

Charter Township of Chocolay



Zoning Ordinance

Adopted April 14, 2008
With amendments through October 12, 2021

Chocolay Township Zoning Ordinance

Marquette County, Michigan

April 14, 2008

With the following amendments:

| Amendment Number | Amendment | Amendment Date |
|------------------|--|----------------|
| #34-08-01 | Section 6.9 Home Occupations | 10/20/08 |
| #34-08-02 | Section 18.4 Political Signs (now 18.1(b)3) | 12/15/08 |
| #34-09-01 | Section 4.3 Multi-Family District (Density) | 12/14/09 |
| #34-09-02 | Section 4.4 and 4.7 (add Parks to AF, WFR) | 12/14/09 |
| #34-09-03 | Section 4.7 (add Kennels to AF 20+ acres) | 12/14/09 |
| #34-09-10 | Definitions (Kennels) | 12/14/09 |
| #34-09-15 | Section 11.12 Outside Lighting | 12/14/09 |
| #34-09-17 | Section 6.1 Height and Placement (Footnote 6) in R-1, R-2 | 12/14/09 |
| #34-10-01 | Section 17.7 Zoning Compliance Permits | 04/19/10 |
| #34-10-02 | Section 4.2 R-2 Conditional Uses | 06/21/10 |
| #34-10-03 | Definitions (General Office, Clinics) | 06/21/10 |
| #34-10-04 | Section 4.7 AF Conditional Uses | 06/21/10 |
| #34-10-05 | Section 5.1 R-1 Uses (delete swimming pool) | 11/08/10 |
| #34-10-06 | Section 4.2 R-2 Uses (delete swimming pool) | 11/08/10 |
| #34-10-12 | Section 16.3 Fees | 11/08/10 |
| #34-11-01 | Section 1.6 Administrative Procedures (aka #34-10-19) | 07/18/11 |
| #34-11-04 | Section 6.5 Opening Burning, Burn Barrels | 12/19/11 |
| #34-12-02 | Section 10.1 PUD (aka #34-10-11 and #34-11-06) | 03/19/12 |
| #34-12-04 | Section 13 Wireless Communications (aka #34-10-15 and #34-11-03) | 01/16/12 |
| #34-12-05 | Section 6.9 Home Occupations (aka #34-11-05) | 02/18/13 |
| #34-13-01 | Section 18.1 Signs (aka #34-11-02 and #34-12-01) | 03/18/13 |
| #34-13-02 | Section 16.2 Conditional Use Permit Basis of Determination | 04/15/13 |
| #34-13-03 | Section II, 8.1, 9.1 & 11.12 related to Outside Lighting | 06/17/13 |
| #34-13-04 | Section 1.6(B)6.a pertaining to Notification Distance for Public Hearings (aka case #ZA0001-13) | 07/15/13 |
| #34-13-05 | Section 6.5 pertaining to Outdoor Wood Boilers and Appliances (aka #ZA0003-13, formerly #34-09-06 and #34-09-16) | 12/16/13 |
| #34-14-01 | Section 6.5(D) items 1-3 pertaining to Open Burning deleted | 09/15/14 |
| #34-16-02 | Section 4.7 AF Conditional Uses (campground) | 06/16/16 |



| | | |
|-----------|--|----------|
| #34-18-01 | Section 5.5 Mixed Use Overlay District | 03/12/18 |
| #34-18-02 | Change in definitions: remove language from section 4: add language to section 9.1.B.2.a; and change <i>Comprehensive Plan</i> to <i>Master Plan</i> throughout the ordinance | 06/11/18 |
| #34-19-02 | Rezoned two parcels from MFR (Multi-Family Residential) to C (Commercial) on Kawbawgam Road | 3/11/19 |
| #34-19-03 | Applied the mixed use overlay district to five commercial parcels located at the intersection of M-28 and Kawbawgam Road, two commercial parcels located at the intersection of County Road 480 and US 41 South, and six commercial parcels located at the intersection of Mangum Road and US 41 South | 3/11/19 |
| #34-19-04 | Update setback footnote number 2 for setbacks; add registered rentals; change sf to square feet | 05/13/19 |
| #34-19-05 | Add definitions for an indoor sport shooting range; add indoor sport shooting ranges as a conditional use for the Commercial, Industrial and Mixed Use Overlay districts; add and edit language to clarify Planning Commission role for Conditional Use permits | 02/12/20 |
| #34-21-01 | Changed the zoning for parcel 52-02-107-002-00 located on M-28 from Residential (R-1) to Commercial (C). The amendment also applied the mixed use overlay district to the same parcel. | 4/12/21 |
| #34-21-02 | Changed the height of accessory structures to match the height permitted for a zoning district. Accessory structures were added as a permitted use in all zoning districts, except for PUD | 07/01/21 |
| #34-21-03 | Section 18.1 <i>Signs</i> was rewritten, and related definitions were adopted | 10/12/21 |



A Note to the Reader:

The Zoning Ordinance for the Charter Township of Chocolay was originally adopted on May 9, 1977. Growth and changes in procedure have necessitated numerous changes since that date. This document includes changes required by The Michigan Zoning Enabling Act, Act 110 of 2006 and incorporates the appropriate amendments approved since the original zoning ordinance was adopted. If you have any questions or need assistance feel free to contact the Township Zoning Administrator or Township Planner at the Township offices, 5010 U.S. 41 South, Marquette. Phone (906) 249-1448 or FAX (906) 249-1313.

Respectfully submitted,

Dale Throenle
Planning Director / Zoning Administrator

| Township Board | Planning Commission | Zoning Board of Appeals |
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I. Purpose, Title, Severability, Effective Date, Relationship to Other Laws, Administrative Standards And Procedures

1.1 Purpose

An ordinance to establish zoning districts and regulations governing the development and use of land within the Charter Township of Chocolay, Michigan, in accordance with the provisions of the MICHIGAN ZONING ENABLING ACT, Act 110 of 2006, as amended, to provide for regulations governing nonconforming uses and structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this Ordinance and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this Ordinance; and to provide for conflicts with other ordinances or regulations.

THE CHARTER TOWNSHIP OF CHOCOLAY ORDAINS:

1.2 Short Title

This Ordinance shall be known and may be cited as the Zoning Ordinance of the Charter Township of Chocolay.

1.3 Severability

This Ordinance and the various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid as applied to a particular property, building, or other structure, it is hereby provided that the application of such portion of the Ordinance to other property, buildings, or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing a planned unit development or any conditional use permit, variance, grading permit, zoning compliance permit, certificate of occupancy, site plan approval, or designation of Class A nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision thereof, and to protect the public health, safety, and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.



1.4 Effective Date

This Ordinance shall take effect and be in force on the date following its final passage by the Township Board.

1.5 Relationship to Other Laws

Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules, or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this Ordinance, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

1.6 Administrative Standards and Procedures

- (A) Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.
- (B) Where a public hearing of the Planning Commission or the Zoning Board of Appeals is required in the administration of this Ordinance, said hearing shall be in accordance with the Zoning Enabling Act (Act 110 of 2006).

Public hearing notices shall include the following: **(#34-11-01)**

1. Describe the nature of the request such as rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation, or other purpose.
2. Indicate the date, time, and location of the public hearing.
3. Describe when and where written comments will be received concerning the request.
4. Notice shall be published and mailed a minimum of 15 days prior to the public hearing.
5. Notice of the request shall be published in a newspaper of general circulation in the Township.
6. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - a. Notice shall be sent to all persons to whom real property is assessed within 500 feet of the subject property and to one occupant of all structures within 500 feet of the subject property regardless of whether the property or occupant is located within the Township Boundary. If the name of the occupant is not known, the term "occupant" may be used. Notification is not required to more than one



occupant of a structure, except if the structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive the notice. (#34-13-04)


- b. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 7. If an ordinance interpretation or appeal of an administrative decision involves a specific property, notice shall be given to the person bringing the appeal. For text amendments, notice shall be sent to the person(s) initiating the text amendment.
 8. The text amendments shall follow steps 1-5.
 9. Notice shall be deemed mailed by its deposit during normal business hours for delivery with the United States Postal Service or other public or private delivery service.
 10. Any written comments shall remain part of the Planning Commission or Zoning Board of Appeals agenda book. The Planning Commission and Zoning Board of Appeals shall set forth in writing and in detail, any denial, approval, conditional approval, or order and the facts supporting such decision.
 11. If there is a proposed zoning map change the owner(s) will be given written notice at least 15 days prior to the public hearing. The notice shall explain their current zoning district and the proposed zoning district. This shall be done regardless of the number of parcels that would be potentially affected.”
- (C) Where a public meeting of the Planning Commission or the Zoning Board of Appeals is required in the administration of this Ordinance, said meeting shall be in accordance with the Zoning Enabling Act (Act 110 of 2006).
- (D) After the Planning Commission or Zoning Board of Appeals has made their decision, the Township shall prepare a summary letter with the motion and action taken by the Board or Commission and sent to the applicant. (#34-11-01)




II. Definitions and Diagrams

| Word or Phrase | Definition | |
|--------------------------------------|--|--|
| A | | |
| Abandoned sign (#34-21-03) | A sign which for a period of at least ninety consecutive days no longer identifies or advertises a legal, ongoing business establishment, product, location, service, idea, or activity. | |
| Access | A way or means of approach to provide vehicular or pedestrian entrance or exit to a property from an abutting property or a public roadway. | |
| Access management | The process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting roadway system. | |
| Access point | a) The connection of a driveway at the right-of-way line to a road. b) A new road, driveway, shared access or service drive. | |
| Accessory | Means both subordinate and incidental to a principal use or structure. | |
| Accessory building or structure | A building or structure customarily incidental and subordinate to the principal building and located on the same lot as the principal building. Except as otherwise permitted by this Ordinance, an accessory building or accessory structure shall not be used for human habitation. An accessory building shall comply in all respects with the requirements of this Ordinance applicable to the principal building. | |
| Accessory housing unit (#34-99-4) | A complete, self-contained dwelling unit created within or attached to a permitted existing detached single-family dwelling that provides accommodations for the parent(s) or grandparent(s) of the owners-occupiers of the single family dwelling. | |



| Word or Phrase | Definition | |
|-------------------------------|---|---|
| Accessory sign (#34-21-03) | A sign which pertains to the principal use of the premises |  |
| Accessory use | A use which is clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related. | |
| Agriculture | Means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot. | |
| Antenna | A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures for the purpose of communication. | |
| Apartment | A suite of rooms or a room in a multiple-family building, including bath and kitchen facilities, arranged and intended as a place of residence for a single-family. | |
| Applicant | A person who submits an application under one of the procedures set forth in this Ordinance. | |




| Word or Phrase | Definition | |
|--------------------------------|---|---|
| Art (#34-21-03) | Sculpture; original art murals; and painted, carved, and / or applied building accents and decorations (including those on awnings, canopies, or other extensions) that are not signs related by language or logo to the identification of any business. |  |
| Attached dwelling | A one-family dwelling attached to two (2) or more one-family dwellings by common vertical walls. A townhouse is an attached dwelling. | |
| Auto repair shop | General repair, rebuilding, or reconditioning of motor vehicles or trailers, excluding body work. | |
| Auto body repair shop | means a collision service such as body, frame or fender straightening and repair; painting and undercoating of automobiles. | |
| B | | |
| Basement | That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story. A cellar is a basement. However, any walk-out basement, regardless of average grade, shall be considered a story. | |
| Bed & breakfast (#34-19-04) | <p>A use of a single-family dwelling unit in which guests are provided temporary sleeping rooms, meals, and related amenities in return for monetary payment to the owner.</p> <p>The dwelling unit is the owner's personal residence, is occupied by the owner at the time of rental, and the owner does not provide more than six sleeping rooms for guests.</p> <p>This definition does not include group day care facilities, group day care homes, hospitals, hotels, nursing homes, registered rental dwellings or resorts.</p> | |

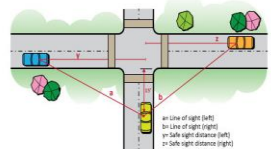


| Word or Phrase | Definition | |
|---------------------------------------|---|--|
| Boarding stable | A facility, such as a barn or similar structure, where more than four horses, for sale or boarding, are kept. | |
| Boilers / units, Outside wood burning | Accessory structure used for heating of main dwelling and related structures; see <i>Section 6.5</i> for zoning districts, permitted uses and conditions for approval. | |
| Buffer strip | 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. | |
| Buildable area | The portion of a lot remaining after the minimum yard and setback requirements of this Ordinance have been met. | |
| Building | Any structure, either temporary or permanent, having a fixed location and a roof supported by columns, walls or other supports, and used or built for the shelter or enclosure of persons, animals, or property of any kind or for the conduct of business. This shall include but is not limited to awnings, mobile homes, inflatable structures, fabric or membrane structures, sheds, garages, greenhouses and other similar structures. It shall also include trucks, vans, recreational vehicles or other vehicles or parts of vehicles situated on private property, and used for the purposes of a building, whether or not mounted on wheels. | |
| Building height | The vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs. | |



| Word or Phrase | Definition | |
|---------------------------------------|--|---|
| Business center (#34-21-03) | Any group of two or more commercial establishments having not less than 100 feet of frontage on a major street and which are under one common ownership or management, have a common arrangement for the maintenance of the grounds and are connected by party walls, partitions, covered canopies, or other structural members to form one continuous structure; or share a common parking area. |  |
| C | | |
| Campground (#34-18-02) | A tract of land under the control of a state-licensed owner or owner designee where the land is divided into sites offered for use by organizations or the public for the establishment of temporary living quarters consisting of any combination of three or more recreational vehicles, tents or other temporary habitable structures or sites. This tract of land can be offered for use either free of charge or for a fee. | |
| Carport | Means a shelter for one or more vehicles which is not fully enclosed by walls and one or more doors. | |
| Car wash | Means a lot on which motor vehicles are washed or waxed, either by the patron or by others, using machinery specifically designed for the purpose. | |
| Church | Means a building wherein persons regularly assemble for religious worship, which is used only for such purpose and those accessory activities as are customarily associated therewith. | |
| Civic use (#34-18-01) | Land used for community-oriented purposes or objectives, including those of not-for-profit dedicated to arts and culture, education, recreation, religion, government, and the like. | |



| Word or Phrase | Definition | |
|--|--|---|
| <p>Clear vision triangle (#34-21-03)</p> | <p>A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.</p> |  |
| <p>Clinic</p> | <p>Means a place where medical or dental care is furnished to persons on an out-patient basis by two or more health care professionals.</p> | |
| <p>Commercial (#34-18-01)</p> | <p>Conducting sales or trade intended for the sake of profit.</p> | |
| <p>Common land</p> | <p>A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development or condominium project.</p> | |
| <p>Common open space</p> | <p>Land within or related to a development, not individually owned, that is intended for the common use and enjoyment of the residents, and their guests of the development, or the public at large if dedicated to and accepted by the public, and may include such improvements as are necessary, appropriate and approved as part of the development according to the requirements of this Ordinance.</p> | |
| <p>Community residential care facilities</p> | <p>Community residential care facilities provide shelter and care for individuals with special needs in single family dwellings for six or less persons (small) or in larger facilities when more persons are assisted (large). These are all state-regulated facilities.</p> | |



| Word or Phrase | Definition | |
|-------------------------|--|--|
| Communication tower | A structure including but not limited to monopole, skeleton framework, or other design which is attached directly to the ground or to another structure which supports one or more antennae, used for the transmission or reception of radio, television, microwave, or any other form of telecommunication signals. Antennae permitted as an accessory use under Article IV of this Ordinance are excluded. | |
| Conditional use | A use not essentially incompatible with uses permitted in a zoning district, but which possesses characteristics which require individual review in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. A conditional use is permitted in a particular district only after review by the Planning Commission in accordance with the standards set forth in Article XVI. A conditional use is referred to as a special land use in the Zoning Enabling Act. | |
| Condominium unit | As applied to land usage, means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, and for the purpose of this ordinance shall be interpreted as a lot. | |
| Condominium master deed | The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan. | |
| Condominium project | A plan or project including not less than two (2) condominium units established and approved in conformance with the Condominium Act (Act 59 of the Public Acts of 1978). | |
| Condominium, site | See definition of <i>Condominium Subdivision</i> . | |




| Word or Phrase | Definition | |
|-------------------------|--|--|
| Condominium subdivision | <p>A division of land on the basis of condominium ownership, pursuant to the Condominium Act and which is not subject to the provisions of the Land Division Act of 1967, Public Act 288 of 1967, as amended. Also known as a site condominium or site condo. As used in reference to a "Condominium Subdivision" in this Ordinance, the terms below are defined as follows:</p> <p>A. Condominium Unit: That portion of a condominium project that is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. The owner of a condominium unit also owns a share of the common elements. The term "condominium unit" shall be equivalent to the term "lot" or "building site", for purposes of determining compliance of the site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage, and within which a building or other improvements may be constructed by the condominium unit owner. The condominium unit shall not include any limited common elements.</p> <p>B. General Common Area: That portion of a site condominium project designed and intended for joint ownership and maintenance by the condominium association as described in the Master Deed.</p> <p>C. Limited Common Area: That portion of a site condominium project designed and intended for separate ownership, but outside</p> | |




| Word or Phrase | Definition | |
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| | <p>the building setbacks for the zoning district the property is located in, as described in the Master Deed.</p> <p>D. Building Envelope: The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the Master Deed.</p> <p>E. Building Site: That portion of a condominium project that shall include the condominium unit and that may also include limited common elements as described in the Master Deed. For purposes of determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitation, area, width, and setback requirements) or with other applicable laws, ordinances, or regulations, "building site" shall be considered to be the equivalent of a "lot."</p> <p>F. Limited Common Element: That portion of a condominium project other than the condominium unit that is reserved in the master deed for the exclusive use of the owner of the condominium unit.</p> | |
| Condominium subdivision plan | The drawings attached to the master deed for a condominium subdivision which describes the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements. | |





| Word or Phrase | Definition | |
|----------------------------------|---|---|
| Conservation design subdivision | A Conservation Design Subdivision is a new form of residential development that encourages the preservation of open space and natural features incorporated into a subdivision. Under the Rural Cluster Development approach, a higher density is permitted on one-half (1/2) of the site, with the balance of the land left as open space. | |
| Conservation easement | Conservation easement means an interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition. | |
| Construction sign (#34-21-03) | A temporary ground or wall sign identifying a construction project and the persons, firms, or businesses that are directly involved in the project. |  |
| Contractor shop | An enclosed space used for housing, operating, and maintaining, of equipment and fabrication of building-related products. | |
| Contractor yard | Outside area of lot or parcel used for storage and maintain equipment and other materials customarily used in the trade carried on by the contractor. | |
| Conveyance | Means an instrument or deed transferring the title to property. | |




| Word or Phrase | Definition | |
|---------------------------------|---|--|
| D | | |
| Day camp | A camp providing facilities for groups of young people, such as YMCA camps, Boy Scout camps, and Girl Scout camps. | |
| Day care center | A facility other than a private home receiving preschool-aged children for care and supervision for periods of less than twenty-four hours a day and licensed as a day care center by the Michigan Department of Social Services. | |
| Deck | An unroofed structure used for outdoor living purposes which may or may not be attached to a building and which is more than six (6) inches above the finished grade. | |
| Directional sign (#34-21-03) | A sign giving directional information about goods, services and events of interest to the traveling public. |  |
| Driveway | Any entrance or exit used by vehicular traffic to or from land or buildings abutting a road. | |
| Driveway offset | The distance between the centerline of two driveways on opposite sides of an undivided roadway. | |
| Driveway, shared | A driveway connecting two or more contiguous properties to the public road system. | |




