not alter the character of the use

k. Changes required or requested by the Township or other regulatory agency in order to conform to their laws or regulations

Requests for site development plan modifications will be duly recorded by the Zoning Administrator.

ARTICLE 15

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

1501 RULES APPLYING TO TEXT

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

- A) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- B) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicated the contrary.
- C) The word “structure” includes the word “building”.
- D) A “building” or “structure” includes any part thereof.
- E) The word “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.”
- F) Any word or term not defined herein shall be used with a meaning of common or standard utilization.
- G) The words “zones” and “districts” shall be considered to mean the same thing and may be used interchangeably.

1502 DEFINITIONS

- 1. **ABANDON:** Cease to use or occupy a building, structure or land for its permitted use for the period specified in this Ordinance.
- 2. **ACCESSORY BUILDING:** A subordinate building or structure on the same lot with a main building occupied or devoted exclusively to an accessory use.
- 3. **ACCESSORY USE:** A use naturally and normally incidental and subordinate to the main use of the premises.
- 4. **AGRICULTURAL:** Includes purposes related to agriculture, farming, dairying, pasturage, horticulture, and animal and poultry husbandry.
- 5. **ALLEY:** A public or legally established private thoroughfare, other than a street, which affords a secondary means of access to abutting property, and not more than twenty (20) feet wide.
- 6. **ALTERATIONS:** Any change, additions, or modification in construction, any change in the structural members of a building, such as walls, or partitions, columns, beams or girders, the consummated act of which may be referred to herein as “altered” or “reconstructed”.
- 7. **AREA, NET SITE:** The total area within the property lines of a project excluding external streets.
- 7a. **AREA SIZE OR FOOTPRINT OF A DWELLING:** The area or footprint of the dwelling is the area within the outside perimeter of its walls measured at ground level excluding single story attached garages, porches and patios.
- 8. **AUTOMOBILE, VEHICLE, OR TRAILER SALES AREA:** Any space used for display, sale or rental of motor vehicles, motorcycles, or trailers, in new or used and operable condition.

- 9. AUTOMOTIVE REPAIR:** General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame or fender straightening and repair, overall painting and undercoating of automobiles when carried on in a completely enclosed room or building.
- 10. BASEMENT:** That portion of a building which is below the first story, the ceiling of which is less than five (5) feet above the surrounding ground elevation at all points.
- 11. BILLBOARD:** Any construction or portion thereof upon which a sign or advertisement used as an outdoor display for the purpose of making anything known to the general public is affixed. This definition does not include any bulletin boards used to display official court or public office notices.
- 12. BUFFER ZONE:** A strip of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts. Landscaping, berms, fencing or open space can also be used to buffer noise, light and related impacts from abutting properties.
- 13. BUILDING:** Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents and awnings.
- 14. BUILDING COVERAGE:** That percentage of the plot or lot area covered by the building area.
- 15. BUILDING HEIGHT:** The vertical distance from the highest natural grade directly around the building to the highest point on the roof. Any portion of the basement, foundation, piers or columns which are visible above the said grade shall be considered part of the building for purposes of determining the building height. Natural grade is the elevation of the ground surface in its natural state, prior to construction.
- 16. CHURCH:** A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain worship, together with all accessory buildings and uses customarily associated with such principal purpose.
- 17. CLEARING (LAND):** The removal of vegetation from any site, parcel or lot except when land is cleared and cultivated for bona fide agricultural or garden use in a district permitting such use. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.
- 18. CONSERVATION EASEMENT:** A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water.
- 19. DAY CARE HOME, FAMILY:** A single family dwelling in which one (1) but less than seven (7) adults are received for care and supervision for periods of less than twenty-four (24) hours per day, or in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related by blood, marriage, or adoption to an adult member of the family occupying the single family dwelling.
- 20. DAY CARE HOME, GROUP:** A single family dwelling in which more than six (6) but less than twelve (12) adults are received for care and supervision for periods of less than twenty-four (24) hours per day, or, in which more than six (6) but less than twelve (12) minor children are

received for care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related by blood, marriage, or adoption to an adult member of the family occupying the single family dwelling.

21. CONDOMINIUM ACT: Public Act 59 of the Michigan Public Acts of 1978, as amended.

22. CONDOMINIUM UNIT: That portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed of the condominium project.

DEVELOPMENT OR SITE DEVELOPMENT PLAN: The drawings and specifications of a proposed development showing its topography, the location of buildings and structures, all non-enclosed uses, parking, loading and traffic handling facilities, storm drainage, floor plans, a detailed statement of the proposed use or uses, and other relevant information, data and documentation concerning the proposed development, all in sufficient detail to enable the township to study and evaluate the proposed development.

23. DISTRICT: A portion of the incorporated part of the Township within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance, also referred to as zones.

24. DWELLING: A detached building or portion thereof designed or used exclusively as the home, residence or sleeping place of one or more persons. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions herein relative to dwellings. Garage space, whether in an attached or detached garage, shall not be considered as part of a dwelling for meeting area requirements. A dwelling shall comply with the following standards:

- A. The dwelling shall meet the minimum square footage requirements for the district in which it is located.
- B. In the event that the dwelling is a mobile home as defined herein, such dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission. In addition, the perimeter of the unit shall be enclosed.
- C. All wheels and the towing mechanism, if any, shall be removed.
- D. The dwelling shall be connected to private on-site facilities, approved by the Oceana County Health Department.
- E. The dwelling shall contain a storage area, in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling. The storage area shall be equal to fifteen percent (15%) of the square footage of the dwelling, or one hundred fifty (150) square feet, whichever is less.
- F. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides, or alternatively, with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior door with the second one being in either the rear or side of the dwelling and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The

foregoing shall not be construed to prohibit innovative design concepts involving such matter as solar energy, view, unique land contour, or relief from the common or standard design home.

- G. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure.
- H. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by State or Federal law or otherwise specifically required in the Ordinances of Claybanks Township pertaining to such parks.
- I. Steps are to be completed for all entrances and exits.

- 25. DWELLING UNIT:** A building or portion thereof, designed for occupancy by one (1) family for residential purposes and having cooking facilities.
- 26. DWELLING UNIT, ONE FAMILY:** A building designed exclusively for one dwelling unit.
- 27. DWELLING UNIT, TWO FAMILY:** A building designed exclusively for two dwelling units.
- 28. DWELLING UNIT, MULTIPLE FAMILY:** A building, or portion thereof, designed exclusively for occupancy by two (2) or more families living independently of each other.
- 29. ERECTED:** The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.
- 30. ESSENTIAL SERVICES:** The phrase "essential services" means the erection, construction, alteration or maintenance by public utilities or municipal department or commission of underground overhead gas, electrical, steam, or water transmission or distribution systems, collections, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commission or for the public health or safety or general welfare.
- 31. FAMILY:** One person, or group of two or more persons living together who may or may not be inter-related by bonds of consanguinity, marriage, or legal adoption, occupying the whole or part of a dwelling as a separate housekeeping unit with a common single set of culinary facilities. The persons thus constituting a family may also include foster children, guests, and domestic servants. This definition does not include the occupants of a rooming house, boarding house or co-operative unit as a family unit or the members of any order or association who have a common religious, fraternal, philosophical or economic bond.
- 32. FARM:** All of the contiguous neighboring or associated land operated as a single unit on which bonafide agriculture is carried directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees.
- 33. FENCE:** Any permanent fence, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit.
- 34. FLOOD PLAIN:** That portion of land adjacent to a water body or water course which is subject to periodic inundation.
- 35. FLOOR AREA:** The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating

two buildings. The “floor area” of a building shall include the area of any floor when more than one-half (1/2) of the room height is above the established curb level, or above the finished lot grade level where curb levels have not been established. “Floor Area” shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment, (except equipment, open or closed located on the roof), penthouses, attic space having headroom of seven (7) feet, six (6) inches or more, interior balconies and mezzanines. Any space to off-street parking or loading shall not be included in “floor area”.

36. FRONTAGE: All the property fronting one (1) side of the street between intersecting or intercepting streets, or between a street and right-of-way, waterway, end of dead-end street, or subdivision or municipal boundary, measured along the boundary of the frontage of the side of the street which it intercepts.

37. GARAGE, COMMERCIAL: Any garage, other than a private garage available to the public, operated for gain, and used for storage, repair, rental, greasing, washing, sales, serving, adjusting, of equipment or automobiles or other motor vehicles.

38. GARAGE, PRIVATE: A garage with capacity of not more than three (3) motor-driven vehicles and not to exceed one thousand two hundred (1,200) square feet in size. Also see Section 602.