| Word or Phrase | Definition | |
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| Dune | A mound or ridge of sand formed by wind or water action, typically located along the Lake Superior coastline. | |
| Dwelling, multi-family (#34-19-04) | A structure containing two or more dwelling units designed for residential use, with or without separate kitchens or dining facilities, and conforming in all respects to the standards set forth in Section 6.3 of this ordinance. This definition does not include bed and breakfasts, group day care facilities, group day care homes, hospitals, hotels, nursing homes, registered rental dwellings or resorts. | |
| Dwelling, registered rental (#34-19-04) | A dwelling unit providing temporary accommodations for periods of one day or more for a fee. This definition does not include bed and breakfasts, group day care facilities, group day care homes, hospitals, hotels, nursing homes or resorts. | |
| Dwelling, single-family (#34-18-02) | A building designed for use as one dwelling unit. A single-family dwelling unit must meet all requirements described in Section 6.3 of this ordinance. | |
| E | | |
| Electronic message sign (#34-21-03) | An electrically activated, changeable, permanent sign whose variable message and / or graphic presentation capability can be electronically programmed from a remote location without physically or mechanically replacing the sign face. |  |
| Exterior building entrance (#34-21-03) | Includes only those available for use by customers or patrons and does not include service or employee entrances. |  |





| Word or Phrase | Definition | |
|---|---|--|
| F | | |
| Family | Means an individual or a group of two or more persons related by blood, marriage, or adoption, together with not more than three additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit. | |
| Family day care home | A private home in which six or less minor children are given care and supervision for periods of less than twenty-four hours a day unattended by a parent or legal guardian, except children related to an adult member of the day care home family by blood, marriage, or adoption. | |
| Flashing, animated, or moving sign (#34-21-03) | A sign that intermittently reflects lights from either an artificial source or from the sun or sign which has movement of any illumination such as intermittent, flashing, scintillating or varying intensity, or a sign that has any visible portion in motion, either constantly or at intervals, which motion may be caused by either artificial or natural sources. |  |
| Floor area | Means total gross area on all floors as measured to the outside surfaces of exterior walls, excluding crawl spaces, garages, carports, breezeways, attics without floors, and open porches, balconies, and terraces. | |
| Floor area ratio | Means the percentage of floor area to lot area of all buildings, excluding the floor area of garages, carports, and breezeways and excluding the area of any floor more than four feet below average grade where no part of such basement is used for sleeping rooms or quarters. | |



| Word or Phrase | Definition | |
|--------------------------------------|--|--|
| Floor space | Means floor area of all floors, as measured from the inside surfaces of the walls enclosing the part of a building occupied by a single occupant or shared by a distinct group of occupants, excluding therefrom common halls, stairwells, sanitary facilities, and storage and other areas to which patrons do not have regular access. | |
| Foredune | Means the first dune landward behind the beach that typically varies from 10-33 feet in height. The foredune is measured from the erosion hazard line over the crest of the dune and down its backslope (the slope away from the lake) to its base or to a maximum of 100 feet landward, or whichever is less, as measured from the erosion hazard line. | |
| Freestanding sign (#34-21-03) | A permanently affixed sign not attached to any building and supported by uprights or braces or some object on the ground, using poles or other similar means to elevate the sign. |  |
| Frontage line (#34-18-01) | <p>The lot line that coincides with the public right-of-way or edge of a space dedicated for public use</p> <p>Building facades parallel to frontage lines define public space and are therefore subject to a higher level of regulation than the elevations that face other lot lines.</p> | |
| Frontage road or Front service drive | A local street/road or private road typically located in front of principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial. | |
| G | | |
| Garage | Means a fully enclosed building for the storage of motor vehicles, not including buildings in which fuel is sold or repair or other services performed. | |




| Word or Phrase | Definition | |
|--|---|---|
| Gas station | Means a place where motor vehicle fuels are sold at retail. | |
| General office (#34-10-03) | A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations. An office shall not include a clinic or the production, distribution or sales of goods or commodities which are physically located on the premises. | |
| Golf courses | Means a tract of land for playing golf with tees, greens, fairways, hazards, and which may include clubhouses and shelters, excluding miniature golf course. | |
| Governmental sign (#34-21-03) | A sign erected and maintained for governmental or utility functions, or as required by law, or other governmental regulation. |  |
| Grade, natural | Means the elevation of the ground surface in its natural state, before manmade alterations. | |
| Ground coverage ratio | Means the percentage of lots area included within the outside lines of the exterior walls of all buildings located on the lot except garages and carports and including the area of porches, decks, patios, breezeways, balconies, and bay windows, except patios not more than six inches above grade. | |
| Ground or monument sign (#34-21-03) | A low-profile ground sign incorporating the design and building material of the primary use of the property, where poles for the support of the sign face are not used. |  |



| Word or Phrase | Definition | |
|---|--|--|
| Group day care facility (#34-19-04) | <p>A private home, or a facility other than a private home, receiving more than six preschool or school aged children for day care or supervision for periods of less than twenty-four hours a day.</p> <p>A facility licensed as a day care center or a home licensed as a group day care home by the Michigan Department of Social Services.</p> <p>This definition does not include bed and breakfasts, group day care homes, hospitals, hotels, nursing homes, registered rental dwellings or resorts.</p> | |
| Group day care home (#34-19-04) | <p>A private home in which more than six but not more than twelve minor children are given day care and supervision for periods of less than twenty-four a day unattended by a parent or legal guardian, except children who are related to an adult member of the day care home family by blood, marriage, or adoption.</p> <p>This definition does not include bed and breakfasts, group day care facilities, hospitals, hotels, nursing homes, registered rental dwellings or resorts.</p> | |
| H | | |
| Habitable space (#34-18-01) | <p>Building space that involves human presence with direct view of the fronting streets or public or private open space. Habitable space does not include parking garages, storage facilities, warehouses, and display windows separated from retail activity.</p> | |
| Height | <p>The vertical distance from the average natural grade, prior to any breaking of ground, as determined by the Township Zoning Administrator, to the highest point of the roof.</p> | |
| Home occupation (#34-12-05 replaced #34-08-01) | <p>A business, profession, occupation, or trade conducted by an occupant of a dwelling unit as a secondary use subordinate and incidental to the use of the dwelling that meets the standards of Section 6.9.</p> | |



| Word or Phrase | Definition | |
|--|---|---|
| <p>Hospital (#34-19-04)</p> | <p>Means a licensed institution providing primary health care services and medical or surgical care to persons, primarily inpatients, suffering from physical or mental conditions, and which may include related facilities as an integral part of the institution.</p> <p>This definition does not include bed and breakfasts, group day care facilities, group day care homes, hotels, nursing homes, registered rental dwellings or resorts.</p> | |
| <p>Hotel (#34-19-04)</p> | <p>A place of business that rents multiple rooms at the same location for temporary occupancy, and generally offers other amenities that may also be offered to the public (such as restaurants, pools, meeting rooms, and retail stores).</p> <p>The length of stay for the same guest is not limited to a set number of calendar days.</p> <p>This definition does not include bed and breakfasts, group day care facilities, group day care homes, hospitals, nursing homes, registered rental dwellings or resorts.</p> | |
| I | | |
| <p>Indoor sport shooting range (#34-19-05)</p> | <p>An indoor area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.</p> | |
| <p>Inflatable sign (#34-21-03)</p> | <p>A sign that is either expanded to its full dimension or supported by gases contained within the sign or sign parts at a pressure greater than atmospheric pressure.</p> |  |



| Word or Phrase | Definition | |
|---------------------------------|---|--|
| K | | |
| Kennel (#34-09-10) | Means any activity involving the permanent or temporary keeping or treatment of four or more domestic pets, including adult dogs or cats, or any combination of such animals exceeding four in number, for other than ordinary agricultural activities. | |
| L | | |
| Laundromat | Means a place where patrons wash, dry, or dry clean clothing and other fabrics in machines operated by the patron. | |
| Lighting related (#34-13-03) | <p>Cutoff Angle – The angle of light distribution from a luminaire, measured upward from nadir, between the vertical axis and the first line at which the bare source (lamp) is not visible.</p> <p>Full Cutoff Angle – A luminaire light distribution where zero candela intensity occurs at an angle of ninety (90) degrees above nadir, and at all greater angles from nadir.</p> <p>Fully Shielded – A luminaire constructed and installed so that all light emitted is projected below the horizontal plane through the luminaire’s lowest light-emitting part.</p> <p>Glare – Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility. May be a result of excessive brightness caused by an unshielded, high intensity light source.</p> <p>Light Pollution – Excessive, unshielded or undirected artificial light from signs, parking lots, streetlights, and other sources that reflects off particles in the atmosphere, creating a characteristic “sky glow” which limits our enjoyment of the night sky, especially in rural areas.</p> <p>Light Trespass – Poorly controlled outdoor lighting that crosses property boundaries, detracting from the quality of life of adjacent property owners and confusing the instinctive daily and</p> | |




| Word or Phrase | Definition | |
|------------------------|--|--|
| | <p>seasonal cycles of animals and plants.</p> <p>Luminaire – The complete lighting assembly consisting of a lamp, or lamps and ballast(s), housing, and shields together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.</p> <p>Lumen – The unit of measure used to quantify the total amount of visible light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption). One footcandle is one lumen per square foot. One lux is one lumen per square meter.</p> <p>Mounting Height – The height of the photometric center of a luminaire above finished grade.</p> <p>Nadir – The angle pointing directly downward from the luminaire, or 0°.</p> <p>Shielded – A permanently-installed, non-translucent shade, cowl, hood, baffle, or other construction which limits, restricts, or directs light or the visibility of a light source to meet the standards of this Section.</p> | |
| Lodging (#34-18-01) | <p>Lodging uses provide sleeping accommodations occupied on a rental basis for limited periods of time</p> <p>Lodging uses are measured based on the number of lodging units provided.</p> <p>A lodging unit is a furnished room of a minimum 200 square feet that includes sanitary facilities and may include limited kitchen facilities.</p> | |



| Word or Phrase | Definition | |
|-----------------------|---|--|
| Lot (parcel and unit) | Means the contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or structure. Such lot shall have access to a public road or a Township-approved private road. | |
| Lot area | Means the total horizontal area within the lot lines of the lot excluding any part under water. | |
| Lot, nonconforming | Means a lot, the boundaries are recorded in a plat, deed or land contract executed and delivered prior to the effective date of this ordinance and the width, depth and/or area of which does not meet the minimum dimensional requirements of the district in which it is located. | |
| Lot of record | Means a parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by township officials, prior to the effective date of this Ordinance, and which actually exists as shown or described. | |
| Lot line | Means a line marking a boundary of a lot. | |
| Lot line, front | Means a line dividing a lot from any public highway except a limited or controlled access highway to which the lot has no access. | |
| Lot line, rear | Means any lot line which is not a front or side lot line and which, if extended in either direction, would not cross the lot. | |
| Lot line, side | Means, (1) any lot line which meets the end of a front lot line, or (2) any other lot line within 30 degrees of being parallel to a side lot line as defined in Article II of this Ordinance. | |




| Word or Phrase | Definition | |
|-------------------------------------|--|---|
| M | | |
| Maximum size of sign (#34-21-03) | The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display, excluding the necessary supports or uprights on which such sign is placed. | |
| Mental health center | Means a hospital or clinic where the primary activity is the treatment and care of persons suffering from mental or emotional disorders. | |
| Minimum landscaped open space | Means the percentage of lot area which must be maintained in grass or other living vegetation. | |
| Mobile home | Means a structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted. | |
| Motor vehicle (#34-12-05) | Every vehicle which is self-propelled by means of an engine, including, but not limited to, automobiles, trucks, vans, buses, truck tractors, motorcycles, motorbikes, bulldozers, front end loaders and other types of construction equipment, logging skidders, snowmobiles, all-terrain vehicles (ATV's), personal watercraft, and boats. | |
| N | | |
| Nameplate (#34-21-03) | An accessory sign stating the name or street number of a person, firm, building, or institution of a certain permitted use. |  |





| Word or Phrase | Definition | |
|-----------------------------|---|--|
| Nonconforming building | A building lawfully existing on the effective date of this Ordinance or subsequent amendment, and which does not conform to the requirements of this Ordinance. | |
| Nonconforming lot | Any lot of record which at the time it was recorded fully complied with all applicable laws and ordinances, but which does not fully comply with the dimensional or proportional lot requirements of this Ordinance or subsequent amendment. | |
| Nonconforming structure | Any structure other than a sign, lawfully existing on the effective date of this Ordinance or subsequent amendment and which fails to meet the requirements of this Ordinance. | |
| Nonconforming use | An activity using land, buildings and/or structures for purposes which were lawfully established prior to the effective date of this Ordinance or subsequent amendment and that fails to meet the requirements of this Ordinance. | |
| Nonconformity | Any nonconforming use, nonconforming building, nonconforming structure or nonconforming lot as defined in this Ordinance. | |
| Nursery | A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping. | |
| Nursing home (#34-19-04) | Means a structure designed or used for residential occupancy and providing limited medical or nursing care on the premises for occupants. This definition does not include bed and breakfasts, group day care facilities, group day care homes, hospitals, hotels, registered rental dwellings or resorts. | |





| Word or Phrase | Definition | |
|-------------------------------------|---|---|
| O | | |
| <p>Offsite sign (#34-21-03)</p> | <p>A sign which advertises a product, service, request (such as missing pet) or business that is not related to the property on which the sign is located. This does not include directional signs.</p> |  <p>The first image shows a blue sign for 'WASH & SHAMPOO' with prices for cars (\$45) and trucks (\$50). The second image shows a white sign with an arrow pointing left for 'GARAGE SALE' and a smaller sign for 'GARAGE SALE' with a phone number. The third image shows a white sign that says 'We Buy Houses Close 3 Days 297-312'.</p> |
| <p>Open space</p> | <p>Any unoccupied space open to the sky on the same lot with a building; as well as any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.</p> | |
| <p>Ordinary high water mark</p> | <p>The line between upland and bottomland which persists along the shore of Lake Superior. Pursuant to the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 325, formerly the Great Lakes Submerged Lands Act, P.A. 247 of 1955, as amended, the ordinary high water mark for Lake Superior is 602.6 feet above sea level, International Great Lakes Datum of 1985.</p> | |





| Word or Phrase | Definition | |
|------------------------------------|--|---|
| Outdoor wood boiler (#34-13-05) | A fuel burning appliance that (1) the manufacturer specifies for outdoor installation or in structures not normally occupied by humans (e.g. sheds) or is an indoor-rated device housed in a modular or containerized structure; (2) is designed to transfer or provide heat by burning approved solid fuels; and (3) heats space or water, or both, through the distribution, typically through pipes or ducts, of a fluid or air heated in the device. Also known as hydronic heaters or outdoor wood furnaces. Does not include outdoor smokers or wood-fired stoves for cooking food; fire pits; or chimineas. | |
| Overlay district or Overlay zone | A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone. | |
| P | | |
| Painted wall sign (#34-21-03) | A sign painted directly on any exterior non-glass building wall or door. |  |
| Planned unit development | A parcel or lot, developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses as provided in this Ordinance. | |
| Political sign (#34-21-03) | A sign relating to the election of a person to public office or relating to a political party or relating to a matter to be voted upon at an election called by a public body. |  |



| Word or Phrase | Definition | |
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| <p>Portable sign (#34-21-03)</p> | <p>A sign and sign structure which is designed to facilitate the movement of the sign from one zoning lot to another. The sign may or may not have wheels, changeable lettering and/or hitches for towing.</p> <p>A sign shall be portable only if such a sign is designed to facilitate its movement from one zoning lot to another.</p> |  |
| <p>Premises</p> | <p>Means a lot as otherwise used in this Ordinance.</p> | |
| <p>Projecting sign (#34-21-03)</p> | <p>A sign attached to a building or other structure and extending in whole or in part more than 12 inches beyond the surface of the portion of the building line or extending over public property (such as a sidewalk or trail).</p> |  |
| <p>Professional engineer</p> | <p>Means an engineer registered in the State of Michigan.</p> | |
| <p>Public utility</p> | <p>A person, firm or corporation, municipal department, board or commission, duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation, or water.</p> | |
| R | | |
| <p>Racetrack</p> | <p>Means facilities designed and used for the competitive, recreational or exhibitional racing of automobiles, snowmobiles, motorcycles, go-karts, or any other motorized vehicles, including motor/engine powered hobby toys, whether or not admission or entry fees are charged. Includes track (paved or unpaved), spectator seating or other viewing areas, concession stands, ticket booths, pit areas and ancillary facilities and uses.</p> | |






| Word or Phrase | Definition | |
|---|---|---|
| Real estate development sign (#34-21-03) | A sign placed on the premises of a subdivision or other real estate development to indicate a proposed start or to inform relative to availability. |  A large sign on a grassy field with a map and text. The text includes 'BROOKLYN HILLS', 'LOTS FOR SALE', and a phone number '262.650.9700'. |
| Real estate sign (#34-21-03) | A sign placed upon a property advertising that particular property for sale, rent, or lease. |  A sign on a lawn with a house in the background. The sign says 'FOR SALE' in large red letters and '373-535-7669' in blue letters below. |
| Rear service drive | A local street/road or private road typically located behind principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial. | |
| Recreational structure (#34-18-02) | A permanent structure used intermittently for occupancy for recreation or vacation purposes and which is not a permanent place of domicile or residency. This definition does not include tents, hunting blinds, tree houses or trailers generally used for travel or camping. | |
| Recreational unit (#34-18-02) | A tent or vehicular type structure, primarily designed as temporary living quarters for recreational, camping or traveling use, which either has its own motive power or it is mounted on or drawn by another vehicle which is self-powered. This definition does not include single-wide or double-wide mobile homes. | |



| Word or Phrase | Definition | |
|-----------------------|--|--|
| Resort (#34-18-02) | <p>A tract of land under the control of an owner or owner designee where one or more structures are offered for use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for any period less than one month.</p> <p>A resort generally offers other amenities that may also be offered to the public (such as restaurants, pools, meeting rooms, and other retail activities).</p> | |
| Restaurant | <p>Means a lot upon which food or beverages are cooked or prepared and offered for sale when consumption is permitted on the premises, whether or not entertainment is offered and includes establishments commonly known as bars, grills, cafes, taverns, nightclubs, drive-ins, and any fast food establishment permitting consumption on the premises.</p> | |
| Riding stable | <p>A facility, such as a barn or similar structure, where more than two horses, used for riding as a business other than ordinary agricultural operations, are kept.</p> | |
| Right-of-way | <p>A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.</p> | |
| Road, public | <p>A road dedicated to the public, such dedication having been accepted by the appropriate public Road Commission or Department of Transportation, which meets the minimum construction standards of said Road Commission or the Michigan Department of Transportation.</p> | |


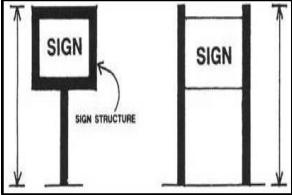


| Word or Phrase | Definition | |
|---------------------------------------|---|---|
| Rolling stock (#34-21-03) | Transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services. |  |
| Roof sign (#34-21-03) | A sign mounted on, above, or over the main roof portion of a building or on the uppermost edge of a parapet wall of a building, and which is wholly or partially supported by such building and extends above the roof line. |  |
| Rural character | The rural character of Chocolay Township embodies a quality of life based upon traditional rural landscapes, activities, lifestyles, and aesthetic values. The measures of this quality of life and what future rural developments to look like can be found in the Comprehensive Master Plan. For purposes of this section, rural character shall also be defined to mean areas perceived as having a low density pattern of development, being generally void of man-made improvements such as city essential services and exhibiting open fields, farmlands or woodlands as common elements of the visual landscape. | |
| Rural cluster development subdivision | A Rural Cluster Development Subdivision is a new form of residential development that encourages the preservation of open space and natural features incorporated into a subdivision. Under the Rural Cluster Development approach, a higher density is permitted on one-half (1/2) of the site, with the balance of the land left as open space. | |
| S | | |
| Sandwich sign (#34-21-03) | A pair of connected boards designed to attract business or advertise a product or service. |  |






| Word or Phrase | Definition | |
|-------------------------------------|---|--|
| Semi trailer | Means every vehicle with or without motive power, other than a pole-trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle. | |
| Service station | Where gasoline and other petroleum products are stored and dispensed for retail, including light maintenance activities such as tune-ups, oil changes and minor repairs. | |
| Setback | Means the required distance between every structure and any lot line on the lot on which it is located except where a front lot line is not defined by any conveyance or recorded plat, in which case it means the required distance between every structure and the nearest land actually used for purposes of a roadway or parallel drainage ditch. | |
| Sexually oriented businesses (SOBS) | Business or commercial enterprises engaging in the provision of sexually oriented products and services to adults. Often of an adult entertainment character. SOBS include but are not limited to adult book or video store, adult entertainment establishment, adult mini-theater, adult motion picture theater, and adult novelty business. | |
| Sight distance | The distance of unobstructed view for the driver of a vehicle, as measured along the normal travel path of a roadway to a specified height above the roadway. | |
| Sign (#34-21-03) | The use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known such as to show an individual firm, profession, business, product, or message, and which are visible to the general public. | |



| Word or Phrase | Definition | |
|----------------------------|--|---|
| Sign face | The area of a sign on which copy is to be placed and is intended to be visible to the public. |  |
| Sign height (#34-21-03) | The distance from the grade to the highest point of the sign, including the sign frame. |  |
| Site plan | A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. | |
| Special use | A use that is not essentially incompatible with the uses permitted in a zoning district but possesses characteristics which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and/or adjacent uses of land. | |





| Word or Phrase | Definition | |
|---------------------------------------|---|---|
| <p>Structure (#34-18-02)</p> | <p>Placement of constructed, erected, or placed material or combination of materials in or upon the ground, including, but not by way or limitation – buildings, garages, mobile homes, pole barns, sheds, signs, and towers that will be in use more than six consecutive months.</p> <p>This definition does not include fences, sidewalks, paving on streets, driveways, and parking areas.</p> <p>This definition does not include patios and uncovered open porches or decks that do not exceed four feet above grade and do not encroach into the front yard setback by more than six feet in front of the dwelling unit.</p> | |
| <p>Suspended sign (#34-21-03)</p> | <p>A sign where incandescent light bulbs, banners or pennants, or other such features are hung or strung overhead and are not an integral physical part of the building or structure they are intended to serve.</p> |  |
| <p>Swinging sign (#34-21-03)</p> | <p>A sign installed on an arm, mast, spar, or building overhang that is not rigidly attached to such arm, mast, spar, or building overhang.</p> |  |
| T | | |
| <p>Temporary sign (#34-21-03)</p> | <p>A sign with or without letters and numerals, such as window signs in business districts, of lightweight cardboard, cloth, plastic, or paper materials and intended to be displayed for public service announcements, special events, sales, and notices.</p> |  |



| Word or Phrase | Definition | |
|---------------------|---|--|
| Throat length | The distance parallel to the centerline of a driveway to the first on-site location at which a driver can make a right-turn or a left-turn. On roadways with curb and gutter, the throat length shall be measured from the face of the curb. On roadways without a curb and gutter, the throat length shall be measured from the edge of the paved shoulder. | |
| Throat width | The distance edge-to-edge of a driveway measured at the right-of-way line. | |
| Trip generation | The estimated total number of vehicle trip ends produced by a specific land use or activity. A trip end is the total number of trips entering or leaving a specific land use or site over a designated period of time. Trip generation is estimated through the use of trip rates that are based upon the type and intensity of development. | |
| U | | |
| Underlying district | The base zone below an overlay zone that establishes the fundamental permitted uses, densities and dimensional regulations applicable to lands subject to a zoning ordinance. | |
| V | | |
| Variance | A modification of the literal provisions of the Zoning Ordinance, granted by the Zoning Board of Appeals, when standards established in Article XV of this Ordinance have been met. These standards seek to ensure that no variance is granted unless: (a) strict enforcement of the Zoning Ordinance would cause practical difficulty, (b) doing so would not be contrary to the public interest, (c) there are circumstances unique to the individual property on which the variance is granted, and (d) the variance request is not due to actions of the applicant. | |



| Word or Phrase | Definition | |
|--|---|--|
| <p>Vehicle business sign (#34-21-03)</p> | <p>A vehicle upon which a sign is painted or attached and is parked or placed upon the owner's premises primarily for advertising purposes.</p> |  |
| <p>Veterinary clinic</p> | <p>A place used for the diagnosis, care, and treatment of sick, injured, or infirmed animals or those in need of medical or surgical attention. Such a place may include provisions for temporary boarding of animals for treatment, observation, or recuperation. (#34-10-03)</p> | |
| W | | |
| <p>Wall sign (#34-21-03)</p> | <p>A sign erected or fastened to the wall of a building with the exposed face of the sign in a plane approximately parallel to the plane of such wall and not extending more than 12 inches beyond the surface of the portion of the building wall on which erected or fastened.</p> |  |
| <p>Wind energy conversion systems (WECS)</p> | <p>A machine that converts the kinetic energy in the wind into a useable form, commonly known as a "wind turbine, wind generator or windmill," the WECS includes all parts of the system, including, but not limited to the tower, pylon or other structure upon which any, all or some combination of are mounted. See Section 6.6 for zoning districts, permitted uses and conditions for approval.</p> | |



| Word or Phrase | Definition | |
|-----------------------------------|--|--|
| Wireless communication facilities | All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio and television broadcasting or relay towers, wireless or cellular telephone communication receivers and transmitters, telephone devices and exchanges, microwave relay facilities and towers, telephone transmission equipment buildings, and public, private and commercial mobile radio service facilities. | |
| Y | | |
| Yard | Means the area between any lot line and the setback required therefrom. | |
| Z | | |
| Zoning Administrator | The Chocolay Township Zoning Administrator is hired for the purposes of carrying out certain duties and responsibilities as defined in this Ordinance. | |
| Zoning Board of Appeals | The body appointed by the Township Board to hear appeals by any aggrieved party by a decision or order of the Zoning Administrator, or where it is alleged that the literal enforcement of this Ordinance would involve practical difficulties or would cause unnecessary hardship to the property owner. | |



III. Official Zoning Map

3.1 Application Of this Ordinance

No structure shall be constructed, erected, placed, or maintained and no land use commenced or continued within the unincorporated parts of the Township, except as specifically, or by necessary implication, authorized by this Ordinance. Conditional uses are allowed only on permits granted by the Township Planning Commission upon finding that the specified conditions exist. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

In all Districts, no more than one (1) principal use or main building shall be placed on a lot, except for groups of related industrial or commercial buildings, or multiple family dwelling contained within a single integrated complex, sharing parking, access, and other similar site features as a conditional use in the MFR, C, and I zoning districts. Every recreational structure shall have a minimum floor area of 150 square feet and comply with the stated or conditional requirements of this ordinance.

3.2 Exemptions

The location of pipes, wires, poles, and generating and transmission equipment of public utilities or railroad tracks regulated by the State of Michigan or by the United States are exempt from regulation under this Ordinance.

3.3 Establishment Of Districts

The Charter Township of Chocolay is hereby divided into zoning districts as named and described in the following sections. The boundaries of said zoning districts are hereby established as shown on the map in *Article XIX*.



IV. Zoning District Regulations

4.1 Single Family Residential District

(A) Intent

To establish and preserve quiet single-family home neighborhoods, free from other uses except those which are both compatible with and convenient to the residents of such a district.

(B) Permitted Principal Uses

1. Detached single-family dwellings
2. Family Day Care homes
3. Registered Rental Dwellings (#34-19-04)
4. Accessory structures (#34-21-02)

(C) Conditional Uses

1. Schools
2. Churches
3. Public and private parks
4. Outdoor wood boilers (see *Section 6.5*) (#34-13-05)
5. WECS on lots of 5 acres or more, including conditions of approval
6. Unlighted golf courses on a minimum lot size of 60 acres
7. Group Day Care homes
8. Rural Cluster Development Subdivisions (see *Section 6.12*)
9. Accessory Housing Units
(#34-10-05)

4.2 High Density Residential District (R-2) (Harvey)

(A) Intent

To provide regulations for the Harvey residential neighborhood, which due to existing small, high density lot sizes and residential land use, may not meet the requirements of other residential zoning districts in the Township.

(B) Permitted Principal Uses

1. Single and Two family Dwellings
2. Family Day Care Homes
3. Registered Rental Dwellings (#34-19-04)
4. Accessory structures (#34-21-02)



(C) Conditional Uses

1. Group Day Care Homes
2. Outdoor wood boilers (See *Section 6.5*) (#34-13-05)
3. WECS on lots of 5 acres or more including conditions of approval
4. Schools and Churches
5. Public and Private Parks
6. Accessory Housing Units
7. General Office (#34-10-02)
8. Nursing Homes (#34-10-02)
9. Medical/Veterinary Clinics (#34-10-02)
(#34-10-06)

4.3 Multi-Family Residential District (MFR)

(A) Intent

To make provision for multi-family residential developments and mobile home parks not sub-divided into individual lots, in an appropriate, safe, sanitary, and attractive environment.

(B) Permitted Principal Uses

1. Multi-family residential developments
2. Mobile homes in mobile home parks
(#34-13-05)
3. Registered Rental Dwellings (#34-19-04)
4. Accessory structures (#34-21-02)

(C) Conditional Uses

The same conditional uses are permitted in this district as in District R-1.

(D) Mobile Home Park Regulations

1. Density is limited to five mobile homes per acre. (#34-09-01)
2. No mobile home shall be at any time so located as to be in violation of the laws of the State of Michigan.
3. Each mobile home site shall be provided with a paved outdoor patio of at least 180 square feet located at the main entrance of the mobile home.
4. All utility wires and pipes shall be underground, except that fuel tanks used as part of a central distribution system may be above ground if fully screened from view by a wood or masonry wall or fence.



5. Each mobile home park shall contain one or more recreation areas totaling at least 300 square feet per mobile home. At least one such area in each mobile home park shall be of such size and shape that a 100 foot square may be laid out within it and shall be substantially flat, without trees, bushes, or other obstructions, and maintained as lawn. No mobile home shall be more than 500 feet distant from a recreation area. Streets, driveways, parking areas, and buildings are not to be included in calculating the size of recreation areas.
6. A greenbelt, maintained in grass or other living vegetation, at least 30 feet in width, shall be located along all boundaries of each mobile home park, except where it is crossed by driveways.
7. Each mobile home shall be located on a lot having an area of at least 3,200 square feet, provided, however, that no motor vehicle shall be parked on any lot having an area of less than 4,000 square feet.
8. Each mobile home park shall be graded and drained so that rain water will not stand in pools or puddles.
9. Each street and parking area in any mobile home park shall be bounded by a sidewalk at least three feet wide.
10. If the parking of motor vehicles other than the passenger automobile and motorcycles is allowed, it shall be restricted to areas surrounded, except at points of entry and exit, with a wood or masonry wall or fence at least eight feet high.
11. Each mobile home park shall provide refuse containers so located so that no mobile home is farther than 150 feet from such a container.
12. All refuse containers shall be located on concrete stands, abutting and level with a driveway, which shall be surrounded except on the driveway side, by a wood or masonry fence or wall at least six feet high.
13. Minimum street widths in mobile home parks shall be as follows:

| Parking | Direction | Minimum Street Width |
|--------------------------------|-----------|----------------------|
| No parking on street | 1 way | 14 feet |
| | 2 way | 20 feet |
| Parallel parking on one side | 1 way | 20 feet |
| | 2 way | 30 feet |
| Parallel parking on both sides | 1 way | 26 feet |
| | 2 way | 36 feet |

14. Each mobile home park shall provide to each mobile home an enclosed storage shed or partitioned space in such a shed, either of which shall have at least 360 cubic feet and shall be centrally located. No outside storage shall be permitted by any mobile home park.



15. No mobile home shall be occupied unless it is supported on masonry blocks or jacks, connected to utilities, and provided with skirting, from the bottom of the walls to the ground, made of aluminum or other durable materials.

4.4 Waterfront Residential District (WFR)

(A) Intent

This district is intended to establish and maintain for residential and recreational use those areas with frontage on inland lakes and rivers and the Lake Superior shoreline which, because of their natural characteristics and accessibility, are suitable for development.

(B) Permitted Principal Uses

1. Single-family dwellings
2. Registered Rental Dwellings (#34-19-04)
3. Accessory structures (#34-21-02)

(C) Conditional Uses

1. Fishing piers
2. Bed & Breakfast
3. Outdoor wood boilers (see *Section 6.5*) (#34-13-05)
4. WECS on lots of 5 acres or more, including conditions of approval
5. Trails
6. Accessory Housing Units
7. Parks (#34-09-02)

4.5 Commercial District (C)

(A) Intent

To establish and preserve general commercial areas consisting of shopping centers and commercial areas where customers reach individual business establishments primarily by automobile.

(B) Permitted Principal Uses

1. Offices
2. Establishments selling goods and services at retail
3. Gas stations and service stations
4. Private clubs
5. Hotels
6. Nursing homes
7. Funeral homes



8. Bakeries
9. Restaurants
10. Indoor theaters and other places of amusement
11. Motor vehicle sales and rentals
12. Storage units
13. Accessory structures (#34-21-02)

(C) Conditional Uses

1. Auto Repair Shops
2. Trails
3. Outdoor wood boilers (see *Section 6.5*) (#34-13-05)
4. WECS including conditions of approval
5. Outdoor storage including semi-trailers
6. Hospitals
7. Contractors yards and shops
(#34-18-02)
8. Indoor sport shooting range (#34-19-05)

4.6 Industrial District (I)

(A) Intent

To establish and preserve a district for industrial use along with those commercial uses which are more compatible with industrial than with other commercial uses.

(B) Permitted Principal Uses

1. Motor vehicle sales, service, and rental
2. Construction and farm equipment sales
3. Sales of mobile homes, campers, recreational vehicles, boats, and monuments
4. Wholesale and storage uses
5. Food packaging and bottling works
6. Commercial printing and newspaper offices
7. Contractor's yards and shops
8. Laundry, cleaning and dyeing plants
9. Office buildings
(#34-13-05)
10. Accessory structures (#34-21-02)



(C) Conditional Uses

1. WECS
2. Other industrial uses, such as manufacturing, research, high technology, and business parks
3. Trails
4. Wireless Communication Facilities
5. Outdoor wood boilers (see *Section 6.5*) (#34-13-05)
(#34-18-02)
6. Indoor sport shooting range (#34-19-05)
7. Accessory structures (#34-21-02)

4.7 Agriculture / Forestry District (AF)

(A) Intent

To establish and maintain for low intensity use those areas which because of their location, accessibility and natural characteristics are suitable for a wide range of agricultural, forestry, and recreational uses.

(B) Permitted Principal Uses

1. Growing and harvesting of timber and bush fruit
2. Agricultural
3. Wildlife management
4. Outdoor wood boilers (see *Section 6.5*) (#34-13-05)
5. Single-family residences
6. Registered Rental Dwellings (#34-19-04)
7. Accessory structures (#34-21-02)

(C) Conditional Uses

1. WECS
2. Resorts
3. Bed & Breakfast
4. Trails
5. Recreational uses/structures, on lots of 20 acres or more, where such development can be accomplished without significant adverse environmental impact
6. Racetracks
7. Hunting and shooting preserves on lots of 40 acres or more
8. Accessory Housing Units
9. Rural Cluster Development Subdivisions (see *Section 6.12*)



10. Contractor yards and shops
11. Parks (**#34-09-02**)
12. Kennels on lots 20 acres or more (**#34-09-03**)
13. Schools and Churches (**#34-10-04**)
14. Campgrounds on parcels 20 acres or more (**#34-16-02**)

4.8 Municipal Properties District (MP)

(A) Intent

To establish and preserve areas for certain public purpose and functions conducted by Chocolay Township

(B) Permitted Principal Uses

1. Public Offices and related buildings
2. Police and Fire Stations
3. Community Centers
4. Indoor Sports Facilities
5. Libraries
6. Marinas
7. Parks
8. Township utility infrastructure
9. Recycling drop offsite
10. Maintenance and Storage facilities
11. WECS on lots of 5 acres or more, including conditions of approval (**#34-13-05**)
12. Accessory structures (**#34-21-02**)

(C) Conditional Uses

1. Wireless Communication Facilities
2. Solid Waste Transfer Stations
3. Cemeteries
4. Campgrounds
5. Outdoor wood boilers (see *Section 6.5*) (**#34-13-05**)



4.9 District Planned Unit Development (see *Article X*)

(A) Intent

To accommodate innovative land uses provided stated objectives are met and in conformance with a final development plan.

(B) Permitted Principal Uses

1. Residential
2. Commercial
3. Manufacturing

(C) Conditional Uses

None

4.10 Special Uses in Designated Zoning Districts

Special uses are those uses of land which, because of their possible impact on the environment, the economy, and the health, safety and welfare of the community, require a specific process for their review, consideration, and possible approval, and therefore may not be commenced without first securing the approval of the Township Board in accordance with the applicable procedures and obtaining the required permit from the Zoning Administrator as set forth in this Ordinance. The purpose of this section is to identify those special uses and the zoning districts in which they are permitted, and to identify the procedures for obtaining a permit which would allow a special use.

(A) Mining and / or Mineral Extraction and the Incidental Activities Associated with Such Use

1. A mining and/or mineral extraction operation may be permitted by the Township Board in any and all zoning districts as established in this Zoning Ordinance if such operations and activities meet all established requirements, standards, criteria, and conditions set forth in Article VII.
2. The procedure, standards, and criteria applicable to the Township Board in its consideration of an application for a mining and/or mineral extraction special use permit shall be as set forth in the provisions of Article VII of this Zoning Ordinance.

(B) Site Condominiums

1. A Site Condominium may be permitted by the Township Board in any and all zoning districts as established in this Zoning Ordinance if such use meets all established requirements, standards, criteria, and conditions set forth in Article XII of this Zoning Ordinance.
2. The procedures, standards, and criteria applicable to the Township Board in its consideration of an application for a site condominium special use permit shall be as set forth in the provisions of Article XII of this Zoning Ordinance.



V. Special Districts and Overlay Zones

5.1 Overlay Zone for Snowmobile Trail

(A) Intent

The Charter Chocolay Township has adopted a zoning ordinance regarding development in the Township. In order to facilitate the development of approved snowmobile trails within the Township, provision for an overlay zone has been established, specifically designed to provide for a zone no more than a 50 feet wide as a designated and approved snowmobile trail within any zoning district. (Minimum required setback of 50 feet from trails edge to surrounding side property lines.)

Regulations for approved snowmobile trails are contained in the State Snowmobile Laws. These are applicable within the boundaries of the 50 foot overlay zone. An approved snowmobile trail shall be shown and described on the Township's overlay map for the purposes and uses permitted by the Township Zoning Ordinance.

(B) Permitted Principal Uses

None

(C) Conditional Uses

Snowmobile trails as designated and described. These shall be subject to and conditioned upon approval for use between December 1 through April 1 annually, provided always that the consent of the landowner over which the snowmobile trail is proposed, is shown by agreement, license, right-of-way, easement or other instrument.