39. GASOLINE SERVICE STATION: Any building, or premises used for the dispensation, sale or offering for sale at retail of any motor fuels, oils or lubricants. When the dispensing, sale or offering for sale is incidental to the conduct of a commercial garage, the premises are classified as a commercial garage. Sections 806 and 1006.

40. GRADE: The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

41. GREENBELT BUFFER: A strip or parcel of land privately restricted or publicly dedicated as open space, located between land uses for the purpose of protecting the character of adjacent residential or other uses. Said greenbelt buffer shall include, but not be limited to the following materials: open space with maintained grass cover, trees, shrubs, or bushes.

42. HOME BASED BUSINESS: An occupation or profession that is, at least partially, carried on outside of the principal dwelling.

43. HOME OCCUPATION: An occupation traditionally or customarily carried on in the home or accessory building.

44. JUNK YARD: Any land or buildings where waste, used or second hand materials are disposed of, bought, and sold, exchanged, stored, baled, parked, disassembled, or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A “junkyard” includes automobile wrecking yards and includes any area of more than fifty (50) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

45. KEYHOLE DEVELOPMENT: Development allowing waterfront access via easement, private park, common area, lot or access property abutting or adjoining a lake or stream.

46. LIVING SPACE: That area within a structure intended, designed, erected or used for human occupancy; that is, the sum of the gross horizontal area of the floor in question of the building used for occupancy, measured from the exterior faces of the exterior walls, from the

center line of interior walls, and excluding porches, garages, breezeways not usable the year around.

47. LOADING SPACE: An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

48. LOT: A parcel of land (whether platted or not) occupied or intended for occupancy by a permit in this Ordinance (including one (1) principal building together with its accessory buildings) and providing the open-spaces, parking and loading spaces required by this Ordinance. Said parcel of land may consist of one or more lots of record according to any recorded plat, which for the purpose of this Ordinance shall be deemed one parcel or lot if title to the property is held under one deed.

49. LOT, CORNER: A lot where the interior angle of two adjacent sides at the intersection of the two streets is less than one hundred thirty five (135) degrees. A lot abutting upon a curved street, or streets, shall be considered a corner lot for the purpose of this Ordinance if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended from an interior angle of less than one hundred thirty five (135) degrees.

50. LOT INTERIOR: Any lot other than a corner lot.

51. LOT LINES: The lines bounding a lot as defined herein:

Fronts Lot Line: In the case of an interior lot, the line separating said lot from the street; in the case of a corner lot or double frontage lot, the line separating said lot from that street which is designated as the front street in the plat. In the case of lots bordering on a lake, river, or canal, the established water or shore line shall be designated as the rear of such lots.

Rear Lot Line: The lot line opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

Side Lot Line: Any lot lines other than the front lot lines of a lot.

52. LOT AREA: The total horizontal area within the lot lines of a lot.

53. LOT COVERAGE: That part or percent of the lot occupied by buildings or structures including accessory buildings or structures.

54. LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between side lot lines.

55. LOT OF RECORD: A lot existing prior to the adoption of this Ordinance and recorded in the office of the County Register of Deeds, but dated and executed prior to the effective date of this Ordinance shall also constitute a lot of record.

56. LOT WIDTH: The horizontal distance between the side lot lines, measured at the two points where the building line or setback intersects the side lot line.

57. MASTER PLAN: The Master Plan currently adopted by the Township, including graphic and written materials, indicating the general location for streets, parks, public buildings, and all physical development of the Township, and includes any unit, part, or amendment to the Plan.

58. MOBILE HOME: A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to required utilities and which is, or is intended to be attached to the ground, to another structure, or to a utility system on the same premises for more than thirty (30) days.

59. MOBILE HOME PARK: Any subdivision, however designated, that is occupied or designated for occupancy by more than one (1) mobile home and which is governed and which must conform to the provision of Act 243 of 1959.

60. NATURAL FEATURES: Includes but is not limited to: soils, wetlands, woodlots, overgrown fence rows, landmark and specimen trees, floodplains, water bodies, groundwater, topography, vegetative cover, and geologic formations.

61. NONCONFORMING LOT: A lot lawfully existing at the effective date of this zoning ordinance or a successor or amending ordinance, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the zoning district in which it is located.

62. NON-CONFORMING STRUCTURE: A building or portion thereof, existing at the effective date of this Ordinance, or amendments thereto and, which does not conform to the provisions of the Ordinance nor to the use regulations of the district in which it is located.

63. NON-CONFORMING USE: A use which occupied a structure or land at the time this Ordinance or amendments thereto became effective, and which does not conform to use regulations of the district in which it is located.

64. NURSING OR CONVALESCENT HOME: A structure with sleeping rooms where persons are housed or lodged and furnished meals and nursing care for hire.

65. OFF-STREET PARKING: A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two (2) automobiles.

66. OPEN SPACE: Any space suitable for recreation, gardens or household service activities such as clothes drying. Such space must be at least seventy five percent (75%) open to the sky, free of automotive traffic, parking and undue hazard, and readily accessible by all those for whom it is intended.

67. OPEN SPACE DEVELOPMENT: A development which is permitted to have smaller lot sizes in return for protected open space.

A) Open Space, Dedicated – Common open space dedicated as a permanent recorded easement.

B) Open Space, Usable – That portion of the common open space that meets the minimum dimensions as required by this Ordinance and which due to its slope, drainage characteristics and soil conditions can be used for recreation.

68. PARKING SPACE: An off-street land area exclusive of driveways and aisles, and so prepared as to be useable for the parking of a motor vehicle and so located as to be readily accessible to a public street or alley.

69. PLANNED UNIT DEVELOPMENT: This is a tract of land which includes two (2) or more principal buildings, developed under single ownership or control; the development of which is unique and of a substantially different character than that of the surrounding area, and where the specific requirements of a given district may be modified and where the minimum area is fixed. Such development shall be based on a plan which allows for flexibility of design not available under normal zoning district requirements.

- 70. PLANNING COMMISSION:** This term means the Claybanks Township Planning Commission.
- 71. PRINCIPAL BUILDING/STRUCTURE:** The main structure on a lot in which the principal use of the property is conducted and which has a postal address.
- 71a. PRINCIPAL USE:** The main use to which the premises are devoted and the main purpose for which the premises exist. A dwelling includes its attached or detached garage as part of the principal use, provided that the principal use in its entirety must comply with all applicable provisions with respect to such principal use, including but not limited to height and setback requirements.
- 72. PUBLIC PARK:** Any park, playground, beach, outdoor swimming pool, parkway, within the jurisdiction and control of a governmental agency authorized by State statutes to own and maintain parks.
- 73. PUBLIC UTILITY:** Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and, furnishing under State or municipal regulations to the public gas, steam, electricity, sewage disposal, communications, telegraphs, transportation or water.
- 74. RECREATION AREA, PRIVATE:** All lands and structures which are owned and operated by private individuals, a business or corporation which is predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities.
- 75. RECREATIONAL VEHICLE:** All those small mobile units principally designed for recreation pastime such as motor homes, camper trailers, pick-up campers, pop-up tents, trailers and similar camping type vehicles or trailers.
- 76. RIGHT-OF-WAY:** Street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.
- 77. SANITARY LANDFILL:** A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing principles or engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to suitably cover all dumped refuse at the conclusion of each day's operation or at more frequent intervals as necessary; and maintained in accordance with the provision of Act 87 of Public Acts of 1965, as amended.
- 78. SETBACK:** The minimum horizontal distance between the street, rear or side lines of the lot and the front, rear or side lines of the building. When two or more lots under one ownership are used, the exterior property lines so grouped shall be used in determining offsets.
- 79. SCHOOL:** A building used for the purpose of elementary or secondary education which meets all requirements of compulsory education laws of the State of Michigan and not providing residential accommodations.
- 80. SHOPPING CENTER:** A group of commercial establishments planned, developed, owned and managed as a unit, with off-street parking provided on the property, and related in its locations, size and type of shops to the trade area which the unit serves.
- 81. SIGNS:** Any words, numbers, figures, devices, designs or trademarks, other than billboards, by which anything is make known and which are visible from the exterior of the structure.
- 82. SPECIAL USE:** A use specified in this Ordinance which requires a special use permit issued by the Township Board and is not considered to be a nonconforming use.