5.2 Lake Superior Shoreline / Dune Protection Overlay District

(A) Intent

The provisions of the Lake Superior Shoreline/Dune Protection Overlay District are intended to protect the lake shore adjacent to Lake Superior in Chocolay Township in order to insure property values are protected; existing and future structures and properties are protected from erosion and flooding; and that this special ecosystem is preserved.

In order to facilitate this purpose, this overlay zone has been established to overlap any existing zoning districts, and their respective regulations, along Lake Superior in a width from the erosion hazard line to encompass the entire foredune, or to a maximum of 100 feet landward, whichever is less, where the natural conditions of the shoreline, specifically the foredune and/or associated vegetation, shall be preserved in its natural state.

This overlay district shall not apply to the shoreline of the Shot Point area where a rock shoreline predominates.



These provisions are intended to supplement, and not abrogate, any other applicable regulations for this area. All applicable state or federal regulations must also be complied with as administered through their respective agencies.

(B) Permitted Principal Uses

Trees and shrubs within this overlay zone may be trimmed or pruned at the property owner's discretion to create a view of the water and access thereto. In cases where native vegetation does not exist, the landowner is encouraged to replace the dune area with native plant species. Pathways for access and stairways are permitted and are encouraged to be designed to minimize disturbance to existing vegetation.

Vegetative cover, including trees, within the overlay zone may be removed if the Zoning Administrator finds that such modifications will be consistent with management practices which will prevent soil loss, will minimize wind erosion, and will provide the shoreline with adequate protection without altering the inherent characteristics of the water body and dune structure.

(C) Conditional Uses

Earth changes such as bulldozing, lowering of the dune, creating cuts through the dune or other similar changes that alters the size, height, or width of the dune area within the Shoreline/Dune Protection Overlay District.

In those sections of the Overlay District where the dunes have grown in height to such an extent that the view of the water has been significantly diminished, homeowners may understandably wish to lower the dunes to restore their view of the lake. In such circumstances a conditional use permit will be required to ensure that any such modification of the dunes will be consistent with management practices which will minimize wind erosion, will provide the shoreline with adequate protection, and will not cause significant harm to neighboring properties

A 20 foot undisturbed buffer strip shall remain in place on the dune along the property lines. Slopes for dune cuts shall not exceed 1 foot vertical to 3 foot horizontal. Altered dune areas shall be stabilized with the planting of beach grass at a rate of 1 culm (clump) per 1 square foot of disturbed area or other method approved by the Planning Commission to prevent wind erosion from impacting adjacent properties.

The Township Office will assist the property owner with the development of a plan to detail the changes that are proposed for the conditional use approval process. The Marquette County Conservation District will alert all residents or property owners of the need for a conditional use permit with Chocolay Township when applications for soil erosion permits come through their office.



Restoration: In the event of violations of these regulations, property owners will be required to provide a plan to the Planning Commission detailing their restoration efforts to restore and protect the integrity of the affected dune area.

5.3 US-41 / M-28 Access Management Overlay District

(A) Findings and Intent

Conditions along the major highways in Marquette County are changing with increasing development and traffic. Continued development along US 41/M-28 will further increase traffic volumes and introduce additional conflict points which will erode traffic operations and increase potential for traffic crashes. Numerous published studies document the positive relationship between well-designed access management systems and traffic operations and safety. Those studies and the experiences of many other communities demonstrate that implementing standards on the number, placement and design of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for crashes while preserving a good business environment and the existing investment in the highway. The conditions along US-41/M-28 and a series of access management recommendations are embodied in the *US-41/M-28 Access Management Plan*. Among those recommendations are the creation of an overlay zone along these highways within Marquette County and the adoption of uniform access management standards by all the jurisdictions along the corridor which are based on the Michigan Department of Transportation access management standards and the *Michigan Access Management Guidebook*, provided to local governments by the Michigan Department of Transportation.

The provisions of this Section are intended to promote safe and efficient travel on the US-41/M-28 highways within Marquette County; improve safety and reduce the potential for crashes; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the *Township Master Plan* and the *US-41/M-28 Access Management Plan* recommendations; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation, the Marquette County Road Commission, and adjoining jurisdictions, as applicable. (#34-18-02)



To these ends, the following provisions:

1. Establish a Highway Overlay Zone to regulate access points along the highway.
2. Identify additional submittal information and review procedures required for parcels that front along US-41/M-28.
3. Require demonstration that new parcels are accessible and in compliance with the access standards of this Ordinance to ensure safe accessibility as required by the Land Division Act.
4. Restrict lots and parcels to a single access point except under certain circumstances.
5. Require longer frontages or wider minimum lot widths than are required in underlying zoning districts to help achieve access management spacing standards;
6. Require coordinated access among adjacent lands wherever feasible;
7. Improve situations where existing development along the highways does not conform to the standards and intent of this Ordinance.
8. Establish uniform standards to ensure fair and equal application.

(B) Applicability

The standards of this Section apply to all lots and parcels that abut the highway right-of-way of US-41/M-28 and such other lands that front on intersecting streets within three hundred fifty (350) feet of the US-41/M-28 right-of-way within Chocolay Township. This area is referred to as the Highway Overlay Zone.

The standards of this Section shall be applied by the Zoning Administrator and by the Planning Commission during site plan review, as is appropriate to the application. The Planning Commission shall make written findings of nonconformance, conformance, or conformance if certain conditions are met with the standards of this Section prior to disapproving or approving a site plan per the requirements of Article IX. Chocolay Township shall coordinate its review of the access elements of a site plan with the appropriate road authority prior to making a decision on an application (see D. below). The approval of a site plan does not negate the responsibility of an applicant to subsequently secure driveway permits from the appropriate road authority, either the Marquette County Road Commission, or the Michigan Department of Transportation (depending on the roadway). Any driveway permit obtained by an applicant prior to review and approval of a site plan as required under this Ordinance will be ignored, unless it is conditioned upon approval under this Ordinance.

These regulations apply in addition to, and simultaneously with, the other applicable regulations of the Zoning Ordinance. Permitted and Special Land Uses within the Highway Overlay Zone shall be as regulated in the underlying zoning district (as designated on the zoning map), and shall meet all the applicable requirements for that district, with the following additional provisions:



1. The number of access points is the fewest needed to allow motorists reasonable access to the site.
2. Access spacing from intersections and other driveways shall meet the standards within the Highway Overlay Zone, and the guidelines of the applicable road agency (MDOT and/or Marquette County Road Commission) and the recommendations of the *US-41/M-28 Access Management Plan* as appropriate.
3. Where an applicant shares access with adjacent uses, either now or in the future, any shared access and maintenance agreements must be recorded with the Marquette County Register of Deeds.
4. No building or structure, nor the enlargement of any building or structure, shall be erected unless the Highway Overlay Zone regulations applicable to the site are met and maintained in connection with such building, structure, or enlargement.
5. No land division, subdivision or site condominium project for land within this Highway Overlay Zone shall be approved unless compliance with the access spacing standards in this Section is demonstrated.
6. Any change in use on a site that does not meet the access standards of this Highway Overlay Zone, shall be required to submit an application for approval by the Planning Commission and submit information to the MDOT, and/or Marquette County Road Commission as appropriate, to determine if a new access permit is required. See *Section 5.3(K)* below.
7. For building or parking lot expansions, or changes in use, or site redevelopment that cannot meet the standards of this ordinance due to parcel size or configuration, the Planning Commission shall determine the extent of upgrades to bring the site into greater compliance with the access standards of this Highway Overlay District. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, characteristics of the affected land uses, recommendations within the *US-41/M-28 Access Management Plan*, and any recommendations from the MDOT, and/or Marquette County Road Commission as appropriate. Required improvements may include removal, rearrangement or redesign of driveways or other access.
8. Where conflict occurs between the standards of this Ordinance and other applicable ordinances, the more restrictive regulations shall apply.

(C) One Access Per Parcel

1. All land in a parcel or lot having a single tax code number, as of the effective date of the amendment adding this provision to the Ordinance (hereafter referred to as "the parent parcel"), that shares a lot line for less than six hundred (600) feet with right-of-way on US-41/M-28 shall be entitled to one (1) driveway or road access per parcel from said public road or highway, unless hereafter shared access or alternative access is provided to that parcel.



- a. All subsequent land divisions of a parent parcel, shall not increase the number of driveways or road accesses beyond those entitled to the parent parcel on the effective date of this amendment.
- b. Parcels subsequently divided from the parent parcel, either by metes and bounds descriptions, or as a plat under the applicable provisions of the Land Division Act, Public Act 288 of 1967, as amended, or developed as a condominium project in accord with the Condominium Act, Public Act 59 of 1978, as amended, shall have access by a platted subdivision road, or by an approved public road frontage road or rear service drive.

Parent parcels with more than six hundred (600) feet of frontage on a public road or highway shall also meet the requirements of C.1.a and C.1.b above, except that whether subsequently divided or not, they are entitled to not more than one driveway for each six hundred (600) feet of public road frontage thereafter, unless a registered traffic engineer determines to the satisfaction of the Planning Commission that topographic conditions on the site, curvature on the road, or sight distance limitations demonstrate an additional driveway within a lesser distance is safer or the nature of the land use to be served requires an additional driveway for improved safety. See also *Section 5.3(R)2.a.*

(D) Applications

1. Applications for driveway or access approval shall be made on a form prescribed by and available at the Michigan Department of Transportation and Marquette County Road Commission as applicable. A copy of the completed form submitted to the applicable road authority shall be submitted to the Zoning Administrator as well.
2. Applications for all uses requiring site plan review shall meet the submittal, review and approval requirements of Article IX in addition to those of this Section. In addition:
 - a. Applications are strongly encouraged to rely on the following sources for access designs, the *National Access Management Manual*, TRB, 2003; National Cooperative Highway Research Program (NCHRP), *Access Management Guidelines to Activity Centers Report 348*, *Impacts of Access Management Techniques Report 420*; and the AASHTO (American Association of State Highway and Transportation Officials) “Green Book” *A Policy on Geometric Design of Highways and Streets*. The following techniques are addressed in these guidebooks and are strongly encouraged to be used when designing access:
 - 1) Not more than one driveway access per abutting road
 - 2) Shared driveways
 - 3) Service drives: front and/or rear
 - 4) Parking lot connections with adjacent property
 - 5) Other appropriate designs to limit access points on an arterial or collector.



- b. As applicable, applications shall be accompanied by an escrow fee for professional review per the requirements of Section 6.13.
- c. In addition to the site plan information required in Article IX, the information listed below shall also be submitted for any lot or parcel within the Highway Overlay Zone accompanied by clear, scaled drawings (minimum of 1"=60') showing the following items:
 - 1) Property lines.
 - 2) Right-of-way lines and width, and location and width of existing road surface.
 - 3) Existing access points. Existing access points within 250 feet on either side of the US-41/M-28 frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.
 - 4) Surface type and dimensions shall be provided for all existing and proposed driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs), intersecting streets, and all curb radii within the site.
 - 5) The site plan shall illustrate the route and dimensioned turning movements of any passenger vehicles as well as expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles. The plan should confirm that routing of vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.
 - 6) The applicant shall submit evidence indicating that the sight distance, driveway spacing and drainage requirements of the Michigan Department of Transportation or Marquette County Road Commission are met.
 - 7) Dimensions between proposed and existing access points on both sides of the highway or road (and median cross-overs if applicable now or known in the future).
 - 8) Design dimensions and justification for any alternative or innovative access design such as frontage roads, rear access or service drives, or parking lot cross-access.
 - 9) Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval. Once approved, this agreement shall be recorded with the County Register of Deeds.
 - 10) Show all existing and proposed landscaping, signs, and other structures or treatments within and adjacent to the right-of-way.
 - 11) Dumpsters or other garbage containers.
 - 12) The location of all proposed snow storage from parking lots which must not interfere with clear sight distance when turning into or out of a site, or safely moving within a site.
 - 13) Traffic impact study meeting the requirements of Section 5.4 where applicable.



(E) Review and Approval Process

The following process shall be completed to obtain access approval:

1. An Access Application meeting the requirements of Section 5.3(D) above and Article IX (Site Plan Review) shall be submitted to the Zoning Administrator on the same day it was submitted to the Michigan Department of Transportation and/or the Marquette County Road Commission, as applicable.
2. The completed application must be received by the Zoning Administrator at least 30 days prior to the Planning Commission meeting where the application will be reviewed.
3. The applicant, the Zoning Administrator and representatives of the Marquette County Road Commission, the Michigan Department of Transportation and the Planning Commission may meet prior to the Planning Commission meeting to review the application and proposed access design. Such a meeting shall occur for all projects where a traffic impact study is required.
4. If the Planning Commission considers the application first, it shall recommend approval conditioned upon approval of the applicable road authority, or it shall recommend denial based on nonconformance with this Ordinance, or if necessary, table action and request additional information. The action of the Planning Commission shall be immediately transmitted to the applicable road authority.
5. It is expected that if the Michigan Department of Transportation and/or the Marquette County Road Commission, as applicable, review the application first, each entity will immediately send its decision on the application to the Planning Commission for their consideration. One of three actions may result;
 - a. If the Planning Commission and the Michigan Department of Transportation, and the Road Commission, as applicable, approve the application as submitted, the access application shall be approved.
 - b. If both the Planning Commission and the Michigan Department of Transportation and the Road Commission, as applicable, deny the application, the application shall not be approved.
 - c. If either the Planning Commission, Michigan Department of Transportation, or Road Commission, as applicable, requests additional information, approval with conditions, or does not concur in approval or denial, there shall be a joint meeting of the Zoning Administrator, a representative of the Planning Commission and staff of the Michigan Department of Transportation and/or the Marquette County Road Commission, as applicable, and the applicants. The purpose of this meeting will be to review the application to obtain concurrence between the Planning Commission and the applicable road authorities regarding approval or denial and the terms and conditions of any permit approval.



6. No application will be considered approved, nor will any permit be considered valid unless all the above-mentioned agencies, as applicable, have indicated approval unless approval by any of the above-mentioned agencies would clearly violate adopted regulations of the agency. In this case the application shall be denied by that agency and the requested driveway(s) shall not be constructed. Conditions may be imposed by the Planning Commission to ensure conformance with the terms of any driveway permit approved by a road authority.

(F) Record of Application

The Zoning Administrator shall keep a record of each application that has been submitted, including the disposition of each one. This record shall be a public record.

(G) Period of Approval

Approval of an application remains valid for a period of one year from the date it was authorized. If authorized construction, including any required rear service road or frontage road is not initiated by the end of one (1) year, the authorization is automatically null and void. Any additional approvals that have been granted by the Planning Commission or the Zoning Board of Appeals, such as Special Land Use Permits, or variances, also expire at the end of one year

(H) Renewal

An approval may be extended for a period not to exceed six months. The extension must be requested, in writing by the applicant before the expiration of the initial approval. The Zoning Administrator may approve extension of an authorization provided there are no deviations from the original approval present on the site or planned, and there are no violations of applicable ordinances and no development on abutting property has occurred with a driveway location that creates an unsafe condition. If there is any deviation or cause for question, the Zoning Administrator shall consult a representative of the Michigan Department of Transportation and/or the Marquette County Road Commission, as applicable, for input.

(I) Re-issuance Requires New Application

Re-issuance of an authorization that has expired requires a new Access Application form to be filled out, fee paid, and processed independently of previous action. See *Section 5.3 (E)1*.

(J) Maintenance

The applicant shall assume all responsibility for all maintenance of driveway approaches from the right-of-way line to the edge of the traveled roadway.



(K) Change of Use Also May Require New Driveway

When a building permit is sought for the reconstruction, rehabilitation or expansion of an existing site or a zoning or occupancy certificate is sought for use or change of use for any land, buildings, or structures, all of the existing, as well as proposed driveway approaches and parking facilities shall comply, or be brought into compliance, with all design standards as required by the Michigan Department of Transportation and/or the Marquette County Road Commission as applicable, and as set forth in this Ordinance prior to the issuance of a Zoning Permit, and pursuant to the procedures of this section.

(L) Changes Require New Application

Where authorization has been granted for entrances to a parking facility, said facility shall not be altered or the plan of operation changed until a revised Access Application has been submitted and approved as specified in this section.

(M) Closing of Driveways

Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unused entrances and approaches to the same site at the expense of the property owner, unless some other arrangement is agreed to by the road authority responsible for the road in question.

(N) Inspection

The Zoning Administrator shall inspect the driveway and any other required access elements during construction and following construction for conformance with the approved application prior to allowing occupancy. The Zoning Administrator may consult with MDOT and/or the County Road Commission as applicable, prior to making a determination of conformance or nonconformance with an approved application.

(O) Performance Bond

The community may require a performance bond or cash deposit in any sum not to exceed \$5,000 for each such driveway approach or entrance to insure compliance with an approved application. Such bond shall terminate and the deposit be returned to the applicant when the terms of the approval have been met or when the authorization is cancelled or terminated.

(P) Reserved for Future Use



(Q) Lot Width and Setbacks

1. **Minimum Lot Width** - Except for existing lots of record, all lots fronting on US-41 / M-28 subject to this section, shall not be less than three hundred (300) feet in width, unless served by shared access or a service drive that meets the requirements of *Section 5.3(R)9-11*, in which case minimum lot width may be reduced to not less than one hundred (100) feet in width if a deed restriction is approved and recorded with the County Register of Deeds demonstrating an effective method for long term maintenance of the shared access, service drive and/or parking lot cross-access.
2. **Structure Setback** - No structure other than signs, as allowed in Article XVIII, telephone poles and other utility structures that are not buildings, transfer stations or substations, shall be permitted within fifty (50) feet of the roadway right-of-way.
3. **Parking Setback and Landscaped Area** - No parking or display of vehicles, goods or other materials for sale, shall be located within fifty (50) feet of the roadway right-of-way. This setback shall be planted in grass and landscaped with small clusters of salt tolerant trees and shrubs suitable to the underlying soils unless another design is approved under the landscape provisions of *Sections 11.1-11.5*.

(R) Access Management Standards

No road, driveway, shared access, parking lot cross-access, service road, or other access arrangement to all lots and parcels within the Highway Overlay Zone shall be established, reconstructed or removed without first meeting the requirements of this section.

1. Each lot/parcel with highway frontage on US-41/M-28 shall be permitted one access point. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. As noted in Sections 5.3(B-C), land divisions shall not be permitted that may prevent compliance with the access location standards of this Highway Overlay Zone.
2. When alternatives to a single, two-way driveway are necessary to provide reasonable driveway access to property fronting on US-41/M-28, and shared access or a service drive are not a viable option, the following progression of alternatives should be used:
 - a. One (1) standard, two-way driveway;
 - b. Additional ingress/egress lanes on one (1) standard, two-way driveway;
 - c. Two (2), one-way driveways;
 - d. Additional ingress/egress lanes on two (2), one-way driveways;
 - e. Additional driveway(s) on an abutting street with a lower functional classification;
 - f. Additional driveway on arterial street.

Note: Restricted turns and roadway modifications will be considered in conjunction with alternative driveway designs.

3. Driveways and new intersecting streets shall provide the following spacing from other access points along the same side of the public street (measured from centerline to



centerline of each access point), based on the posted speed limit along the public street segment, unless the appropriate road authority approves less based on the land use characteristics, lot size, and/or restricted turns in the driveway design.

| Posted Speed Limit | Along US41 / M28* | Along Other Intersecting Major Arterials | Along all Other Intersecting Streets (not major arterials) |
|--------------------|-------------------|--|--|
| 35 mph or less | 245 ft. | 245 ft. | 150 ft. |
| 40 mph | 300 ft. | 300 ft. | 185 ft. |
| 45 mph | 350 ft. | 350 ft. | 230 ft. |
| 50 mph | 455 ft. | 455 ft. | 275 ft. |
| 55 mph | 455 ft. | 455 ft. | 350 ft. |

* Unless greater spacing is required by MDOT

4. Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.
5. Driveways or new intersecting streets along sections of US-41/M-28 with an existing or planned median shall be located in consideration of existing or approved median crossovers. A sufficient length for weaving across travel lanes and storage within the median shall be provided, consistent with MDOT published standards.
6. Driveways and new intersecting streets shall be aligned with driveways on the opposite side of the street or offset a minimum of 250 feet, centerline to centerline wherever feasible. The Planning Commission may reduce this to not less than 150 feet where each of the opposing access points generates less than 50 trips (inbound and outbound) during the peak hour of the public street or where sight distance limitations exist, or shall rely on the best option identified by MDOT.
7. Minimum spacing of driveways from intersections shall be in accordance with the table below (measured from pavement edge to pavement edge) unless MDOT authorizes a lesser spacing:

| Signalized Locations* | Distance in Feet |
|----------------------------|------------------|
| Along US-41 / M28 | 300 |
| Along other public streets | 200 |

* Spacing for signalized intersections shall also be applied at intersections where MDOT indicates spacing and approach volumes may warrant a signal in the future.

| Unsignalized Locations | Distance in Feet |
|-------------------------------|------------------|
| Along US-41 / M28 | 300 |
| Intersections with US-41/M-28 | 300 |
| Along other public streets | 150 |



8. Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized locations, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.
9.
 - a. Sharing or joint use of a driveway by two or more property owners shall be encouraged. In cases where access is restricted by the spacing requirements of Section 5.3(R)3 above a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided which allows traffic to travel across one parcel to access another, and/or access the public street.
 - b. In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the site plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This may require posting of a performance guarantee to cover the cost of removing the temporary driveway if the applicant or then owner does not remove the temporary driveway once a permanent driveway is established.
10. Frontage roads or service drives (see Figure 1) shall be designed, constructed and maintained in accordance with the following standards:
 - a. **Location** - Frontage roads or service drives shall generally be parallel to the front property line and may be located either in front of, or behind, principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service road, the Planning Commission shall consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.
 - b. **Alignment** - The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This determination may require use of aerial photographs, property line maps, topographic information and other supporting documentation.
 - c. **Setback** - Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of thirty (30) feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum sixty (60) feet of throat depth provided at the access point. The access point location shall conform with all the applicable standards of this Ordinance.
 - d. **Access Easement** - A frontage road or service drive shall be within an access easement permitting traffic circulation between properties. The easement shall be



recorded with the County Register of Deeds. This easement shall be at least forty (40) feet wide. A frontage road or service drive shall have a minimum pavement width of twenty-six (26) feet, measured face to face of curb with an approach width of thirty-six (36) feet at intersections. The frontage road or service drive shall be constructed of a paved surface material that is resistant to erosion and shall meet Marquette County Road Commission standards for base and thickness of asphalt or concrete.

- e. **Snow Storage** - A minimum of fifteen (15) feet of snow storage/landscaping area shall be reserved along both sides of the frontage road or service drive.
- f. **Service Drive Maintenance** - No service drive shall be established on existing public right-of-way. The service drive shall be a public street (if dedicated to and accepted by the public), or a private road maintained by the adjoining property owners it serves who shall enter into a formal agreement for the joint maintenance of the service drive. The agreement shall also specify who is responsible for enforcing speed limits, parking and related vehicular activity on the service drive. This agreement shall be approved by the Township attorney and recorded with the deed for each property it serves by the County Register of Deeds. If the service drive is a private road, the Township shall reserve the right to make repairs or improvements to the service drive and charge back the costs directly or by special assessment to the benefiting landowners if they fail to properly maintain a service drive.
- g. **Landscaping** - Landscaping along the service drive shall conform with the requirements of Sections 11.1-11.5. Installation and maintenance of landscaping shall be the responsibility of the developer or a property owners association.
- h. **Parking Areas** - All separate parking areas (i.e. those that do not use joint parking cross-access) shall have no more than one (1) access point or driveway to the service drive.
- i. **Parking** - The service road is intended to be used exclusively for circulation, not as a parking, loading or unloading aisle. Parking shall be prohibited along two-way frontage roads and service drives that are constructed at the minimum width (see B.4. above). One-way roads or two-way roads designed with additional width for parallel parking may be allowed if it can be demonstrated through traffic studies that on-street parking will not significantly affect the capacity, safety or operation of the frontage road or service drive. Perpendicular or angle parking along either side of a designated frontage road or service drive is prohibited. The Planning Commission may require the posting of "no parking" signs along the service road. As a condition to site plan approval, the Planning Commission may permit temporary parking in the easement area where a continuous service road is not yet

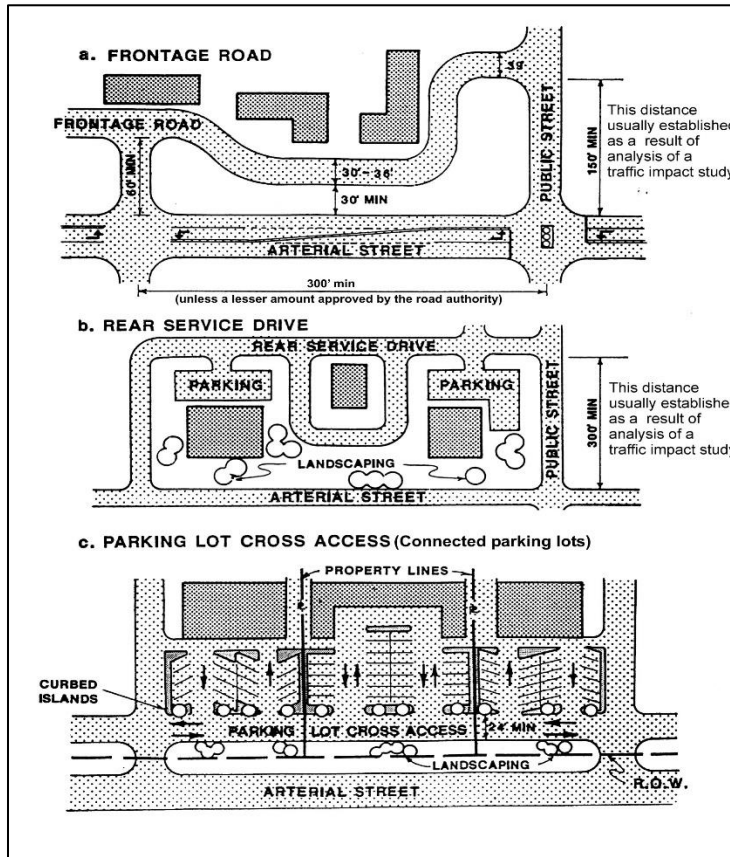


available, provided that the layout allows removal of the parking in the future to allow extension of the service road. Temporary parking spaces permitted within the service drive shall be in excess of the minimum required under Article VIII, Parking and Loading Standards.

- j. **Directional Signs and Pavement Markings** - Pavement markings may be required to help promote safety and efficient circulation. The property owner shall be required to maintain all pavement markings. All directional signs and pavement markings along the service drive shall conform with the current Michigan Manual of Uniform Traffic Control Devices.
- k. **Assumed Width of Pre-existing Service Drives** - Where a service drive in existence prior to the effective date of this provision has no recorded width, the width will be considered to be forty (40) feet for the purposes of establishing setbacks and measured an equal distance from the midpoint of the road surface.
- l. **Pedestrian and Bicycle Access** - Separate, safe access for pedestrians and bicycles shall be provided on a sidewalk or paved path that generally parallels the service drive unless alternate and comparable facilities are approved by the Planning Commission.
- m. **Number of Lots or Dwellings Served** - No more than twenty-five (25) lots or dwelling units may gain access from a service drive to a single public street.
- n. **Service Drive Signs** - All new public and private service drives shall have a designated name on a sign meeting the standards on file in the office of the Zoning Administrator.
- o. **Pre-existing Conditions** - In the case of expansion, alteration or redesign of existing development where it can be demonstrated that pre-existing conditions prohibit installation of a frontage road or service drive in accordance with the aforementioned standards, the Planning Commission shall have the authority to allow and/or require alternative cross access between adjacent parking areas through the interconnection of main circulation aisles. Under these conditions, the aisles serving the parking stalls shall be aligned perpendicularly to the access aisle, as shown in Figure 1, with islands, curbing and/or signage to further delineate the edges of the route to be used by through traffic.



Figure 1 Route delimitation



11. **Parking Lot Connections or Parking Lot Cross-Access:** Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the Planning Commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection. A written access easement signed by both landowners shall be presented as evidence of the parking lot connection prior to the issuance of any final zoning approval.
12. **Access Easements:** Shared driveways, cross access driveways, connected parking lots, and service drives shall be recorded as an access easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities should be recorded with the deed.
13. Access points shall be located to provide safe sight distance, as determined by the applicable road agency.
14. All access points shall maintain clear vision as illustrated in *Figures 2 and 3*.



Figure 2 Clear vision at driveways

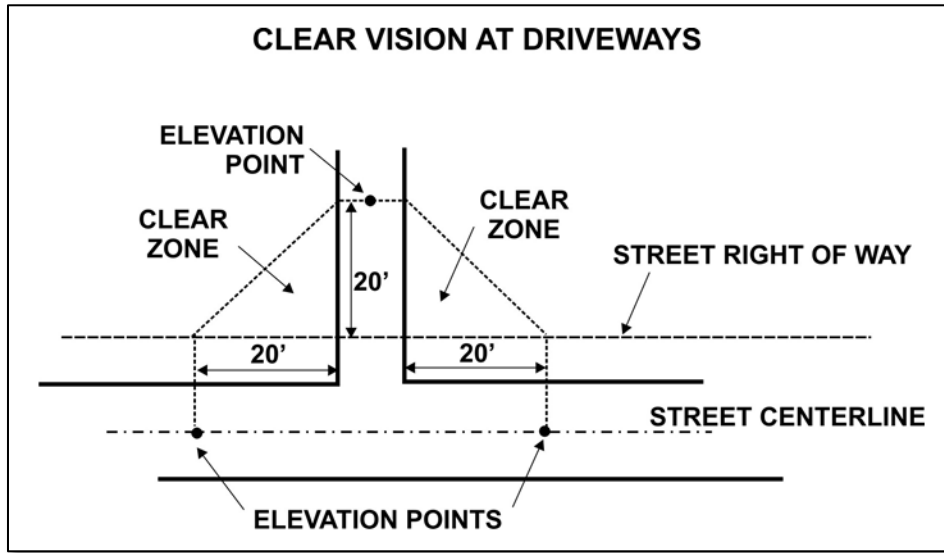
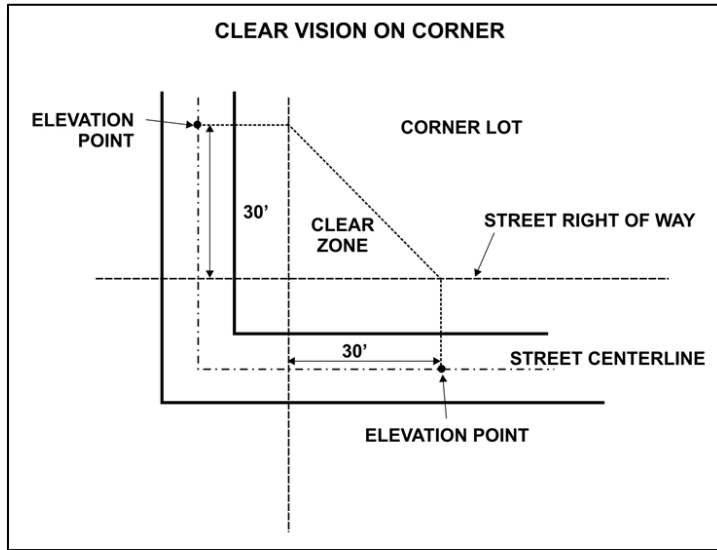


Figure 3 Clear vision on corner



15. Throat width and throat length of driveways shall be as required by the road authority and this Ordinance. The driveway design shall safely accommodate the needs of pedestrians and bicyclists.
16. Grades and drainage:
 - a. Driveways shall be constructed such that the grade for the 25 feet nearest the pavement edge or shoulder does not exceed 1.5% (one and one-half foot vertical rise in one-hundred feet of horizontal distance) wherever feasible. Where not feasible, grades shall conform with requirements of the applicable road authority.



- b. Driveways shall be constructed such that drainage from impervious areas located outside of the public right-of-way, which are determined to be in excess of existing drainage from these areas shall not be discharged into the roadway drainage system without the approval of the responsible agency. Storm drains, or culverts, if required shall be of a size adequate to carry the anticipated storm flow and be constructed and installed pursuant to the specifications of the responsible road authority.
17. **Directional Signs and Pavement Markings** - In order to ensure smooth traffic circulation on the site, direction signs and pavement markings shall be installed at the driveway(s) in a clearly visible location as required by Chocolay Township as part of the site plan review process and approved by the Michigan Department of Transportation and the Marquette County Road Commission (as appropriate), and shall be maintained on a permanent basis by the property owner. Directional signs and pavement markings shall conform to the standards in the *Michigan Manual of Uniform Traffic Control Devices*.
18. **Traffic Signals** – Access points on US-41/M-28 may be required to be signalized in order to provide safe and efficient traffic flow. Any signal shall meet the spacing requirements of the applicable road authority. A development may be responsible for all or part of any right-of-way, design, hardware, and construction costs of a traffic signal if it is determined by the road authority that the signal is warranted by the traffic generated from the development. The procedures for signal installation and the percent of financial participation required of the development in the installation of the signal shall be in accordance with criteria of the road authority with jurisdiction.
19. No driveway shall interfere with municipal facilities such as street lights or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating any new or proposed such driveways shall be at the expense of the property owner with the problem driveway.

(S) Nonconforming Driveways

1. Driveways that do not conform to the regulations in this Section, and were constructed before the effective date of this Section, shall be considered legal nonconforming driveways. Existing driveways previously granted a temporary access permit by MDOT or the County Road Commission are legal nonconforming driveways until such time as the temporary access permit expires.
2. Loss of legal nonconforming status results when a nonconforming driveway ceases to be used for its intended purpose, as shown on the approved site plan, or a plot plan, for a period of twelve (12) months or more. Any reuse of the driveway may only take place after the driveway conforms to all aspects of this Article.



3. Legal nonconforming driveways may remain in use until such time as the use of the driveway or property is changed or expanded in number of vehicle trips per day or in the type of vehicles using the driveway (such as many more trucks) in such a way that impact the design of the driveway. At this time, the driveway shall be required to conform to all aspects of the Ordinance.
4. Driveways that do not conform to the regulations in this Ordinance and have been constructed after adoption of this Ordinance, shall be considered illegal nonconforming driveways.
5. Illegal nonconforming driveways are a violation of this Ordinance. The property owner shall be issued a violation notice which may include closing off the driveway until any nonconforming aspects of the driveway are corrected. Driveways constructed in illegal locations shall be immediately closed upon detection and all evidence of the driveway removed from the right-of-way and site on which it is located. The costs of such removal shall be borne by the property owner.
6. Nothing in this Ordinance shall prohibit the repair, improvement, or modernization of lawful nonconforming driveways, provided it is done consistent with the requirements of this Section.

(T) Waivers and Variances of Requirements in Section 5.3 (R)

1. Any applicant for access approval under the provisions of this Section may apply for a waiver of standards in Section 5.3(R) if the applicant cannot meet one or more of the standards according to the procedures provided below:
 - a. For waivers on properties involving land uses with less than 500 vehicle trips per day based on rates published in the *Trip Generation Manual* of the Institute of Transportation Engineers: Where the standards in this Section cannot be met, suitable alternatives, documented by a registered traffic engineer and substantially achieving the intent of the Section may be accepted by the Zoning Administrator, provided that all of the following apply:
 - 1) The use has insufficient size to meet the dimensional standards.
 - 2) Adjacent development renders adherence to these standards economically unfeasible.
 - 3) There is no other reasonable access due to topographic or other considerations.
 - 4) The standards in this Section shall be applied to the maximum extent feasible.
 - 5) The responsible road authority agrees a waiver is warranted.
 - b. For waivers on properties involving land uses with more than 500 vehicle trips per day based on rates published in the *Trip Generation Manual* of the Institute of Transportation Engineers: During site plan review the Planning Commission shall have the authority to waive or otherwise modify the standards of Section R following an analysis of suitable alternatives documented by a registered traffic



engineer and substantially achieving the intent of this Section, provided all of the following apply:

- 1) Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.
 - 2) Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.
 - 3) The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
 - 4) The proposed location and design is supported by the County Road Commission and/or the Michigan Department of Transportation, as applicable, as an acceptable design under the circumstances.
2. **Variance Standards:** The following standards shall apply when the Board of Appeals considers a request for a variance from the standards of this Section.
- a. The granting of a variance shall not be considered until a waiver under *Section 5.3 (T)1* above has been considered and rejected.
 - b. Applicants for a variance must provide proof of practical difficulties unique to the parcel (such as wetlands, steep slopes, an odd parcel shape or narrow frontage, or location relative to other buildings, driveways or an intersection or interchange) that make strict application of the provisions of this Section impractical. This shall include proof that:
 - 1) indirect or restricted access cannot be obtained; and,
 - 2) no reasonable engineering or construction solution can be applied to mitigate the condition; and,
 - 3) no reasonable alternative access is available from a road with a lower functional classification than the primary road; and,
 - 4) without the variance, there is no reasonable access to the site and the responsible road authority agrees.
 - c. The Board of Appeals shall make a finding that the applicant for a variance met their burden of proof above, that a variance is consistent with the intent and purpose of this Section, and is the minimum necessary to provide reasonable access.
 - d. Under no circumstances shall a variance be granted unless not granting the variance would deny all reasonable access, endanger public health, welfare or safety.



5.4 Traffic Impact Study

- (A) If the proposed land use exceeds the traffic generation thresholds below, then the Zoning Administrator shall require submittal of a traffic impact study at the expense of the applicant, as described below prior to consideration of the application or site plan by either the Zoning Administrator or the Planning Commission. At their discretion, the Planning Commission may accept a traffic impact study prepared for another public agency. A traffic impact study shall be provided for the following developments unless waived by the Planning Commission following consultation with the Michigan Dept. of Transportation or County Road Commission, as applicable:
1. For any residential development of more than twenty (20) dwelling units, or any office, commercial, industrial or mixed use development, with a building over 50,000 square feet, or
 2. When permitted uses could generate either a thirty percent (30%) increase in average daily traffic, or at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day.
 3. Such other development that may pose traffic problems in the opinion of the Planning Commission.
- (B) At a minimum the traffic impact study shall be in accordance with accepted principles as described in the handbook *Evaluating Traffic Impact Studies, a Recommended Practice for Michigan*, developed by the MDOT and other Michigan transportation agencies and contain the following:
1. A narrative summary including the applicant and all project owners, the project name, a location map, size and type of development, project phasing, analysis of existing traffic conditions and/or site restrictions using current data transportation system inventory, peak hour volumes at present and projected, number of lanes, roadway cross section, intersection traffic, signal progression, and related information on present and future conditions. The capacity analysis software should be the same for each project, such as using HCS 2000 or a later version.
 2. Projected trip generation at the subject site or along the subject service drive, if any, based on the most recent edition of the Institute of Transportation Engineers *Trip Generation Manual*. Chocolay Township may approve use of other trip generation data if based on recent studies of at least three (3) similar uses within similar locations in Michigan.
 3. Illustrations of current and projected turning movements at access points. Include identification of the impact of the development and its proposed access on the operation of the abutting streets. Capacity analysis shall be completed based on the most recent version of the *Highway Capacity Manual* published by the Transportation Research Board, and shall be provided in an appendix to the traffic impact study.