- 83. SPECIAL LAND USE:** A use specified in this Ordinance which requires a special land use permit issued by the Township Board and is not considered to be a nonconforming use.
- 84. STORY:** The part of a building, included between the surface of one floor and the surface of the next floor or if there is no floor above, than the ceiling next above.’
- 85. STREET:** A thoroughfare which affords the principal means of access to abutting property.
- 86. STREET, MAJOR:** A public way, the principal use of which is to give access to abutting properties.
- 87. STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground
- 88. STRUCTURAL ALTERATION:** The erection, strengthening, removal, or other change of the supporting elements of a building, such as footings, hearing walls, beams, columns and the like.
- 89. SWIMMING POOL:** Any artificially constructed, portable or non-portable pool capable of being used for swimming or bathing, having a depth of three (3) feet or more at any point.
- 90. TRAILER COACH:** Same as Mobile Home.
- 91. TRAILER COACH PARK:** Same as Mobile Home Park.
- 92. UNDEVELOPABLE LAND:** Land which has soil types or high water condition which presents severe limitations on septic tank and tile fields.
- 93. USABLE FLOOR AREA:** The area for the purpose of computing parking and off-street loading and unloading space, is that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise utilized shall be excluded from this computation of the “usable floor area”. Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.
- 94. USE:** The purpose for which land or premises of a building thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.
- 95. VARIANCE:** A modification of the literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provisions would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.
- 96. YARD:** An open space on the same lot with the main building, unoccupied and unobstructed from the ground upward except as otherwise provided in the Ordinance. Yards shall be measured from overhand drip edge of buildings.

Front yard: A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building.

Rear yard: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.

Side yard: A yard between the main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured

horizontally from the nearest point of the side lot line to the nearest point of the main building.

97. ZONING ACT: The Michigan Zoning Enabling Act, Act 110 of 2006 of the Public Acts of Michigan, as amended.

98. ZONING ADMINISTRATOR: The person(s) designated by the Township to administer the provisions of this Zoning Ordinance.

99. ZONING BOARD OF APPEALS: The Zoning Board of Appeals of Claybanks Township.

AMENDMENTS TO THE CODE OF ORDINANCES

Claybanks Township Animal Control Nuisance & Public Safety Ordinance #16
(As amended through 09-03-03)

ANIMAL CONTROL ORDINANCE

AN ORDINANCE TO PROVIDE REGULATIONS FOR THE CONTROL OF ANIMALS WITHIN THE TOWNSHIP OF CLAYBANKS, OCEANA COUNTY, MICHIGAN, TO PROMOTE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE, TO PRESCRIBE PENALTIES FOR THE VIOLATIONS OF THIS ORDINANCE, TO PROVIDE FOR THE EFFECTIVE DATE OF THIS ORDINANCE, AND TO REPEAL ORDINANCES WHICH ARE INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE.

THE TOWNSHIP OF CLAYBANKS, COUNTY OF OCEANA, AND STATE OF MICHIGAN ORDAINS:

Section 1. TITLE.

This Ordinance shall be from and may be cited as the Claybanks Township Animal Control Ordinance.

Section 2. AUTHORITY.

This Ordinance is adopted pursuant to the provisions of Michigan Public Act 246 of 1945, as amended.

Section 3. PURPOSE.

The purpose of this Animal Control Ordinance is to provide for the preservation of public peace and to protect the health, safety and welfare of Township citizens by regulating the control of domestic animals by their owners.

Section 4. DEFINITIONS.

The following words and phrases are hereby defined.

- A. Adequate Care. The provision of sufficient food, water, shelter, sanitary conditions, and veterinary medical attention in order to maintain an animal in a state of good health.
- B. Animal. Any living, vertebrate creature, domestic or wild, not including a human being.
- C. Animal Control Officer. Any person designated by the Township to enforce the provisions of this Ordinance or any law enforcement officer empowered to enforce Township ordinances.
- D. Animal Pound. Any animal shelter where a Domestic Animal may be impounded. The animal pound may be maintained by the Township, by the Oceana County Humane

Society, or by any third party which operates an Animal shelter and which contracts with the Township.

- E. At Large. Off the premises of the owner and not under control of the owner, or a member of the owner's immediate family, by leash, cord, chain or otherwise.
- F. Dangerous Animal. Any animal which, without provocation, attacks or injures a person who is peaceably conducting themselves in any place where they lawfully may be. Dangerous animals shall also include any animal which, because of its size, vicious propensity or other characteristic, would constitute a danger to human life, property, or domestic animals if not restrained or kept in a safe manner.
- G. Dog. Any animal in the canine family, of either or no sex, and of any age.
- H. Domestic Animal. An animal kept as a pet including, but not limited to, all dogs and cats.
- I. Kennel. A kennel shall be construed as an establishment wherein or whereon three (3) or more dogs are confined and kept for sale, boarding, breeding or training purposes for remuneration. (Added by amendment dated 09-03-03.)
- J. Kennel Operator. Any person who operates an establishment, other than an animal shelter, where dogs and/or cats are maintained for boarding, training, or similar purposes for a fee or compensation; or who sells, exchanges, or offers for adoption with or without charge, dogs and/or cats which he or she produced or raised.
- K. Neglect. Failure to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.
- L. Owner. Any person who has a right or property interest in an animal, who keeps or harbors an animal, who has an animal in his or her care, who acts as custodian of an animal, or who knowingly permits any domestic animal to remain on or about any premises occupied by him or her.
- M. Person. Any corporation, partnership, limited liability company, association or other legal entity, as well as a natural human being.
- N. Police Officer. Any person employed by the Township or by the State or County and whose duty it is to preserve the peace or to make arrests or to enforce the law.
- O. Public Nuisance. Any animal or animals which:
 - (1) Chases passerby or passing vehicles;
 - (2) Attacks other animals;
 - (3) Is at large three (3) or more times within a year's time;
 - (4) Damages private property; or

(5) Barks, howls, yelps, or other sounds, or runs at large, so as to disrupt the peace of the neighborhood.

P. Restrain. An animal shall be deemed under restraint if:

(1) It is under the control of its owner or other responsible person by means of a leash, cord, rope, strap, chain, or lead held by such owner or person and securely fastened to the collar or harness attached to the Animal; or

(2) It is securely enclosed, confined, or restrained on the premises where it may lawfully be so as to be unable to enter upon the public way or to molest persons lawfully using the public way.

A. Confinement. All dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided below. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a concrete bottom or floor attached to the sides of the pen and the sides of the pen must be embedded in the ground no less than two feet. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

P. Sanitary Conditions. Space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal's health. This definition does not include a condition resulting from any customary and reasonable practice pursuant to farming or animal husbandry.

Q. Shelter. Adequate protection from the elements suitable for the age and species of the animal and weather conditions to maintain the animal in a state of good health, including structures or natural features such as trees and topography.

R. State of Good Health. Freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

S. Water. Potable water that is suitable for the age and species of the animal, made regularly available unless otherwise directed by a veterinarian licensed to practice veterinary medicine.

Section 5. KEEPING OR HOUSING OF DANGEROUS ANIMALS.

The keeping or housing of dangerous animals shall only be permitted within the Township as defined in Section 4.P.2.A.

Section 6. DOG LICENSE.

No owner of any dog shall own, harbor, maintain, possess or permit any dog to remain on such owner's premises within the Township unless the owner shall have complied with the laws of the State providing for the licensing and registration of the dog. Every owner of a dog shall be required to provide the dog with a collar to which the license tag issued for that dog shall be affixed. The owner shall be responsible to see that the collar and tag are worn by the dog constantly when it is off the owner's property.

Section 7. HARBORING, KEEPING DOMESTIC ANIMALS; PROHIBITIONS.

- A. Prohibited Acts. It shall be unlawful for any owner to keep, harbor or have charge of any domestic animal, whether licensed or unlicensed, when any one or more of the following facts exist:
- (1) The Animal has an ugly or vicious disposition, shows vicious habits and/or has molested any person or animal lawfully in or upon any public street or place. For purposes of this section, any animal that has bitten or attacked another person shall be rebuttably presumed to be vicious.
 - (2) The domestic animal has attacked or bitten any person or has destroyed any property or other domestic animal;
 - (3) The domestic animal appears to be suffering from rabies or affected with hydrophobia, mange or other infectious or dangerous disease;
 - (4) The domestic animal, by destruction of property or trespassing upon the property of others, has become a nuisance in the vicinity where kept, as witnessed by an Animal Control Officer or any two (2) persons from two (2) separate households in the vicinity where the domestic animal is kept; or
 - (5) The domestic animal, by loud barking, howling, yelping, whining, meowing or other sound, has become a nuisance in the vicinity where kept, as witnessed by an Animal Control Officer or any two (2) persons from two (2) separate households in the vicinity where the domestic animal is kept.
 - (6) No more than six (6) dogs over the age of four (4) months shall be allowed on any lot or series of contiguous lots under common ownership. (Added by amendment dated 09-03-03.)
- B. Running at Large. No person shall cause or permit any animal kept by him or her to run at large within the Township. Animals which are on any street, alley, sidewalk, path, public park, or any other public place, without being restrained, shall be deemed to be running at large. It shall be unlawful to permit any animal to run at large on the property of another without the permission of the owner of that property.
- C. Keeping of Wild Animals. No person shall keep or permit to be kept on his or her premises any wild animal (such as, but not limited to, bear, deer, large snakes, large reptiles, or large members of the cat family) as a pet or for display or exhibition purposes,

unless he or she has obtained a permit from the State of Michigan authorizing such activity and complies with the Township Zoning Ordinance. This subsection shall not apply to performing animal exhibitions or circuses. An Animal Control Officer shall have the power to release or order the release of any wild animal capable of surviving in the wild and/or turn such animal over to any agency authorized by the State of Michigan to house wildlife.