4. Description of the internal vehicular circulation and parking system for passenger vehicles and delivery trucks, as well as the circulation system for pedestrians, bicycles and transit users.
5. Justification of need, including statements describing how any additional access (more than one driveway location) will improve safety on the site and will be consistent with the US-41/M-28 Access Management Plan and the Township *Master Plan*, and will not reduce capacity or traffic operations along the roadway. (#34-18-02)
6. Qualifications and documented experience of the author of the Traffic Impact Study, describing experience in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.

(C) Chocolay Township may utilize its own traffic consultant to review the applicant's traffic impact study, with the cost of the review being borne by the applicant per *Section 6.13*.

5.5 Mixed Use Overlay District (#34-18-01)

Use Definitions

| Word or Phrase | Definition |
|--------------------|---|
| Civic Uses | |
| Community facility | A non-commercial facility for the benefit of and service to the general public, including, but not limited to community centers, cultural facilities (such as libraries or museums), police and fire stations, and municipal and government uses |
| Daycare center | A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents are not immediately available to the child |
| Essential services | The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants and similar equipment, but not including buildings which are necessary for the furnishing of adequate services by such utilities or municipal departments for the general health, safety or welfare Wireless communication towers or antennas, utility buildings and storage yards are not considered essential services under this ordinance. |
| Major facility | A large facility of institutional nature including, but not limited to hospitals, non-educational research facilities, shelters, and similar uses |
| Place of assembly | A facility for public assembly including, but not limited to arenas, auditoriums, conference facilities, convention centers, exhibition halls, and theatres and performing arts centers |



| Word or Phrase | Definition |
|---|--|
| Civic Uses | |
| Public parking | A parking facility available to the general public for parking motor vehicles, including parking lots or parking structures |
| Recreation facility | A non-commercial recreational facility consisting of primarily open space including, but not limited to parks, playfields and playgrounds |
| Transit facilities | A facility providing accommodations by public, private, and non-profit entities for the conveyance of persons from one place to another by means of a transportation system, including but not limited to bus and rail terminals |
| Commercial Uses | |
| Bar, tavern, or other alcohol service establishment | <p>A place of business selling alcoholic beverages for consumption on the premises, and where the sale of food may be incidental to the sale of such beverages</p> <p>This includes any establishment in receipt of a valid alcoholic beverage license from the state which permits the sale of alcoholic beverages for consumption on the premises as a principal use. Examples of such uses include, but are not limited to bars, taverns, cocktail lounges, or nightclubs</p> |
| Drive-through facility accessory to a principal use | A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption off the premises may be facilitated |
| Entertainment and recreation | A place of business providing entertainment or recreation services such as bowling alleys, health or sports clubs, movie theatres, billiards parlors, dance halls, or video arcades |
| Indoor sport shooting range | An indoor area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting (#34-19-05) |
| Open air retail | <p>A retail sales establishment operated substantially in the open air, including but not limited to vending carts, kiosks, farmers or flea markets and the like</p> <p>Not included are car sales, equipment sales, boat sales, and home and garden supplies and equipment.</p> |
| Education Uses | |
| College / university | A facility for post-secondary education that grants associate, bachelor, master, or doctoral degrees and that may include research functions or professional schools |
| Learning center | A facility offering training, tutoring, or instruction in subjects such as languages, music, fine arts, or dance. This may include provision of electronic testing or distance learning |



| Word or Phrase | Definition |
|---------------------------------------|--|
| Education Uses | |
| Research facility | A facility for research and development that does not involve the use of human testing, animal husbandry, incinerators, heavy equipment, mass manufacturing, fabrication, processing, or sale of products Any facility involving human testing, animal husbandry, or incinerators shall be considered a Major Facility. |
| School | A facility offering instruction at the pre-school to high school level |
| Special training / vocational | A facility offering instruction or training in trades or occupations such as secretarial, paralegal, business, beauty, barber, bartender, acupuncture, massage, design, or other similar vocations This classification excludes training and education in any activity that is not otherwise permitted in the zone. |
| Lodging Uses | |
| Inn | A group of 25 or fewer lodging units that may provide services for dining, meeting, or recreation |
| Office Uses | |
| Office | An office is a room or group of rooms used for conducting a business, profession, service, or government. Such facilities may include, but are not limited to, offices of attorneys, engineers, architects, physicians, dentists, accountants, financial institutions, real estate companies, insurance companies, financial planners, or corporate offices Offices exclude manufacturing activities. |
| Residential Uses | |
| Dwelling unit in a mixed-use building | A dwelling unit located in a building with non-residential land uses |
| Live / work unit | A dwelling unit that contains a commercial component |
| Multiple-family dwelling unit | A unit in a building used exclusively for residential purposes containing two or more residential dwelling units A multiple-family structure where units are available for lease or rent for periods of less than one month shall be considered a lodging use. |
| One-family detached dwelling unit | A detached building containing one dwelling unit |
| State licensed residential facility | Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Michigan Public Act 116 of 1973 (the Child Care Licensing Act) or Michigan Public Act 218 of 1979 (the Adult Foster Care Facility Licensing Act) This definition includes adult foster care facilities, foster family homes, foster family group homes, family day care homes, and group day care homes. |



(A) Administration

1. Intent

The Mixed Use Overlay District is designed to foster vital, lively, and sustainable development that creates a neighborhood identity for the portion of the Township located in district. The district is adopted to implement the vision of the Master Plan.

2. Establishment of the Mixed Use Overlay District

The Mixed Use Overlay District is an optional overlay district. Any land that is located within the boundaries of the overlay district will have two zoning designations, the Mixed Use Overlay District and the standard underlying zoning district as shown on the Township Zoning Map.

Property in the Mixed Use Overlay District may continue to be used as permitted by the standard zoning district. Any new development or major redevelopment in the Mixed Use Overlay District may be accomplished following either the requirements of this section or the regulations applicable in the underlying zoning district.

3. Boundaries of the Mixed Use Overlay District

The general boundaries of the Mixed Use Overlay District are:

- Identified parcels from the northwest boundary of the Township on US 41 to the intersection of US 41 and M-28
- Identified parcels south of the intersection of US 41 and M-28 (approximately 1/4 mile)
- Identified parcels on the north end of Cherry Creek Road from the intersection of US 41 and M-28 (approximately 1/4 mile)
- Identified parcels east of the intersection of US 41 South and M-28 East (approximately 1/2 mile)

Identified parcels shall be shown and described on the Township's Mixed Use Overlay map for the purposes and uses permitted in this Section.

4. Instructions

Wherever there appears to be a conflict between the regulations of this Section and other sections of the Zoning Ordinance (as applied to a particular development), the requirements specifically set forth in this Section shall prevail. For development standards not addressed in this section the other applicable sections of the Zoning Ordinance shall be used as the requirement.



5. Approval Process

Any proposed development using the Mixed Use Overlay District option shall require only site plan approval unless a use or design characteristic that requires conditional use approval as identified in this Section is proposed as part of the development.

a. Site Plan Approval

Site plan approval shall be required in accordance with the requirements of Section IX, *Site Plan Review*. The type of site plan review required and the site plan review process shall follow the procedures identified in Section IX. Site plans must contain all of the information required in Section IX.

b. Conditional Use Approval

For any proposed development or establishment of use that requires conditional use approval, the application shall be reviewed following the procedures and review criteria found in *Section XVI Conditional Use Permits*.

c. Planned Unit Development and Site Condominium

Any proposed planned unit development (PUD) or site condominium shall be approved following the procedures contained in Sections X Planned Unit Development or XII Site Condominiums with the exception that any design requirement contained in this Section shall take precedence over any similar design requirement contained in *Section X* or *XII*.

6. Existing Development in the Mixed Use Overlay District

Any development activity in the Mixed Use Overlay District that requires administrative or sketch plan review, or does not require site plan review per *Section IX Site Plan Review* may be reviewed following the requirements of this Section.

Any development activity in the Mixed Use Overlay District that requires site plan approval shall comply with all of the requirements of the Zoning Ordinance, except as may be modified per the Dimensional and Design Standards in this Section.

(B) Permitted Uses

■ Accessory drive-through facility

Examples:

- bank
- fast food
- pharmacy

■ Accessory entertainment facilities, food and beverage service, laundry, and other similar compatible uses.

■ Accessory gas sales

■ Accessory residential home occupation - tier 1.



- Agricultural commercial sales
 - Examples:
 - fertilizer, herbicide, and pesticide sales
 - garden centers and nurseries
 - rental and small equipment and repair
- Animal services – indoor facilities
 - Examples:
 - animal hospitals or shelters
 - breeding / boarding kennels
 - veterinary services
- Athletic / fitness / exercise establishments
 - Examples:
 - bowling alleys
 - fitness membership clubs
 - ice or roller blade rinks
- Auditoriums and other places for public assembly
- Bed and breakfast, tourist home, or similar with four units or less
- Business office
 - Examples:
 - accountants
 - architects
 - attorneys
 - commercial business
 - engineers
 - government
 - real estate
 - small clinics
- Charitable or philanthropic organizations
 - Examples:
 - Habitat for Humanity
 - Red Cross
 - Salvation Army
- Churches
 - Examples:
 - churches
 - mosques
 - synagogues



- temples
- Commercial outdoor recreation
 - Examples:
 - amphitheaters
 - batting cages
 - miniature golf
- Community center
 - For social activities such as neighborhood, community or senior centers
- Child and adult care
 - Examples:
 - adult foster care family home providing care to not more than six adults
 - adult foster care home providing care to not more than six adults
 - day care center with not more than six children
 - family day care home for not more than six children
 - foster family group home providing care to not more than six children
 - foster family home providing care to not more than four children
 - other State licensed residential facilities providing residential services for six or fewer individuals under 24 hour supervision or care
- Financial institutions
 - Examples:
 - banks
 - brokerage houses
 - credit unions
 - lenders
- Food trucks and other mobile vendors
- Hotels, motels, or similar lodging facilities with five units or more
- Libraries, museums, culture centers, and other similar compatible uses
- Light intensity processing with accessory storage
 - Examples:
 - commercial kitchens
 - kitchen incubators
 - small craft bottling facilities
- Medium intensity processing and handling
 - Examples:
 - food aggregation sites
 - small meat, food and beverage processing
 - wineries and breweries with bottling, packaging, and distribution activities



- Moderate regional commercial – moderate traffic intensity can include some outdoor storage and handling areas

Examples:

- appliances and household goods and service
- ATV, motorcycle, and snowmobile sales and repair
- automotive parts
- building trades or specialty contractor office
- business supplies and service
- car or truck wash
- convenience store without gas sales
- discount store
- funeral services
- garden center
- gas station
- hardware store
- indoor auction or flea market facility
- large grocery store
- repair of small engines and small electric motors, lawn mowers, snowmobiles, boat motors, ATVs, and trail groomers
- shopping center or department store
- stone monuments or slab
- other similar uses

- Neighborhood retail

Examples

- art gallery and fine art instruction
- arts, crafts, and hobby supplies
- bicycle sales, repair and rental
- books and magazines
- caterer
- handcrafted items
- health stores
- laundromat, dry cleaning, tailoring
- light repair of consumer goods such as televisions, clocks, watches, cameras, shoes, guns, office equipment, clothing and upholstery
- personal care products or services
- pet grooming
- prepared or prepackaged food and beverage sales



- rental, sales and service of non-motorized recreation equipment such as kayaks, canoes, and outdoor equipment
- small grocery stores
- sporting goods
- other similar uses
- On-site agritourism
 - Examples:
 - hayrides
 - special event hosting
 - other events open to the public
- Outdoor display and sales area
- Outdoor food and beverage service
- Outdoor food preparation
- Public offices
 - Examples:
 - government offices and services
 - publicly owned tourist information centers
 - other similar uses
- Retail food and drink – can include indoor entertainment
 - Examples:
 - bakeries
 - bars
 - brewpubs
 - coffee shops
 - delicatessens
 - ice cream stores
 - nightclubs
 - restaurants
 - soup kitchens
 - taverns
 - other similar uses
 - Roadside parks, public parks, public gardens, trails and trail easements
 - Storage facilities
- Utilities
 - Examples:
 - gas and water lines
 - sanitary sewer



- telephone, cable, and electrical lines
- WECS towers under ten feet and alternative energy arrays of less than seven panels

(C) Conditional Uses

- Accessory residential home occupation - tier 2.
- Animal services – outdoor facilities
Examples:
 - animal hospitals or shelters
 - breeding / boarding kennels
 - veterinary services
- Apartments, attached townhouses, condominiums and other similar uses
- Community or urban gardens as a principal use on a lot
- Farmer's market or food truck as the principal use of a lot
- Heavy regional commercial / high traffic intensity or large outdoor storage and handling areas

Examples:

- boats and marine supplies
- building supplies; building trades or specialty contractor yards
- industrial equipment or heavy consumer good sales and service
- large vehicle / equipment sales, repair, and rental
- mobile home and RV sales and service
- passenger vehicle sales and service
- warehouse or superstore; and other similar uses
- Indoor sport shooting range (#34-19-05)
- Large child and adult care

Examples:

- adult foster care congregate facilities
- adult foster care facilities with more than six adults receiving care
- adult foster care homes with more than six adults receiving care
- child caring institutions providing care for more than six children
- day care center with more than six children
- group day care facility with more than six persons receiving care



- Large housing
 - Does not include prisons, other correctional facilities, community residential care facilities or institutions for human care and habitation
 - Examples
 - convents
 - fraternity or sorority
 - monasteries
 - seminaries
 - other housing similar to and compatible with the above housing
- Light manufacturing, including large scale processing and assembly
 - Examples
 - electrical appliances and electronic instruments
 - fabricated metal products
 - food
 - forming and molding plastic products; machine shops
 - furniture and related wood products processing facility
 - industrial laundry operations
 - monument and art stone production
 - musical instruments
 - printing
 - publishing and engraving shops
 - small vehicle, machinery or vehicle parts assembly
 - solar devices; and other similar uses
- Light use structures
 - Examples
 - communication towers
 - electrical substations
 - gas regulator stations
 - recycling collection centers
 - satellite antennas larger than ten feet in diameter
- Medical or social care
 - Examples:
 - assisted living facilities
 - halfway houses
 - homeless shelters
 - homes for the aged
 - nursing or convalescent homes



- orphanages
- sanitariums
- spouse abuse shelters
- Medium manufacturing, including some outdoor operations or temporary storage of materials or vehicles

Examples:

- exterminators
- machine shops
- recycling operations other than vehicles
- small vehicle, body, and frame repair
- towing with temporary outdoor storage
- welding shops
- wholesale lawn and garden services; and landscape supply

- Mobile processing facility

Examples:

- food
- game processing
- meat
- On-site composting accessory to a non-residential use
- Outdoor flea market
- Outdoor recreation areas

Examples

- amusement and water parks
- fairgrounds
- golf driving ranges
- riding stables
- theme parks
- zoos
- Outdoor storage – not accessory to a business
- Public or private schools

Examples:

- art
- associated education research
- dance
- driver's training
- K-20
- music
- vocational



- Resorts
- Riding stable or animal breeding facility accessory to a residence
- Sawmills, whether temporary or permanent, as an accessory use
- Self-service storage facilities
 - Examples
 - mini-warehouses
 - rental storage units
- Transportation
 - Examples
 - bus depots
 - commuter parking; parking garages
 - helipad
 - Park and Ride facility
 - other similar uses
- Truck stops
- WECS towers ten feet or higher, and alternative energy arrays of more than six panels

(D) Dimensional and Design Standards

1. General

a. Building Entrances

Entrance to buildings located on corner lots or lots that front upon two or more streets or roads shall be required to have a principal entrance onto each street or a corner entrance oriented toward the intersection of the two streets.

b. Density

There are no minimum or maximum density standards for residential dwelling units in the Mixed Use Overlay District. The number of dwelling units that may be developed will be determined by lot design requirements such as the maximum height and minimum parking requirement for buildings.

2. Setback Requirements

Buildings in the Mixed Use Overlay District shall comply with the minimum setback requirements. When there is a minimum requirement for a setback, the building must be located within the build-to area that is created by the minimum setback requirement for the underlying zoning district as defined in Section 6.1 *Height and Placement Regulations*.

3. Parking Requirements

All parking requirements found in Section VIII *Off Street Parking and Loading Requirements* shall apply in the Mixed Use Overlay District.



4. Outdoor Amenity Space

a. Amenity Required Space

All developments in the Mixed Use Overlay District shall provide outdoor amenity spaces / green spaces with a minimum area of 2% of the gross land area of the development. The size and disposition of the amenity space shall be proportionate to the size and scale of the development. The emphasis of the amenity space requirement is on the quality rather than the quantity of the space.

b. Storm Water Management

All storm water management facilities in the Mixed Use Overlay District shall be attractively designed as a site amenity. However, storm water management facilities may not be used to satisfy the amenity space requirement. The area of a storm water management facility is defined as any area within 25 feet of the freeboard elevation of a detention pond.

5. Landscaping and Buffering

All landscaping requirements found in Section XI *Landscape and Grading Requirements* shall apply in the Mixed Use Overlay District.

6. Signs

All sign requirements found in Section XVIII *Signs and Fences* shall apply in the Mixed Use Overlay District

(E) Modification of Dimension and Design Standards

1. Intent

The requirements of this Section are comprehensive in scope and detailed in nature. The regulations have been designed to establish specific design criteria for new development in the Mixed Use Overlay District while still allowing for flexibility in site layout and design, architecture, and landscaping. However, unique site conditions or other factors may justify modifications from the dimensional standards of this Section.

It is the intent of this Section to establish a procedure by which the Planning Commission may modify the dimensional standards of this Section and the procedure by which those dimensional standards may be modified.

Relief from any standard or provision of this ordinance not specifically identified as a modifiable standard shall require a variance from the Zoning Board of Appeals following the procedures of Section 1.6 Administrative Standards and Procedures.



2. Modification Procedure

The Planning Commission shall determine that all of the following apply prior to approving a requested modification:

- a. The proposed development will still meet the purpose and intent of the Mixed Use Overlay District as identified in this Section if the requested modification is approved.
- b. The applicant shall submit evidence demonstrating that compliance with the strict standards of this Section makes development impractical on the site, and that the modification is necessary to develop in accordance with the standards of this Section.
- c. The requested modification will not make further development on the site or adjacent or nearby sites according to the standards of this Section impossible or impractical.
- d. The requested modification is the smallest modification necessary. If the proposed development could be constructed in a substantially similar manner with a smaller modification, the smaller modification may be approved.
- e. The modification will permit innovative design.

3. Modifiable Standards

Only the standards and regulations specifically identified in Table 1 may be modified. If the reference refers to a subsection, only the identified standards of that subsection may be modified. If the reference refers to an entire section, any standard in the entire section may be modified.

Table 1 – Modifiable Standards

| Requirement | Applicable Zoning Ordinance Sections |
|--|--|
| Street and highway | Section 5.3 <i>US 41/M-28 Access Management Overlay</i> Section 6.7 <i>Road Frontage Requirements</i> |
| Setback | Section 6.1 <i>Height and Placement Regulations</i> Section 6.2 <i>Zoning District Boundary Setback Regulations</i> |
| Minimum and maximum parking, parking layout standards, parking lot access standards and parking structures | Section VIII <i>Off Street Parking and Loading Requirements</i> |



VI. General Provisions

6.1 Height and Placement Regulations

(A) Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed below and no structure shall be erected or maintained which exceeds the height limit specified below. Where there is no rear lot line as otherwise defined herein, the required rear setback distance shall be measured from a line through the point on the lot most distant from any front lot line of the same lot, which line shall be perpendicular to a line from said point to the closest point on any front lot line. If there is more than one such line, the rear setback shall be maintained from any one of them at the option of the owner. Where a lot fronts on two streets within 30 degrees of being parallel, but not of their intersection, no rear setback is required. The side setback requirement applies to a side lot line and also to any lot line which is neither a front, rear, or side lot line. All distances are measured in feet from the drip lines of said structure/s.

Schedule of Regulations

| District | Front | Side | Rear | Height | Minimum Lot Size | Minimum Lot Width |
|----------|-------|------|------|--------|----------------------|-------------------|
| AF | 30 | 30 | 30 | 1 | 20 acres | None |
| C | 30 | 5 | 20 | 30 6 | 25,000 square feet | 125 |
| I | 40 | 5 | 20 | 30 6 | 1 acre | 150 |
| MFR | 30 | 30 | 30 | 30 6 | 20 acres | None |
| MP | 40 | 20 | 30 | 30 | None | None |
| PUD | 5 | 5 | 5 | 5 | 5 acres | 300 |
| R-1 | 30 | 10 2 | 35 | 30 6 | 25,000 square feet 4 | 125 |
| R-2 | 25 | 5 | 25 | 30 6 | 10,500 square feet | 50 |
| WFR | 30 | 10 2 | 30 | 30 6 | 25,000 square feet | 125 |

Note 100' waterfront setback is required in all districts (see Section 6.8 Waterfront Setback)

Footnotes

1. Height at any point on a structure shall not exceed the horizontal distance to any lot line.
2. A detached accessory building not exceeding 14 feet in height and not exceeding 720 square feet may be located within six feet of a side lot line and 20 feet from a rear lot line.
(#34-19-04)
3. Lot width shall be measured at the location of the front setback line.



4. 18,750 sq. ft. where lot is served by public sewer and/or water supply.
 5. Setbacks and height limits are to be determined as required by the original zoning district. Any modifications are subject to the final approval of the Final Development Plan.
 6. No detached building shall exceed the permitted height for the zoning district. structures (#34-21-02) (#34-09-17)
- (B) In Districts R-1, R-2, MFR, WFR, and AF, the minimum lot size and lot width regulations do not apply to any nonconforming parcel of land shown as lot in a recorded plat, or described in a deed or land contract executed and delivered prior to the effective date of this Ordinance.
- (C) There shall be a maximum floor area ratio of 25 percent in District MFR and 80 percent in Districts C and I.
- (D) There shall be a maximum ground coverage ratio of 30 percent in District MFR and 40 percent in Districts C and I.
- (E) There shall be a minimum landscaped open space of 30% in District MFR and 10% in Districts C and I. There shall be a minimum of 2.5% landscaped open space within the front yard setback.

6.2 Zoning District Boundary Setback Regulations

On lots in Districts C and I, no structure shall be erected or maintained within 30 feet of the boundary line of any R-1, R-2, or MFR Districts. Where a district boundary line divides a lot into two districts, it shall be treated as a lot line for purposes of the setback provisions of this Ordinance.

6.3 Minimum Floor Area For Dwelling Units

Every single-family dwelling shall have a minimum floor area of 800 square feet, and every dwelling unit in a multi-family dwelling shall have a minimum floor area of 600 square feet, provided:

- (A) It has a minimum width across any front, side or rear elevation of 20 feet and complies in all respects with the Marquette County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Marquette County Building Code, then and in that event such federal or state standards or regulations shall apply.
- (B) It is firmly attached to a permanent foundation constructed on a site in accordance with the Marquette County Building Code and constructed of such material and type as required in the applicable building code for residential dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's setup 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.

- (C) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and under carriage removed. Additionally, no dwelling shall have any exposed towing mechanism, under carriage or chassis.
- (D) The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
- (E) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (F) The fore going shall not apply to mobile homes located in a licensed mobile home park or zoning district R-2 except to the extent required by state and federal laws or otherwise specifically required in the ordinance of the Township pertaining to such parks and zoning districts.

6.4 Non-Conforming Lots Of Record

Nonconforming lots, any lot of record may be used for permitted uses even though the lot area and/or dimensions are less than those required for the District in which the lot is located, provided that yard dimensions and other requirements of the District, not involving lot area and width are met. Contiguous parcels under the same ownership are considered combined as necessary to eliminate or reduce to the maximum extent possible all dimensional nonconformities. The spirit of this provision is to limit density to provide isolation for wells, septic systems, drainage and similar public health consideration. No vested rights arise to the property owner for any parcel created in violation of any preceding Zoning Ordinance.



6.5 Outdoor Wood Burning Boilers And Appliances

(A) Chimney Heights and Setbacks

1. Outdoor wood boilers or other outdoor wood appliances meeting Phase I EPA standards shall have a minimum setback of two-hundred (200) feet from any and all lot/property lines;
2. Outdoor wood boilers or other outdoor wood appliances meeting Phase II EPA standards shall have a minimum setback of one-hundred fifty (150) feet from any and all lot/property lines;

(B) Regulations Pertaining to All Outdoor Wood Boilers and Other Outdoor Wood Appliances

1. No fuel other than natural wood without additives, wood pellets without additives, and agricultural seeds in their natural state may be burned.
2. The following fuels are strictly prohibited in new or existing appliances:
 - a. Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products;
 - b. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps;
 - c. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers;
 - d. Rubber, including tires or other synthetic rubber-like products;
 - e. Newspaper, cardboard, or any paper with ink or dye products;
 - f. Coal;
 - g. Any other items not specifically allowed by the manufacturer or this provision.
3. An outdoor wood boiler or other outdoor wood appliance shall not be located in the front yard, provided however that exceptions may be granted in the WFR district;
4. The granting of a permit constitutes an agreement between the landowner and Chocolay Township that the zoning administrator, at any reasonable time, may enter the property for purpose of inspection to determine compliance with regulations;
5. "Best Burn Practices" as issued by the Environmental Protection Agency (EPA) shall be followed by all applicants utilizing outdoor wood boilers.
6. Outdoor wood boilers or other outdoor wood appliances may only be used from October 1 to April 30 each year.
7. All outdoor wood boilers and other wood appliances shall be equipped with properly functioning spark arrestors.



(C) Commercial Outdoor Wood Boilers

1. Any person who intends to install or operate a commercial outdoor wood boiler or other outdoor wood appliance that has a rated thermal output greater than 350,000 Btu/hr shall ensure that the appliance meets all provisions of Section 6.5(B) and shall obtain an evaluation report and installation recommendations performed by a licensed professional engineer that includes the following information:
 - a. The type of application for which the outdoor wood boiler or other outdoor wood appliance will be used;
 - b. A determination of the heat load requirements of the facility as compared to the available heat supply of the outdoor wood boiler to ensure the unit is properly sized.
 - c. The stack location relative to the property lines and building locations within four-hundred (400) feet of the outdoor wood boiler;
 - d. The stack height as measured from grade to chimney top; and
 - e. Recommendations for the proper outdoor wood boiler installation, including but not limited to, hook-up, auxiliary fuel, stack height and location.

(#34-13-05)

6.6 Wind Energy Conversion Systems (WECS) Conditions for Approval Within All Districts With Chocoley Township

- (A) The proposed WECS will not block, interfere or otherwise impair a scenic vista, corridor or the view of a neighboring residential structure.
- (B) The primary purpose WECS will be to provide power for the principal use of the property whereon said WECS is to be located and shall not be the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a WECS designed to meet the energy needs of the principal use.
- (C) The WECS and its location on said properties and to limit any noise from said WECS is located. The additional side and rear yard setbacks from the required structure zoning ordinance setbacks shall be determined by the Planning Commission and shall be based upon the height of the proposed WECS.
- (D) No variance shall be granted in connection with a proposed WECS to permit a height greater than 175 feet of the placement of a WECS so close to a property line as to result in any portion of the WECS at any time, whether erect or in the event the WECS should fall or be toppled, to overhang, cross or otherwise extend beyond the property line.
- (E) No WECS shall be located within the front yard area.
- (F) The Planning Commission may add additional reasonable conditions.



- (G) A grant of zoning compliance permit constitutes an agreement between the land owner and Chocolay Township that the Zoning Administrator at any reasonable time may enter the property, for the purpose of inspection to determine compliance with above conditions.
- (H) No WECS shall be erected until final site plan approval has been granted by the Planning Commission and permits issued by all government agencies involved.

The site plan, in addition to the above, shall also show;

1. Location of tower on-site and tower height, including blades,
2. Underground utility lines within a radius equal to the proposed tower height, including blades,
3. Dimensional drawings, installation and operation instructions,
4. Design date indicating the basis of design, including manufacturer's dimensional drawings, installation and operation instructions,
5. Certification by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind load requirements for structures as established by the State of Michigan building codes,
6. Any other information that the Director of zoning, Director of planning or the Planning Commission deemed necessary.

6.7 Road Frontage Requirements

All lots in all zoning districts shall be located and have frontage on a public road or on a Township-approved private road. Any lot of record created before the effective date of this ordinance without any frontage on a public street or an approved private road shall not be occupied on a year round basis without access to a street provided by an easement or other right-of-way not less than sixty-six (66) feet wide.

A private driveway that accesses a Township approved private road, a county or state road may service up to four (4) separate parcels. If a private driveway is proposed to serve more than four (4) parcels, then the private driveway must meet the requirements of a private road under this ordinance.

All private roads shall meet the standards of a public road as required by the Marquette County Road Commission. Property owners with lots on existing approved private roads shall be encouraged to improve their road to meet Marquette County standards, in order that the road can be accepted as a public road and become part of the Marquette County public road system. A performance bond of \$500.00 plus .25 per foot will be required to cover the cost of certification by a licensed professional engineer that the private road meets required County Road Commission standards.

Applications for private road approval must be received at least 45 days prior to the meeting date at which said road shall be considered for approval. The application shall include scaled drawings prepared by a licensed engineer in sufficient detail to enable the Township Planning



Commission and its representative or consultant to determine if the proposed road meets the County Road Commission standards. The application shall also include a proposed "Maintenance Agreement" which will be executed and filed with the property deed at the time of sale of a property fronting on the proposed private road. The proposed "Maintenance Agreement" will outline the responsibilities of each property owner and an arrangement for the sharing of costs related to all maintenance of the proposed private road.

Camps and seasonal housing units may be located on private roads and easements created for such use, however, these housing units may not be occupied more than on a seasonal basis. Future access easements should be 66 feet in width to provide for the development of a public road in the future. For the purpose of this covenant seasonal road, private road, right-of-way, easements and/or any unapproved access of 300 feet or more are considered one in the same.

6.8 Waterfront Setback

All new structures on lots abutting any body of water, including but not limited to inland lakes, rivers, streams, creeks, impoundments, and Lake Superior, shall maintain a minimum setback of 100 feet as measured from the edge of a river or the edge of a lake's shoreline. Setbacks may be extended beyond the 100 foot minimum, if after site plan review by the Zoning Administrator, the Planning Commission finds that the environment quality, scenic or aesthetic value, water quality, or recreational value of the water resource or use would be endangered or create harm or nuisance to adjacent property.

The part of that setback which lies within 30 feet of the water's edge shall be maintained in its natural condition. Natural conditions may be modified if the Zoning Administrator finds that such modifications will be consistent with management practices which will prevent soil loss, will not increase run-off, and will provide the shoreline with adequate protection without altering the inherent characteristics of the water body. Trees and shrubs in a space 50 feet wide may be trimmed or pruned for a view of the fronting waters and for access thereto. No change shall be made in its natural grade. A lot shall be regarded in its natural condition when there is at least one tree or shrub having a height of at least 15 feet for each 100 square feet of area thereof in wooded areas or sufficient natural ground cover in open areas. All uses shall be subject to this setback except marinas, boat liveries, bathing facilities, fishing piers, commercial fishing docks, and recreational docks.

In areas identified as erosion control districts in this Ordinance, the restrictions and regulations imposed in those districts shall govern if such restrictions or regulations impose higher standards or requirements.



6.9 Home Occupations (~~#34-12-05~~ replaced ~~#34-08-01~~)

(A) Purpose and Intent

It is the purpose and intent of this Section to provide for certain types of home occupations for residents on the resident's premises. Two classes of home occupations are established based on the type and intensity of the home occupation. Accordingly, minimum standards have been established for each class of home occupation in order to assure compatibility of home occupations with other uses permitted in the applicable district, and to preserve the character of residential neighborhoods.

(B) Applicability

Home occupations shall not be permitted except in compliance with this section and other applicable laws.

(C) Permitting, Approval, And Enforcement

1. Application

Any person wishing to conduct a home occupation shall contact the Zoning Administrator to receive either a Zoning Compliance Permit application or a Conditional Use Permit application as appropriate, and pay the set permit fee.

2. Approval

- a. The Zoning Administrator shall review and approve applications for Type I Home Occupation permits, and the Planning Commission shall review and approve applications for Type II Home Occupation permits.
- b. Approval of a Home Occupation is not transferable to a location other than that which was approved.
- c. The Home Occupation permit and use shall terminate automatically when the applicant no longer resides in the dwelling unit.
- d. If the resident applicant is other than the owner of the property, the owner must authorize the application.

3. Enforcement

- a. Acceptance by the applicant of a permit constitutes consent and permission for appropriate Chocolay Township officials to enter upon applicant's land for the purpose of determining and verifying compliance with the permit. All home occupations are subject to periodic unannounced inspection by such officials during reasonable business hours to ensure compliance with ordinance requirements. A person who hinders, obstructs, or otherwise prevents an inspection is in violation of the Chocolay Township Zoning Ordinance.



- b. Permits for a home occupation may be revoked at any time for any of the following reasons:
 - 1) Nonconformance with the requirements of this Ordinance and/or a permit issued thereunder; or
 - 2) Evidence that the permit was obtained by misrepresentation or fraud; or
 - 3) The use is in violation of any statute, ordinance, law, or regulation.
- c. Upon receipt of a complaint about a home occupation, enforcement actions may include the following:
 - 1) Visit the site to verify the alleged violation.
 - 2) If a violation is identified, the permit holder for the home occupation shall be informed, in writing, of the nature of the violation, the action necessary to correct the violation, and the date of required compliance.
 - 3) The site of the alleged violation shall be re-inspected after the date of required compliance.
 - 4) If compliance is not evident, the Township Attorney shall be informed to determine further action per Ordinance provisions.
- d. In the event the Zoning Administrator believes the holder of a Zoning Compliance Permit or Conditional Use Permit for a Home Occupation has failed to comply with one or more of the terms or conditions of the permit or of this Ordinance, the Planning Commission may schedule a public hearing to consider the revocation of the permit according to the requirements for public notice and public hearings in this Ordinance. The notice of hearing shall include a written statement of the reasons for the possible revocation. If the Planning Commission decides to revoke the permit, the use for which the permit was granted must cease within thirty (30) days of the hearing date. Failure to terminate the use for which the permit was revoked within thirty (30) days is declared to be a nuisance per se and a violation of this Ordinance.

(D) Regulations Applicable to All Home Occupations

1. Size

All home occupations on a parcel shall not occupy more than twenty-five (25) percent of the floor area of any one structure.

2. Location

All work areas and activities associated with the home occupation shall be located either inside the dwelling or in an accessory building.



3. Exterior Appearance
 - a. No outdoor storage or display of products, equipment, or merchandise is permitted other than of a type and quantity characteristically found at a single-family residence.
 - b. To protect the residential character of neighborhoods, there shall be no evidence of the conduct of a home occupation when viewed from the street right-of-way or from an adjacent lot, and no change in exterior appearance of the dwelling or accessory building that houses a home occupation. This prohibition does not include signs as defined in Section 18.2 (K). (#34-21-03)
4. Operational Impacts
 - a. No equipment, process, or activity shall be used in a home occupation which creates glare, fumes, odor, vibration, noise, electrical interference, or fluctuation in voltage which is detectable to the normal senses from the street right-of-way or from an adjacent lot.
 - b. To protect the integrity of the water supply and natural environment of the residential neighborhood, no home occupation shall involve the:
 - 1) generation of any hazardous waste as defined in Article II Chapter 3 Part 111 of P.A. 451 of 1994, as amended (being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act, MCL 324.11101 et. seq.); or
 - 2) use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910(2), except this provision shall not apply to material purchased retail over the counter for household cleaning, lawn care, operation of a photocopier machine, painting, printing, art and craft supplies, or heating fuel.
 - c. No hazardous materials produced in the home occupation operation shall be stored or disposed of on-site, and no home occupation shall discharge into any sewer, drainage way, water body, or the ground any materials which are radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to waste management installations.
 - d. No traffic shall be generated by any home occupation in substantially greater volume than would normally be expected in a residential neighborhood. No vehicle or delivery truck shall block or interfere with normal traffic circulation.
5. No persons other than full time residents as named in the application shall be engaged in the home occupation on the premises.
6. No advertising shall use the residential address of the home occupation. This provision does not apply to business cards.



7. In all cases, the Zoning Administrator or Planning Commission may impose reasonable conditions considered necessary to protect the general health, safety, and welfare, or to protect against a possible nuisance condition.

(E) Uses Prohibited as Home Occupations

1. Restaurants and the sale, storage, or manufacture of motor vehicles are prohibited as home occupations in all districts.
2. Animal boarding facilities including kennels, commercial stables, and other similar uses; and motor vehicle repair, motor vehicle parts repair, and motor vehicle assembly are prohibited as home occupations in the R-1, R-2, MFR, and WFR districts.

(F) Regulations Applicable to Type I Home Occupations

Type 1 Home Occupations require an approved Zoning Compliance Permit from the Zoning Administrator. Type I Home Occupations are a permitted use in R-1, R-2, MFR, WFR, and AF districts when in conformance with the following requirements:

1. Type I Home Occupations may be permitted in single-family dwellings, two-family dwellings, and multiple family dwellings.
2. Type 1 Home Occupations shall not involve on premise interaction with customers except on an infrequent basis, such as pick-up of a custom order item.
3. The following are examples of uses which may be classified as a Type I Home Occupation based on individual circumstances:
 - a. Telephone answering and solicitation
 - b. Home crafts
 - c. Computer programming and desktop publishing
 - d. Typing or secretarial service
 - e. Fine arts and writing
 - f. Consulting service
 - g. Mail order business
 - h. Home office

(G) Regulations Applicable to Type II Home Occupations

Type II Home Occupations require approval through the Conditional Use procedures and according to Conditional Use Standards in Article 16 of this Ordinance as well as standards in this Section. Type II Home Occupations shall be a conditional use in R-1, R-2, MFR, WFR, and AF districts when in conformance with the following requirements:

1. Type II Home Occupations shall only be conducted on the premises of single-family dwellings, and are prohibited in two-family or multiple family dwellings.
2. Type II Home Occupations may involve limited on-premise interaction with customers provided all other standards of Section 6.9 and Article XVI are met.