D. Keeping Dangerous Animals.

- (1) No Person shall permit any dangerous animal to be on any private or public property, other than the owner's property, unless such animal is securely muzzled or caged. Adequate safeguards shall be taken to prevent unauthorized access to a dangerous animal on the owner's premises by persons unlawfully on the premises.
- (2) Whenever an Animal Control Officer determines upon personal observation or investigation that an animal is a dangerous animal, as defined in this Ordinance, the officer shall notify the owner of the animal in writing of the determination, the reasons for the determination, and the requirements of this section regulating the keeping of dangerous animals.
- (3) Any dangerous animal running at large and which cannot safely be taken or impounded may be destroyed by an Animal Control Officer, provided, however, that in all cases where the Animal has seized or bitten any person or animal with its teeth or jaws so as to cause a puncture or abrasion of the skin, or where the animal is suspected to be rabid, no injury should be done to the head of the Animal.

E. Diseased Animals. It shall be unlawful for an owner to permit a domestic animal afflicted with a contagious disease to run at large or to be exposed in any public place whereby the health of any other animal or person may be affected.

F. Abandoned or Unwanted Animals. It shall be unlawful to abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless the premises are temporarily vacated for the protection of human life during a disaster. An animal that is lost by an owner or custodian while traveling, walking, hiking or hunting shall not be regarded as abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal. Unwanted animals shall be offered to an Animal Shelter. If an unwanted animal is not accepted by an Animal Shelter, the animal shall be humanely dispatched by a licensed veterinarian.

G. Order to Show Cause Why Animal Should Not be Destroyed. An Animal Control Officer may issue a citation for a violation of this section or a complaint may be filed in the District Court of Oceana County, and the District Court shall thereupon issue a summons to the owner of such animal to show cause why the animal should not be killed or otherwise disposed of as ordered by the Court. Upon hearing, the District Court Judge, upon finding that one or more of the facts as set forth in this section exists, shall order the animal to be killed or otherwise disposed of as ordered by the Court. All costs incurred for the disposition of the animal shall be paid by the owner. Such action shall be in addition to any penalty imposed pursuant to Section 13 of this Ordinance.

Section 8. CARE AND TREATMENT OF ANIMALS.

- A. Humane Care. No person shall cruelly treat, beat, torment, overload, overwork, or otherwise abuse any animal. No owner of an animal shall neglect or fail to provide such animal with adequate care.
- B. Inhumane Treatment. No person shall cause any animal to be subjected to cruel or inhumane treatment, including, but not limited to:
- (1) The unnecessary separation of a female animal from its offspring before such time as the offspring can survive such separation;
 - (2) Painting, dyeing, or otherwise coloring any animal as a novelty or for purposes of sale, exchange or adoption;
 - (3) Promoting, inciting, or conducting animal fights or the intentional killing of animals for wagering or entertainment;
 - (4) Keeping an animal in any container or other enclosed area without sufficient food, water, light, ventilation, and care for an unreasonable length of time so as to cause undue discomfort or suffering;
 - (5) The transporting of any living animal on the running board, fenders, hood, or other outside part of any vehicle unless suitable harness, cage or enclosure is provided so as to protect such animal from falling or being thrown therefrom.

Section 9. PENALTIES.

Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction punishable by a civil fine and other relief in accordance with or provided by Claybanks Township Civil Infraction Ordinance, as may be amended from time to time.

Section 10. ADMINISTRATIVE LIABILITY.

No Township officer, agent, appointee, contractor or employee, or member of the Township Board, shall be personally liable for any damage that may accrue to any person as a result of any act, decision or other consequence or occurrence arising out of the discharge of duties and responsibilities pursuant to this Ordinance.

Section 11. SEVERABILITY AND CAPTIONS.

This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses hereof are declared to be severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 12. REPEAL.

All other ordinances, parts of ordinances, or amendments thereto, any of which are in conflict with the provision of this Ordinance, are hereby repealed in their entirety to the extent of such conflict.

Section 13. EFFECTIVE DATE.

This Ordinance was approved and adopted by the Township Board of Claybanks Township, Oceana County, Michigan, on August 18, 2003. This Ordinance shall be effective on August 18, 2003.

ORDINANCE #17 – CLAYBANKS TOWNSHIP CEMETERY ORDINANCE

AN ORDINANCE TO DEFINE THE RULES AND REGULATIONS RELATING TO THE OPERATION, CONTROL AND MANAGEMENT OF CEMETERIES OWNED BY THE TOWNSHIP OF CLAYBANKS, OCEANA COUNTY, MICHIGAN AND TO REPEAL ALL ORDINANCES OR PART OF ORDINANCES IN CONFLICT THEREWITH.

SECTION 1: TITLE

This ordinance shall be known and cited as the Claybanks Township Cemetery Ordinance.

SECTION 2: DEFINITION OF CEMETERY LOTS

A cemetery lot shall consist of burial spaces sufficient to accommodate either 4, 5 or 6 grave sites as defined on the appropriate cemetery lot map that is maintained by the Claybanks Township Clerk.

SECTION 3: SALE OF LOTS OR BURIAL SITES

- A. Cemetery lots shall be regarded as sold when paid for in full. Lot owners shall understand that title to the land is vested in the township and that the buyer's deed grants to the buyer the exclusive use of the grave site(s) for burial purposes only.
- B. Cemetery lots or grave sites shall be sold only to residents or taxpayers of the township for the purpose of the burial of such purchaser or his or her family. Ownership shall not be assigned or transferred to any other person except family members or to the Township of Claybanks. The township clerk, however, is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the township through previous residence in the township or relationships to persons interred within.
- C. A grave site(s) deed revision must be issued by the township clerk prior to interment of any person eligible for burial that is not named on a valid deed.
- D. Grave site(s) may not be resold or transferred to any person or entity other than the township. Sites can be resold to the township at the prevailing selling price.

SECTION 4: PURCHASE PRICE AND TRANSFER FEES

- A. The township board shall establish a fee schedule and, by resolution, may periodically alter the fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition, and at its discretion establish fees for perpetual care of grave sites.
- B. All fees shall be collected by the township clerk and are to be deposited in the township general fund.

SECTION 5: GRAVE OPENING COSTS

The opening and closing of any grave site shall be at the cost of the family. Any charge for interments shall be billed directly from the funeral home to the family.

SECTION 6: INTERMENT REGULATIONS

- A. All interments, including cremations, must be made under the direction of the township clerk, or designated official. It is the responsibility of the township clerk to verify the correct location of the grave site and the eligibility of the person being interred.
- B. Interments may be restricted during the winter months during inclement weather at the discretion of the township clerk.
- C. All conventional burials must be placed in a concrete vault. Cremation burials must be in a vault, however, it does not have to be concrete.
- D. The interment of only one person per grave site is allowed with the following exceptions:
 - a A mother and infant or two children buried at the same time.
 - b Two burials of cremated remains.
- E. The scattering of cremated remains over a family lot or anywhere in the cemetery is prohibited. All cremated remains must be interred.
- F. All grave sites shall be oriented East/West direction and headstones shall be placed on the West end of the site. The township clerk, however, is hereby granted the authority to vary the aforesaid restriction on marker location as required to match existing marker locations or to avoid obstructions, trees, etc.

G. SECTION 7: MARKERS OR MONUMENTS

- A. The township clerk or designated official shall direct the placement of all markers or monuments.
- B. All markers and monuments must be of granite, cast bronze, or other equally durable composition.

- C. Markers in the Flower Creek Cemetery are to be read from the West side. Markers in the Pine Grove Cemetery shall be read from the East side, except they may be read from the West to conform to an existing marker or markers on the same lot.
- D. All markers must be located upon a foundation maintaining the monument in an erect and level position. All foundations must be installed by the sexton following the following basic rules:
 - a. Foundations must be 4 inches thick minimum. Large monuments may be required to be thicker and re-enforced with wire or rerod.
 - b. The top surface of the foundation must be at least as large as the base of the marker or monument.
 - c. The top of the foundations must be at ground level to 1 inch above the ground level.
 - d. It is allowed and recommended that foundations be extended to accommodate urn(s).
 - e. The sexton shall not install foundations or markers/monuments without approval from the township clerk.
- E. Grave markers shall not be altered or removed without the authorization of the township clerk.
- F. Single grave markers shall be allowed to 18 inches in height. Double markers shall be allowed to 24 inches in height. Single or double markers shall not exceed 48 inches in width.
- G. Family monuments shall be allowed up to five feet in height, but the base must not cover more than 10% of the area of the lot.

SECTION 8: GROUND MAINTENANCE

- A. The township clerk or designated official shall have the authority to authorize actions necessary to enforce the following rules and direct maintenance activities.
 - a) No grading, leveling or excavating upon a grave site shall be allowed without the permission of the township clerk or designated official.
 - b) Planting of trees, bushes, spreading plants or climbing vines is not allowed.
 - c) No lot fences, corner markers, barriers, stone or mulch are allowed.
 - d) No glass, wire, metal or plastic containers or supports are allowed that may be a maintenance hazard.
 - e) Flowers shall be placed as to not interfere with mowing and maintenance of the area.
 - f) All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located in the cemetery if available.
 - g) The township shall have the right and authority to remove and dispose of any and all growth, emblems, display, or containers that through decay deterioration, damage or otherwise become unsightly, a source of litter, or a maintenance problem.

- h) The township reserves the right to remove or trim any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- i) Whenever markers or monuments are improperly installed, become unsightly, or a safety hazard, the township shall have the right to correct or remove the same.

SECTION 9: FORFEITURE OF VACANT GRAVE SITES

Grave sites that remain vacant 40 years from the date of their sale shall automatically revert to the township upon occurrence of the following events:

- a) Notice shall be sent by the township clerk by first class mail to the last known address of the last owner of record informing him or her of the expiration of the 40 year period and all rights with respect to said grave site(s) will be forfeited if they do not affirmatively indicate in writing to the township clerk within 60 days from the date of mailing of the said notice their desire to retain said burial rights.
- b) No written response to said notice indicating a desire to retain the burial rights for the indicated grave site(s) is received by the township clerk from the last owner of record, heirs or legal representative within 60 days from the date of mailing of said notice.

SECTION 10: RECORDS

The township clerk shall maintain permanent records concerning all burials, issuance of deeds, and records of deed ownership, separate and apart from any other records of the township and the same shall be open to public inspection by appointment at reasonable hours.

SECTION 11: CEMETERY COMMITTEE

The township board shall maintain a committee of at least 5 members, one of whom must be the township clerk, to advise the board on cemetery issues.

SECTION 12: SEVERABILITY

The provision of this ordinance are hereby declared to be severable and should any provision, section or part thereof be declared invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section or part thereof involved in such decision and shall not affect or invalidate the remainder of such ordinance which shall continue in full force and effect.

SECTION 13: EFFECTIVE DATE

This ordinance shall take effect 30 days from its publication. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Ordinance No. 2004-18

SHORT TITLE: AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE TOWNSHIP OF CLAYBANKS TO INCLUDE REGULATIONS PERTAINING TO DANGEROUS ANIMALS.

THE TOWNSHP OF CLAYBANKS HEREBY ORDAINS:

Section 1: Purpose: To amend the Code of Ordinances for the Township of Claybanks to include regulations governing possession of dangerous animals so as to preserve the health, safety and welfare of the residents and guests of the Township.

Section 2: That the Code of Ordinances shall be amended as follows:

Sec. 1 Definitions

Dangerous animals means and includes:

- a. Any mammal, amphibian, reptile or fowl which is of a species which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species whose average adult weight is twenty (20) pounds or more, foxes, elephants, alligators, crocodiles, and snakes which are poisonous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.
- b. Any dog or cat having a disposition or propensity to attack or bite any person or animal without provocation is hereby defined as “dangerous animal.”
- c. Any pit bull dog. “Pit bull dog” is defined to mean any and all of the following dogs:
 - (1) The Staffordshire Bull Terrier breed of dogs.
 - (2) The American Staffordshire Terrier breed of dogs.
 - (3) The American Pit Bull Terrier breed of dogs.
 - (4) Dogs which have the appearance and characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier, or American Staffordshire Terrier.

Person includes any natural person, association, partnership, organization or corporation.

Sec. 2 Prohibition

Except as provided in Sections 3 and 4, no person shall own, keep, or harbor any dangerous animal in the Township.

Sec. 3 Exceptions.

Any person or organization which falls into one of the following categories shall be permitted to own, harbor or have charge, custody, control, or possession of any animal described in Section 1.

- (1) The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study.
- (2) The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show.
- (3) The keeping of such animals in a bona fide, licensed veterinary hospital for treatment.
- (4) Commercial establishments possessing such animals for the purpose of sale or display.
- (5) The keeping of such animals, the purpose or use of which is intended to provide security for commercial or business premises.

Sec. 4 Dangerous Animal.

The keeping of a Dangerous Animal as defined in Sec. 1 herein, shall be subject to the following mandatory requirements.

- (a) Leash and Muzzle. No person shall permit a dangerous animal to go outside its kennel or pen unless such dangerous animal is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dangerous animals may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all dangerous animals on a leash outside the animals' kennel must be muzzled by a muzzling device sufficient to prevent such dangerous animals from biting persons or other animals.
- (b) Confinement. All registered dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All such structures

must be adequately lighted and ventilated and kept in clean and sanitary conditions.

- (c) Confinement Indoors. No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the dangerous animal to exit such building of its own volition. In addition, no such animal may be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dangerous animal from exiting the structure.
- (d) Signs. All owners, keepers or harborers of dangerous animals within the Township shall within ten (10) days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dangerous Animal". In addition, a similar sign is required to be posted on the kennel or pen of such animal.
- (e) Insurance. All owners, keepers or harborers of dangerous animals must within ten (10) days of the effective date of this ordinance provide proof to the Township Clerk of public liability insurance in a single incident amount of Fifty Thousand Dollars (\$50,000) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. At the time of initial registration the owner, keeper or harborer must present proof to the Township Clerk of required insurance. At the time of subsequent registration the owner, keeper or harborer must show proof of insurance for the present registration period and proof that there was insurance coverage throughout the period of the prior registration year. In the event the liability insurance is canceled, lapsed, or for any other reason becomes nonenforceable, the owner, keeper, or harborer shall be in violation of the provisions of this division and subject to the penalties provided herein.
- (f) Identification Photographs. All owners, keepers or harborer of dangerous animals must within ten (10) days of the effective date of this ordinance provide to the Township Clerk two (2) color photographs of the animal clearly showing the color and approximate size of the animal.
- (g) Reporting Requirements. All owners, keepers or harborers of registered dangerous animals must, within ten (10) days of the incident, report the following information in writing to the Township Clerk as required hereinafter.
 - (1) The removal from the Township or death of a registered dangerous animal.
 - (2) The birth of offspring of a registered dangerous animal.

- (3) The new address of the dangerous animal owner should the owner move.
- (h) Animals Born of Registered Dangerous Animals. All offspring born of dangerous animals registered with the Township must be registered with the Township within six (6) weeks of birth of such animal.
- (i) Failure to Comply. It shall be unlawful and a misdemeanor for any person, owner, keeper or harbinger of a dangerous animal registered with the Township Clerk to fail to comply with the requirements and conditions set forth in this division. Any dangerous animal found to be the subject of a violation of this division shall be subject to immediate seizure and impoundment. In addition, failure to comply with the requirements and conditions set forth in this chapter shall result in the revocation of the license of such animal and the permit providing for the keeping of such animal, resulting in the immediate removal of the animal from the Township.

Sec. 5 Severability. The provisions of this Ordinance are declared to be severable, and the holding of any court of competent jurisdiction that any section hereof is invalid shall not impair or invalidate any other section.

Sec. 6 Repeal of Conflicting Ordinances. All Ordinances in conflict with this Ordinance to the extent of such conflict are hereby repealed.

Sec. 7 Effective Date. This Ordinance will become effective immediately.

Introduced:	<u>December 13, 2004</u>	Adopted:	<u>December 13, 2004</u>
Published:	<u>December 16, 2004</u>	Effective:	<u>December 13, 2004</u>

**CLAYBANKS TOWNSHIP PARK RULES & REGULATIONS
Ordinance 2005-19**

AN ORDINANCE TO PROVIDE RULES AND REGULATIONS FOR CLAYBANKS TOWNSHIP PARK, CLAYBANKS TOWNSHIP, OCEANA COUNTY, MICHIGAN TO PROMOTE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE, TO PRESCRIBE PENALTIES FOR THE VIOLATIONS OF THE ORDINANCE, TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE, AND TO REPEAL ORDINANCES WHICH ARE INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE.

THE TOWNSHIP OF CLAYBANKS, COUNTY OF OCEANA, AND STATE OF MICHIGAN ORDAINS:

Section 1. That person(s) within the Claybanks Township Park shall:

1. Not destroy, damage, deface or remove any tree, shrub, plant, improvement, building, picnic table and/or other facilities within the park.
2. Not be present in the park between the hours of 11:00 p.m. and 6:00 a.m. unless registered at a campsite. Visitors must leave the park by 11:00 p.m. The park entrance gate will be locked at 11:00 p.m.
3. Not permit or register more than four adults to each campsite, nor more than eight people, including children. There must be a person of at least 18 years of age registered and present at each campsite.
4. Not camp without first securing a permit and registering the names, addresses and ages of all persons covered by the permit. Registered campers may be held responsible for their visitor's actions. Eviction of campsite visitors may also result in the eviction of the registered camper(s).
5. Not check in before 3:00 p.m. Check out time is 1:00 p.m.
6. Not post or distribute any advertising or conduct any peddling or soliciting, except with Township Board permission.
7. Not use any loudspeakers, public address system or sound amplifying equipment so as to be heard more than twenty-five (25) feet from such equipment. None of the above may be used between 10:00 p.m. and 10:00 a.m.
8. Not bring or consume any alcoholic beverages in the park.
9. Not be under the influence or have possession of illegal drugs or any kind of controlled substance.
10. Not build or maintain fires of wood or charcoal outside the fire rings within the assigned campsite or picnic area. No fire may be left unattended.
11. Not engage in any violent, abusive, loud, boisterous, vulgar, lewd, wanton, obscene or otherwise disorderly conduct tending to create a breach of peace or disturb or annoy others, or to lounge, sit or lie upon walks, passages, steps or porches which would obstruct the free passage of others.
12. Not deposit refuse or waste matter which has originated outside the park in receptacles provided for park users, shall not set fire to the contents of a trash container, or place or burn garbage in a fire ring or stove.
13. Deposit waste materials in designated containers only.
14. Not have a glass container within any land or water area designed as a bathing beach. All beach users are responsible for removing and properly disposing of their trash.
15. Not operate any motor propelled vehicle at a speed greater than ten (10) miles per hour.
16. Not operate "off-road" vehicles within the park.
17. Not be allowed more than two vehicles per campsite. All motor vehicles parked at the campsite must belong to the registered camper(s) at the site. Motorcycles may or may not be counted as a motor vehicle at the discretion of the park management.
18. Not use electrical power unless registered at a designated electrical campsite. Electrical cords used for the purpose of providing electricity to a non-electrical site are forbidden.
19. Keep all dogs, or other domesticated animals on a leash at all times. No horses are allowed in the campground. Pet owners must clean up after their pets. No animals shall be left unattended.
20. Not possess a firearm, air gun, gas gun, spring-loading gun, slingshot, bow-and-arrow, or fireworks within the developed area of the park.
21. Not hunt, trap, kill, wound, capture or intentionally disturb any bird, animal or other wildlife within the developed area of the park.
22. Park in the designated "Day Parking" area if a visitor and their vehicles will be appropriately tagged by park management.

- 23. Not extend days of camping except by re-registration before 11:00 a.m. on the last registered day, subject to availability of sites based on incoming registrations.
- 24. Any campers or visitors evicted from the park for violation of the Park Ordinance will not be allowed within the park if they have been previously evicted or expelled because of a violation of this Ordinance.
- 25. Any violation of this Ordinance resulting in eviction will also result in forfeiture of all fees collected.

Section 2. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction punishable by a civil fine and other relief in accordance with or provided by Claybanks Township Civil Infraction Ordinance, as may be amended from time to time.

Section 3. Severability. Should any part of this ordinance be held invalid by a court of competent jurisdiction, the remaining parts shall be severable and shall continue in full force and effect.

Section 4. Repeal of Conflicting Ordinances: All Ordinances in conflict with this Ordinance to the extent of such conflict are hereby repealed.

Section 5. Effective Date: This Ordinance was approved and adopted by the Township Board of Claybanks. It will be effective thirty (30) days after publication.

Introduced: April 11, 2005 Adopted: April 11, 2005

Published: April 17 & 21, 2005 Effective: May 21, 2005

TOWNSHIP OF CLAYBANKS
MASS GATHERING ORDINANCE
Ordinance No. 2012-1

AN ORDINANCE TO PROVIDE A LICENSING PROCEDURE FOR MASS GATHERINGS TO INSURE THE PUBLIC HEALTH, SAFETY AND WELFARE BY PROPER PLANNING FOR AND USE OF TOWNSHIP SERVICES AND PERSONNEL.

THE TOWNSHIP OF CLAYBANKS ORDAINS:

Section 1. Definitions.

The following terms, as used in this Ordinance, are hereby defined to mean:

- a. "Licensee" shall mean any person to whom a license is issued pursuant to this Ordinance.
- b. "Mass gathering" shall mean an organized outdoor event reasonably expected to attract three hundred (300) people or more held at a single location on either public or private land within the Township; provided, however, a mass gathering shall not include an outdoor event of any size that is sponsored by an elementary or secondary school recognized as such by the State of Michigan, wedding receptions, auctions, church events, graduation parties, reunions or similar events.
- c. "Person" shall mean any natural person, partnership, corporation, limited liability Company, association, organization, or other legal entity.
- d. "Sponsor" shall mean any person who organizes, promotes, conducts or causes to be organized, promoted or conducted a mass gathering.
- e. "Township" shall mean the Township of Claybanks.

Section 2. License Requirements.

2.1 Necessity of License

A person shall not sponsor, maintain, conduct, promote or permit a mass gathering in the Township of Claybanks without first obtaining a license from the Township Board for each such mass gathering.

2.2 Application for License

No later than sixty (60) days before the proposed mass gathering, the sponsor(s) of the mass gathering shall submit in writing an application for a mass gathering license to the Township Clerk on such forms and in such manner as the Township prescribes. The application shall contain:

- (1) The name(s), address(es) and telephone number(s) of the proposed mass gathering

sponsor(s).

- (2) The date(s) and estimated hours of the proposed mass gathering.
- (3) A description of the kind, character and type of mass gathering proposed.
- (4) The address or location of the site at which the proposed mass gathering will be held, including a written statement from the property owner consenting to the use of his or her property for the proposed mass gathering.
- (5) An estimate of the maximum number of people expected to attend the proposed mass gathering.
- (6) A written statement that indicates how the sponsor(s) plans to provide for the following:
 - (a) Police and fire protection.
 - (b) Medical facilities and services, including emergency vehicles and equipment.
 - (c) Food and water supply facilities.
 - (d) Health and sanitation facilities.
 - (e) Vehicle access and parking facilities.
 - (f) Cleanup and waste disposal.
 - (g) Noise control.
 - (h) Insurance and bonding arrangements.

2.3 Application Fee

Each application for a mass gathering license shall be accompanied by a non-refundable fee in an amount established from time to time by the Township Board by resolution.

2.4 Action on Application

After receiving an application for a mass gathering license and the appropriate fee, the Township Board shall consider the information contained in the application and shall, if necessary, investigate or cause to be investigated the circumstances surrounding the proposed mass gathering, including the suitability of the site for the proposed mass gathering, the length of the proposed mass gathering, the number of people anticipated to attend, whether there is a conflict with other uses of the site, the increased demands on the police and fire departments and emergency medical resources, and the sponsor's plans to provide adequate food and water facilities, bathroom facilities, disposal of solid waste and garbage and vehicle parking and access to the site. Within thirty (30) days after receiving an application for a mass gathering license, the Township Board shall approve the application and issue the mass gathering license, unless after considering the above factors, it finds by a preponderance of the evidence that holding the mass gathering as proposed in the application would be detrimental to the public health, safety and welfare of the Township. If the Township Board denies a mass gathering license, the Township Clerk shall send written notice of the denial, including the reasons for the denial, to the sponsor(s) by certified mail within five (5) days of the denial decision.

Section 3. Violations.

3.1 Nuisance Per Se

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

3.2 Civil Remedies

Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction punishable by a civil fine and other relief in accordance with or provided by Claybanks Township Civil Infraction Ordinance, as may be amended from time to time.

Section 4. Severability.

If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and, to this end, this Ordinance is declared to be severable.

Section 5. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Township.

Mary A. Freye
Claybanks Township Clerk

TOWNSHIP OF CLAYBANKS
FIREWORKS ORDINANCE
Ordinance 2013-1

AN ORDINANCE TO PROVIDE RULES AND REGULATIONS FOR THE USE, IGNITION
OR DISCHARGE OF FIREWORKS WITHIN CLAYBANKS TOWNSHIP

THE TOWNSHIP OF CLAYBANKS ORDAINS:

Section 1. Purpose

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Township of Claybanks by regulating the ignition, discharge or use of fireworks.

Section 2. Regulation of Fireworks.

(a) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without the organization's or person's express permission to use those fireworks on those premises.

(b) This section shall not prohibit the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, or special effects manufactured for outdoor pest control or agricultural purposes, or for public or private display within the township by, fair associations, amusement parks, or other organizations or individuals after a permit for such use has been granted by the Township Board, pursuant to Public Act 256 of 2011, as amended.

© This section shall not, however, regulate the use of consumer fireworks by individuals over 18 years of age on the day preceding, the day of, or the day after a national holiday. On those exempt days, ignition, discharge or use of any fireworks between the hours of 1 a.m. and 8 a.m. is strictly prohibited.

(d) Consumer fireworks are hereby defined as fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, 3.5.

(e) Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction punishable by a civil fine and other relief in accordance with or provided by Claybanks Township Civil Infraction Ordinance, as may be amended from time to time.

Section 3. Severability.

Should any section, clause or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be invalid.

Section 4. Ordinance Repeal.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed upon the effective date of this Ordinance.

Section 5. Effective Date.

This Ordinance shall be effective thirty (30) days after publication.

Mary A. Freye
Claybanks Township Clerk

Introduced: December 9, 2013

Adopted: December 9, 2013

Published: White Lake Beacon – 12-22-13
Oceana Herald-Journal 12-26-13

Effective: January 25, 2014

Mary A. Freye, Clerk

**TOWNSHIP OF CLAYBANKS
COUNTY OF OCEANA, STATE OF MICHIGAN
ORDINANCE NO. 2018-1**

**ADOPTED: December 10, 2018
EFFECTIVE: January 20, 2019**

**PROHIBITION OF RECREATIONAL MARIJUANA ESTABLISHMENTS
ORDINANCE**

An ordinance to provide a title for the ordinance; to define words; to prohibit marijuana establishments within the boundaries of Claybanks Township pursuant to Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

**THE TOWNSHIP OF CLAYBANKS
OCEANA COUNTY, MICHIGAN**

ORDAINS:

**SECTION I
TITLE**

This ordinance shall be known as and may be cited as the Claybanks Township Prohibition of Marijuana Establishments Ordinance.

**SECTION II
DEFINITIONS**

Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.

**SECTION III
NO MARIJUANA ESTABLISHMENTS**

Claybanks Township hereby prohibits all marijuana establishments within the boundaries of the Township pursuant to Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, as may be amended.

**SECTION IV
VIOLATIONS AND PENALTIES**

1. Any person who disobeys neglects or refuses to comply with any provision of this ordinance or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.

2. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
3. Each day during which any violation continues shall be deemed a separate offense.
4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
5. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township Board from time to time.

SECTION V
SEVERABILITY

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION VI
REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION VII
EFFECTIVE DATE

This ordinance shall take effect January 20, 2019

Claybanks Township
Mary A. Freye, Clerk

**TOWNSHIP OF CLAYBANKS
COUNTY OF OCEANA, STATE OF MICHIGAN
ORDINANCE NO. 2019-1**

**ORDINANCE ADDRESSING FLOODPLAIN MANAGEMENT PROVISIONS OF THE
STATE CONSTRUCTION CODE**

An ordinance to Designate an enforcing agency to discharge the responsibility of the Township of Claybanks, located in Oceana County, and to designate regulated flood hazard areas under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended.

The Township of Claybanks ordains:

Section 1. AGENCY DESIGNATED. Pursuant to the provisions of the state construction code, in accordance with Section b(6) of Act 230, of the Public Acts of 1972, as amended the Oceana County Building Inspector of the County of Oceana is hereby designated as the enforcing agency to discharge the responsibility of the Township of Claybanks under Act 280, the Public Acts of 1972, as amended, State of Michigan. The Township of Claybanks assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this ordinance.

Section 2. CODE APPENDIX ENFORCED. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 280, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the jurisdiction of the community adopting this ordinance.

Section 3. DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled "Oceana County, All Jurisdictions" and dated 8/4/2014 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26127CIND0A, 26127C0275C, and 26127C0375C dated 8/4/2014 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

Section 4. REPEALS. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 5. PUBLICATION. This ordinance shall be effective after legal publication and in accordance with the provisions of the Act governing same.

Adopted this 11th day of November, 2019.

This ordinance duly adopted on 11-11-2019 at the regular meeting of the Claybanks Township and will become effective 12-08-2019.

Signed on 11-11-2019 by _____, Clerk
Mary Freye

**CLAYBANKS TOWNSHIP
COUNTY OF OCEANA
STATE OF MICHIGAN**

**ORDINANCE NO.
2020-01
MUNICIPAL CIVIL INFRACTION ORDINANCE**

AN ORDINANCE TO DEFINE MUNICIPAL CIVIL INFRACTION AND RELATED TERMS, TO PROVIDE FOR PENALTIES AND SANCTIONS FOR VIOLATION OF TOWNSHIP ORDINANCES; TO AUTHORIZE CERTAIN TOWNSHIP OFFICIALS TO ISSUE MUNICIPAL CIVIL INFRACTION CITATIONS; TO REPEAL INCONSISTENT ORDINANCE PROVISIONS; TO PROVIDE FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND TO PROMOTE AND PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE CITIZENS OF CLAYBANKS TOWNSHIP.

THE TOWNSHIP OF CLAYBANKS ORDAINS:

Section 1: Title

This ordinance shall be known as the “Claybanks Township Civil Infraction Ordinance.”

Section 2: Definitions

A. The following words and phrases shall have the following meanings:

1. “Act” means Chapter 87 of the Revised Judicature Act of 1961, Public Act 236 of 1961, as amended (MCL 600.8701, *et seq*).
2. “Authorized Township official” means a township official, police officer, or other personnel or agent of the township authorized by this Ordinance or Township Board action to issue municipal civil infraction citations.
3. “Municipal Civil Infraction” means an action or omission that is prohibited by the ordinances of the Township, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by the Act as amended.
4. “Municipal civil infraction action” means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
5. “Municipal civil infraction citation” means a written notice prepared by an authorized township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
6. “Township” means Claybanks Township.

Section 3: Municipal Civil Infraction Action

3.1 Commencement

A municipal civil infraction action is commenced upon the issuance of a citation as provided for in the following section. The Plaintiff in a municipal civil infraction action is the Township.

3.2 Issuance

An authorized Township official may issue a citation to a person if:

- a. based upon first-hand personal observations and investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
- b. based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the attorney for the Township approves in writing the issuance of a citation.

3.3 Service

An authorized Township official shall personally serve a copy of the citation upon the alleged violator. If the authorized Township official is unable to personally serve the citation upon the alleged violator, it shall be served by registered mail to the owner's last known address.

Section 4: Municipal Civil Infraction Citation Contents

4.1 Form

A citation issued pursuant to this ordinance shall be on the State of Michigan Municipal Civil Infraction Citation form UC-03, as revised, and each citation shall be numbered consecutively. The citation may be modified as to content or number of copies to accommodate law enforcement and local court procedures and practices. Modification of the form must be approved by the State Court Administrator.

4.2 Copies

The original citation shall be filed with the court in which the appearance is to be made. The first copy shall be retained by the Township. The second copy shall be issued to the alleged violator if the violation is a misdemeanor. The third copy shall be issued to the alleged violator if the violation is a municipal civil infraction.

4.3 Signatures

A citation signed by an authorized Township official shall be treated as made under oath.

4.4 Contents

The citation shall contain the following:

- a. The name of the plaintiff;
- b. The name and address of the defendant;
- c. The defendant's date of birth;
- d. The municipal civil infraction alleged;
- e. The place where the defendant shall appear in court;
- f. The telephone number of the court; and
- g. The time at or by which the appearance shall be made.

Further, the citation shall inform the defendant that he or she may do one of the following:

- a. admit responsibility for the municipal civil infraction by mail, in person, or by representation at the time specified for appearance;
- b. admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance, in person, or by representation;

- c. deny responsibility for the municipal civil infraction by doing either of the following:
 - i.) appearing in person for a formal hearing with representation by counsel; or
 - ii.) appearing in person for an informal hearing without representation by counsel.

4.5 Enforcement

A person to whom a municipal civil infraction citation is issued shall appear by or at the time specified in the citation or other notice and may respond to the allegations in the citation.

If the person fails to appear as directed by the citation or other notice, then the court shall enter a default judgment against the person.

Section 5: Municipal Civil Infraction Penalties; Injunctive Relief

5.1 Penalties Generally

All fines, penalties, and assessments shall be issued in accordance with the Act, as amended, and any other applicable laws.

5.2 Violation; Continuing Violation

A “violation” includes any act which is prohibited or made an offense by Township ordinance and any omission or failure to act where the act is required by ordinance. Each day that a violation continues shall be considered a separate offense or violation.

5.3 Nuisance *per se*

Any violation of the Township’s ordinances involving the use or occupancy of land or a building or other structure shall be declared a nuisance *per se* and subject to injunctive relief and abatement by order of a court of competent jurisdiction.

5.4 Injunctive Relief

In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of a Township ordinance.

5.5 Sanctions

Unless otherwise specifically provided for a particular municipal civil infraction violation by resolution, the civil fine for a violation shall be not less than \$50.00, plus costs, including actual attorney fees incurred by the Township, and other sanctions, for each such infraction.

Increased civil fines may be imposed for repeat violations by a person of any requirement or provision of this ordinance. As used in this Section, “repeat violation” means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any 24 month period (unless some other period is specifically provided by ordinance), and (ii) for which the person admits responsibility or is determined to be responsible. The repeat violation shall be determined on the basis of the date of the violation. Unless otherwise specifically provided by

ordinance for a particular municipal civil infraction violation, the increased fine for a repeat violation shall be as follows:

- a. The fine for any violation which is a first repeat violation shall be no less than \$100.00, plus costs, including actual attorney fees incurred by the Township.
- b. The fine for any violation which is a second repeat violation or any subsequent repeat violation shall be no less than \$500.00, plus costs, including actual attorney fees incurred by the Township.

5.6 Violation Involving Land, Building, or Other Structure; Nonpayment of Civil Fine, Costs, or Installment; Lien

- A. If a defendant does not pay a civil fine, costs, or assessment or an installment ordered under this Ordinance or MCL 600.8727 within 30 days after the date on which payment is due under MCL 600.8727 in a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, the Township may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fines, costs, and assessment with the Oceana County Register of Deeds. The lien shall be effective immediately upon recording of the court order with the Oceana County Register of Deeds.
- B. The court order recorded with the Oceana County Register of Deeds shall constitute notice of the pendency of the lien. In addition, a written notice of the lien shall be sent by the Township by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.
- C. The lien may be enforced by the Township in the manner prescribed by the General Property Tax Act, Public Act 206 of 1893, MCL 211.1 to 211.57, or by an ordinance duly passed by the Township Board. However, property is not subject to sale under the General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.57, for nonpayment of a civil fine, costs, or assessment or an installment ordered under MCL 600.8727 unless the property is also subject to sale under the General Property Tax Act for delinquent property taxes.
- D. A lien created under this section has priority over any other lien unless 1 or more of the following apply:
 - (1) The other lien is a lien for taxes or special assessments.
 - (2) The other lien is created before May 1, 1994.
 - (3) Federal law provides that the other lien has priority.
 - (4) The other lien is recorded before the lien under this section is recorded.
- E. The Township may institute an action in a court of competent jurisdiction for the collection of the judgment imposed by a court order for a municipal civil infraction. However, an attempt by the Township to collect the judgment by any process does not invalidate or waive the lien upon the land, building, or structure.
- F. A lien provided for by this section shall not continue for a period longer than 5 years after a copy of the court order imposing a fine, costs, or assessment is recorded, unless within that time an action to enforce the lien is commenced.

Section 6: Authorized Township Officials

The following personnel are Authorized Township officials duly authorized to issue municipal civil infraction citations:

- a. Township Supervisor
- b. Township Clerk
- e. Township Zoning Administrator

The Township Board may by resolution authorize such other personnel to be Authorized Township officials to issue municipal civil infraction citations as it deems necessary and proper. The Township Board may also authorize the Township Supervisor to contract with the Oceana County Sheriff’s Department on behalf of the Township to enforce the Township’s ordinances.

Section 9: Severability and Captions

This ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this ordinance.

Section 10: Repeal

All resolutions, ordinances, orders or parts thereof in conflict in whole or in part with any of the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 11: Administrative Liability

No officer, agent, employee, or member of the Township Board shall render himself or herself personally liable for any damage which may occur to any person or entity as the result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to this ordinance.

Section 12: Effective Date

This Ordinance shall be effective 30 days after the date of publication pursuant to MCL 41.184.

We, Mary A. Freye, Township of Claybanks Clerk, and Richard Smith, Township of Claybanks Supervisor, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. 2020-01 of the Township of Claybanks, Michigan, was introduced and passed at a regular meeting of the Township Board, held on March 16, 2020, by an affirmative vote of the majority of the Township Board members.

Date: March 16, 2020

Richard Smith, Supervisor

Date: March 16, 2020

Mary A. Freye, Clerk

Introduced: March 16, 2020
Adopted: March 16 , 2020
Published: White Lake Beacon 3-29-2020 and Oceana's Herald Journal 4-3-2020
Effective: May 3, 2020

**TOWNSHIP OF CLAYBANKS
COUNTY OF OCEANA, STATE OF MICHIGAN**

ORDINANCE NO. 2020-4

PROHIBITION OF MARIJUANA ESTABLISHMENTS ORDINANCE

An ordinance to provide a title for the ordinance; to define words; to prohibit marijuana establishments within the boundaries of Claybanks Township pursuant to the Michigan Regulation and Taxation of Marijuana Act, Michigan Initiated Law 1 of 2018, MCL 33.27951, *et seq.*, as may be amended; to provide penalties for violation of this Ordinance; to provide severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

THE TOWNSHIP OF CLAYBANKS, OCEANA COUNTY, MICHIGAN, ORDAINS;

Section 1. Title. This Ordinance shall be known as and may be cited as the Claybanks Township Prohibition of Marihuana Establishments Ordinance.

Section 2. Definitions. Words used herein shall have the definitions as provided for in the Michigan Regulation and Taxation of Marijuana Act, Michigan Initiated Law 1 of 2018, MCL 333.27951, *et seq.* as may be amended.

Section 3. Marihuana Establishment Prohibition. The establishment, maintenance, and/or operation of "marijuana establishment[s,]" as defined by MCL 333.27953(h), are hereby prohibited within the boundaries of the Township of Claybanks.

Section 4. Violations and Penalties.

1. Any person who disobeys, neglects or refuses to comply with any provision of this Ordinance or who causes, allows, or consents to any of the same shall be deemed to be responsible for a municipal civil infraction. A violation of this Ordinance is deemed to be a nuisance *per se* and shall be abated by order of a court of competent jurisdiction.

2. A violation of this Ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies, including those remedies provided by the Claybanks Township Civil Infraction Ordinance. Additionally, the violator shall pay all costs and attorney fees incurred by the Township in connection with the prosecution of the municipal civil infraction and/or nuisance *per se*.

3. Each day which any violation continues shall be deemed a separate offense.

4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this Ordinance along with any other relief provided by law.

5. This Ordinance shall be administered and enforced by the Ordinance Enforcement Officer or the Authorized Township Official of the Township or by such other person(s) as designated by the Township Board from time to time.

Section 5. Severability and Captions. The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereby declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of this Ordinance, which shall continue in full force and effect. Pronouns shall be read as masculine, feminine or neuter as may be appropriate. Captions appearing at the beginning of any section shall not be deemed a part of this Ordinance and shall have no independent significance.

Section 6. Repeal. All ordinances or parts thereof which are in conflict in whole or in part with any provisions of this Ordinance as of the effective date of this Ordinance are hereby repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall be effective 30 days after publication pursuant to MCL 41.184.

We, Mary A. Freye, Township of Claybanks Clerk, and Richard Smith, Township of Claybanks Supervisor, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. 2020-4 of the Township of Claybanks, Michigan was introduced and passed at a regular meeting of the Township Board, held on March 16, 2020, by an affirmative vote of the majority of the Township Board members.

Date: March 16, 2020

Richard Smith, Supervisor

Date: March 16, 2020

Mary A. Freye, Clerk

Introduced: March 16, 2020

Adopted: March 16, 2020

Published: White Lake Beacon March 29, 2020; Oceana's Herald Journal April 3, 2020

Effective: May 3, 2020