3. In addition to the conditional use standards of Article XVI, the Planning Commission shall consider the zoning district; size of lot; distance to adjacent land uses; screening and buffering; and frequency, scale, and intensity of non-residential activity in determining potential impacts in the review and approval process.
4. The following are examples of uses which may be classified as a Type II Home Occupation requiring Planning Commission review based on individual circumstances:
 - a. Carpentry, cabinet maker
 - b. Catering or food preparation
 - c. Dressmaking, sewing, or tailoring
 - d. Pet grooming service
 - e. Barber or beauty service, nail or personal care salon
 - f. Electronic or equipment repair
 - g. Assembly operations

6.10 Accessory Housing Unit

It is the intent of this section to provide standards that will allow extended family living in what have traditionally been detached single-family only zoning districts or neighborhoods. Such provisions will permit the conversion of a single-family dwelling to include an accessory apartment as a means of accommodating an elderly parent(s) or grandparent(s). It is the intent that by providing housing opportunities for the elderly that a vital need can be met without diminishing the quality of the affected neighborhood; this allows independence and yet close contact to younger family members.

(A) Accessory Housing Units shall meet the following requirements:

1. Only owner-occupiers are permitted to install and/or maintain accessory housing units.
2. Occupancy of the accessory housing unit is limited to the parent(s) or grandparent(s) of the occupants of the single-family dwelling.
3. Accessory housing units are required to be attached to the single-family dwelling and shall not increase the floor area of the single family dwelling by over 30%, and in no case shall any accessory housing unit exceed 1,000 square feet.
4. There shall be no visible change in the exterior appearance of the dwelling containing the accessory housing unit that will alter the single-family appearance of the dwelling. Exterior elevation drawings, architectural renderings and floor plans of the existing/proposed structure are required to be submitted for review as part of the Conditional Use application.
5. All improvements associated with construction of the accessory housing unit shall meet current applicable codes including approval of the Health Department for any needed improvements to the on-site septic system if applicable. Utilization of the existing



septic system, without creating a new/separate system is encouraged and Health Department permits shall be provided to the Township by the applicant.

6. Separate sale or ownership of the accessory housing unit from the primary dwelling on a lot or parcel is prohibited. Upon conditional use approval of any accessory housing unit, the owner(s) shall file an affidavit with the Registrar of Deeds giving notice that the accessory housing unit of the involved parcel is for temporary use by a parent(s) or grandparent(s) related to the owner.
7. Any additional parking as needed or required by this Ordinance shall be provided in off-street space.
8. Conditional Use approval of accessory housing units are valid for a period of five (5) years subject to Planning Commission review of requested five (5) year extensions.
9. Upon the cessation of use of the accessory housing unit by the parent(s) or grandparent(s) of the owner-occupiers of the single-family home, said accessory housing unit shall be removed or converted to remove the individual floor plan elements (such as a separate/duplicate kitchen facilities) that functionally create a separate dwelling unit.
10. The Planning Commission may impose any other reasonable conditions deemed necessary to protect adjoining properties, to retain the residential character of the neighborhood and to protect the public health, safety and welfare.

6.11 Commercial Vehicle Parking in Residential Districts

- (A) Commercial vehicles, or personal vehicles with signage, are permitted to be parked at a residence as long as they are of customary personal vehicle size (e.g. cars, trucks, vans, etc.) without any Township review or approval required.
- (B) Up to one (1) 25 foot or smaller truck or van not exceeding 16,000 GVW (Gross Vehicle Weight) may be parked at a residence in the R-1, R-2, WFR and MFR districts without any Township review or approval required.
- (C) Any larger commercial vehicles or equipment, or for more than one (1) vehicle as specified in item B above requires review and approval by the Township Planning Commission under the Home Occupation provisions of the Ordinance. (This does not include equipment used for one's own snowplowing, farming, etc.).

6.12 Rural Cluster Development Subdivisions

(A) Purpose

A Rural Cluster Development Subdivision is a new form of residential development that encourages the preservation of open space and natural features incorporated into a subdivision. The standard approach to residential development is to divide the land into parcels typically corresponding to the minimum lot size required by zoning regulations. In rural areas, these minimum lot sizes are sometimes large in an effort to maintain rural



character and low density. The resulting development fragments land and spreads low density development out over a larger area.

Under the Rural Cluster Development approach, a higher density is permitted on one-half (1/2) of the site, with the balance of the land left as open space. This option also can reduce development costs by limiting infrastructure needed to serve the development, such as roads and community sewage treatment systems. Chocolay Township is encouraging the development of residential areas using this method as an alternative to the standard approach in order to preserve rural character and open space.

(B) Requirements and Procedure

This residential open space development option is available as a Conditional Use in the R-1-Single Family Residential and AF-Agriculture/Forestry Districts when in conformance with the following requirements:

1. At least fifty (50) per cent of the lot (or parent parcel) to which this development option is applied, shall be retained permanently in agriculture, woods or other natural open space use.
2. Density shall be as established in the District, but measured as described under the section on Procedures below.
3. Procedures: The applicant shall prepare a drawing to scale that divides the site into the maximum number of lots permitted under this Ordinance without clustering. That means dividing the total area of the site by the minimum lot area requirements per lot, while still conforming to minimum lot width or frontage requirements, and ensuring that each lot has sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer, and ensuring that adequate right-of-way for a public road meeting County Road Commission standards is provided, and ensuring that no parcel so created for a dwelling unit violates state or federal wetland, floodplain, sand dune or high risk erosion regulations. No existing or proposed easement shall be counted as available for development. The whole number of lots that results from this calculation, is the maximum number of lots, or dwelling units that may be clustered on the site under this Section.

For example, in the AF District, if a parcel had two hundred (200) contiguous acres, it could have ten (10) residential lots. Under the Rural Cluster provisions, the Township would provide an incentive for a rural cluster development in the AF District by allowing a density of one dwelling unit per five (5) acres. The cluster development would be permitted on 100 of the 200 acres, if all land was developable, and before land for a road were subtracted (which might further reduce the number of permitted lots). The procedure would be to divide the developable land acreage by 5 and these units would be placed on one-half of the site. So 200 acres divided by 5 equals 40 and when placed on 100 of the 200 acres, would result in a typical lot size of 2.5 acres.



In the R-1 District, if a parcel had 40 contiguous acres, it could have about 69 sites in the gross calculation of density. A cluster of these home sites could be permitted on one-half or 20 acres of the original 40 acres. If five (5) of the forty (40) acres were undevelopable due to wetlands, then a maximum of 60 residential lots could be constructed, before land were subtracted for a road.

4. The site shall have direct access to a county road or state highway via a new public road built to County Road Commission standards.
5. The density of the Rural Cluster Development shall conform with all the following standards:
 - a. At least fifty (50) percent of the lot or parent parcel shall remain in agriculture, woods or other open space in an undeveloped state after the single family dwellings in the rural cluster development are constructed. Land in an undeveloped state means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course, but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be dedicated to the use of the public.
 - 1) The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering the single family dwelling units.
 - 2) Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.
 - 3) Open space is encouraged around the perimeter of a site to screen and buffer the clustered units from abutting property.
 - 4) New development should be separated by at least one hundred (100) feet from wetlands, surface waters or other sensitive open space.
 - 5) Open space shall be reasonably shaped and contiguous, and located for convenient use by residents of the development.
 - 6) The open space shall be permanently protected by recording the use restriction with the County Register of Deeds in a form approved by the County Attorney such as by means of a conservation easement, plat dedication, restrictive covenant or other legal means that keeps the open space undeveloped in perpetuity.
 - b. The common open space may be retained by the original landowner or held in common by one or more of the new landowners in the rural cluster development, or by a public land trust or conservancy organization approved by the Township Planning Commission.



- c. Up to twenty (20) percent of the useable common open space may be used for septic drainfields for individual dwelling units, provided a homeowners association assumes liability for any problems, and if the method is approved by the District Health Department and the Michigan Department of Environmental Quality. No part of the preserved open space shall be used for an access road.
 - d. Lot size for individual lots within the rural cluster shall not be more than ten (10) acres nor less than one-third (1/3) acre in size and no parcel shall have an area less than that required to meet District Health Department septic waste disposal requirements if served by individual septic systems. If public sewer is available, individual lot size could be reduced to one-quarter (1/4) of an acre.
 - e. Minimum width of an individual lot in a cluster at the building line shall not be less than sixty (60) feet.
 - f. Dwelling units shall be separated from nearby farm structures by at least five hundred (500) feet, unless a lesser amount is approved by the farm structure owner.
 - g. The cluster development design shall protect roadside character and improve public safety and preserve vehicular carrying capacity by not fronting lots along an existing county road or state highway.
6. The application shall be accompanied by a Site Plan that conforms to the requirements of Article IX of the Zoning Ordinance.
 7. A pre-application conference between the applicant, the site designer, the chairperson of the Planning Commission, the Zoning Administrator and Township Planner shall be held prior to submittal or review of any site plan for a Rural Cluster Development. A site visit may be scheduled as a part of the pre-application conference. The purpose of the pre-application conference is to review Ordinance requirements as they apply to the site, before the applicant spends any significant money on even preliminary site designs. The Zoning Administrator will direct the applicant to various publications on Rural Cluster Development available from MSU Extension and the American Planning Association to help the applicant step through the design process with the least amount of difficulty.

(C) Density & Lot Bonus

In order to further encourage cluster development under this procedure, Chocolay Township will award a bonus of additional lots that may be created above and beyond the allowable density in a qualified cluster development. An additional two (2) lots for every 40 acres of open space preserved will be granted under this procedure.



6.13 Fees in Escrow for Professional Reviews

Any application for rezoning, site plan approval, a Special Land Use Permit, Planned Unit Development, variance, or other use or activity requiring a permit under this Ordinance above the following threshold, may also require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee may be required by either the Zoning Administrator or the Planning Commission for any project which requires a traffic impact study under Section 5.4, or which has more than twenty (20) dwelling units, or more than twenty-thousand (20,000) square feet of enclosed space, or which requires more than twenty (20) parking spaces, or which involves surface or below surface mining or disposal of mine materials. An escrow fee may be required to obtain a professional review of any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public roads, other infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

- (A) The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise Chocolay Township values to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the Planning Commission indicating the extent of conformance or nonconformance with this Ordinance and identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by Chocolay Township and a copy of the statement of expenses for the professional services rendered, if requested.
- (B) No application for which an escrow fee is required will be processed until the escrow fee is deposited with the Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.
- (C) If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land use or other permit issued by Chocolay Township in response to the applicant's request. Any unused fee collected in escrow shall be promptly returned to the applicant once a final determination on an application has been made or the applicant withdraws the request and expenses have not yet been incurred.
- (D) Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.



VII. Mining and Mineral Extraction

- (A) Mining and mineral extraction is the removal and/or processing of iron ore, copper, gravel, sand, fill dirt, stone, gypsum, peat, topsoil, (but not including sod production and/or removal) silver, gold, uranium, and other minerals. It is the intent of these regulations to:
1. Provide for the best management practices to assure environmental protection during the site planning, operational and reclamation stages of the mining and mineral extraction process, including, but not limited to:
 - a. Proper drainage and erosion protection;
 - b. Aquifer/groundwater protection;
 - c. Surface water protection;
 - d. Air quality protection as it may pertain to:
 - 1) Smoke;
 - 2) Fumes;
 - 3) Odor;
 - 4) Dust; and,
 - 5) Other airborne pollutants;
 - e. Compliance with applicable Federal, State and local laws, rules and regulations;
 - f. Providing for proper handling and disposal of hazardous material generated and/or used in the mining and mineral extraction process;
 - g. Providing assurances that upon cessation of the mining and mineral extraction operation the property will be returned to a condition such that it can be used for those uses which are permitted in the zoning district in which the property is located.
 2. Provide for the health, safety and welfare of the general public, the community at large and adjacent properties, including but not limited to:
 - a. Protection from effects of increased traffic;
 - b. Protection from any adverse effects of noise, dust, vibration, blasting and glare;
 - c. Providing for visual and/or aesthetic quality during, and upon cessation of, the mining and mineral extraction operation; and,
 - d. Protection from the use and/or transportation of hazardous materials.



3. Provide the Township with information important to overall planning and orderly economic growth, including, but not limited to:
 - a. Public facility and service needs;
 - b. Number of potential employees;
 - c. Proposed transportation routes;
 - d. Duration of mining and mineral extraction operations;
 - e. Descriptions and amounts of materials to be extracted; and,
 4. Provide for the right to extract mineral deposits where located, provided the standards, regulations and conditions as set forth in this Ordinance are met.
- (B)** No mining and/or mineral extraction operation or any mining related buildings, structures, processing equipment or tailing ponds, basins or mounds may be built, operated or maintained:
1. Until an impact area is determined. One thousand (1,000) feet shall be presumed to be an appropriate distance from any adjoining land uses or structures. The area encompassed by that distance shall be designated the “impact area”. If, as a result of review and analysis by the Planning Commission, a site-specific reason based upon health, safety or welfare, as specified in Section 7(A)2.a-d would allow a reduced “impact area” or require an enlarged “impact area” such adjustment may be made as is found to be reasonable.
 2. Within 500 feet of the nearest edge of the right-of-way of any of the following:
 - a. State highway
 - b. Federal highway
 - c. County road
 3. Within 1,500 feet of any public or private well with the exception of such wells as are necessary for the proposed mining and/or mineral extraction operation.
 4. Where the mining and/or mineral extraction operation would violate applicable local, state, or federal groundwater standards, rules, or regulations.
 5. Within a floodplain where no permit pursuant to the Michigan Floodplain Control Act, P.A. 245 of 1929, as amended by P.A. 167 of 1968 has been issued.
 6. Within a wetland, as determined by the Michigan Department of Natural Resources, where no permit pursuant to the Goemaere-Anderson Wetland Protection Act, P.A. 203 of 1979, as amended has been issued.
- (C)** No mining or mineral extraction shall be undertaken without first obtaining a mining and mineral extraction permit from the Chocolay Township Zoning Administrator, and paying a reasonable fee to be established from time to time by resolution of the Chocolay Township Board. The Zoning Administrator shall not issue a permit until such time as the Township Board has reviewed and approved the application for a permit, in accordance with the provisions of Article VII of this Zoning Ordinance.



1. Before submitting a permit application each applicant shall meet and confer with the Chocolay Township Zoning Administrator and interested Township officials regarding the preparation of the application. It shall be the responsibility of the Planning Director to contact and invite the appropriate Township officials to such a meeting. The general outlines of the Mining and Mineral Extraction operation evidenced by sketch plans are to be reviewed at the meeting before submission of a permit application. Thereafter, the Planning Director shall furnish the applicant with his written comments regarding the meeting including appropriate recommendations to inform and assist the applicant prior to preparing a mining and mineral extraction application.
2. The Zoning Administrator, upon receipt of the application for a permit, shall provide to the Township Planning Commission the application and the Zoning Administrator's written review within forty-five (45) days for its review and consideration. The Planning Commission shall review the application and all documentation submitted therewith, and if the said application meets the minimum requirements set forth in this Ordinance, the Planning Commission shall schedule and hold a public hearing in accordance with the provisions of Section 1.6 of this Zoning Ordinance, with notices being sent out to property owners and occupants of property within 1320 feet of the subject property.
3. Following the public hearing, the Planning Commission shall make a recommendation to the Township Board on the application by applying the standards relating to mining and mineral extraction permits set forth in Article VII of this Zoning Ordinance, and shall recommend approval, approval with conditions, or denial of the permit application, and shall prepare a written explanation of its recommendation.
4. The Zoning Administrator shall then submit the application and all related materials, as well as the recommendation of the Planning Commission, to the Township Board for its review and action. The Township Board shall not be required to hold another public hearing, but may make its decision based upon its application of the standards set forth in Article VII, inclusive, of the Zoning Ordinance, and may approve, approve with conditions, or deny the application for a permit.
5. Mining and mineral extraction permits shall be reviewed on a five (5) year basis. Permits may be revoked if not in full compliance with all ordinances, laws, regulations, and conditions applicable to the current permit, including site, operation and reclamation plans. The review process shall include the updating of the information and requirements set forth in Article VII, as well as compliance with the standards established in this Ordinance.
6. If any of the application information or requirements are available in the form of an environmental impact assessment or other appropriate document which is required by various county, state and/or federal agencies, a copy of such information or document shall be submitted as a part of the application for mining and mineral extraction permit.
7. If in the process of reviewing and/or considering the mining and mineral extraction permit application the Township Planning Commission and/or Township Board



determines that additional information is necessary in order to fully evaluate the application, then the Planning Commission and/or Township Board may defer taking action on such application until such information is provided.

8. As a part of the application, and as a condition of the granting of a mining and mineral extraction permit, the Township Zoning Administrator shall be granted permission by the owner or its designated agent to enter upon the site where the mining and mineral extraction operations are being conducted, at any reasonable time, for the purpose of conducting appropriate inspections to determine compliance with permit requirements, operation and reclamation plans, or to investigate complaints.
9. The Township Planning Commission may recommend, and the Township Board may impose, conditions upon the approval of a mining and mineral extraction permit which are deemed to be necessary to assure compliance with the requirements of this Ordinance. Such conditions shall be considered an integral part of the mining and mineral extraction permit and shall be enforced by the Zoning Administrator. In addition, the Township Board shall also consider the activity levels of the mining and mineral extraction operation and may impose conditions to insure the preservation and protection of adjacent properties and the health, safety and welfare of the general public.
10. No individual or entity to which a mining and/or mineral extraction permit has been granted shall sell, lease, assign, or transfer in any manner any such permit, or any of the rights granted thereunder, without first securing the approval of the Township Board. No such transfer shall relieve the original permit holder from any liability for violation of the permit, any conditions imposed thereon, this Ordinance, or the plans approved by the Township Board, or from any damages resulting from such violation, where such violation occurred prior to the date of transfer. As a condition of approving such transfer, the Township Board shall require that:
 - a. All existing violations of the permit, any conditions imposed thereon, the plans approved by the Township Board, or this Ordinance, shall be remedied by the proposed transferee as soon as may be practicable; and,
 - b. The proposed transferee provide all the financial guarantees described in this Ordinance which were required as a condition of the original issuance of the permit; and,
 - c. The proposed transferee agree to, and demonstrate an ability to, comply with all of the terms and conditions of the original permit, any conditions imposed thereon, the plans approved by the Township Board, and this Ordinance; and,
 - d. The proposed transferee agree to and demonstrate an ability to comply with any new or additional conditions which the Township Board might see fit to impose upon said permit by reason of the proposed transfer thereof, and the Township Board may reject any proposed transfer of such a permit if it determines that said criteria cannot be met. An application for permission to transfer such a permit shall



first be submitted to the Planning Commission, which shall review said application and make an appropriate recommendation to the Township Board. No public hearing shall be required either before the Planning Commission or the Township Board.

(D) A permit for mining and/or mineral extraction may be denied if any of the following situations may be expected to occur during or subsequent to mining and/or mineral extraction.

1. Landslides or deposition from the proposed operations into streams, lakebeds or wetlands,
2. Surface subsidence which cannot be reclaimed.
3. Operations resulting in damage to any of the following:
 - a. Surface waters,
 - b. Groundwaters,
 - c. Soils,
 - d. Air,
 - e. Dwellings,
 - f. Public structures,
 - g. Schools,
 - h. Churches,
 - i. Cemeteries,
 - j. Commercial or institutional structures,
 - k. Agricultural activities,
 - l. Public roads,
 - m. Habitat required for the survival of vegetation and/or wildlife designated as endangered through prior inclusion in rules by the Michigan Department of Natural Resources or the U.S. Fish and Wildlife Service.



(E) The following activities shall not require a mining and mineral extraction permit:

1. Any mining or mineral extraction operation which is active and lawful at the date of enactment of this amendment provided that the continued action of such mining or mineral extraction is limited to existing holes, pits, shafts, or cells. However, no such lawful nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of this amendment, nor shall any new holes, pits, shafts, or cells be commenced without first securing a mining and mineral extraction permit.
2. In the case of sand, fill dirt and/or gravel extraction operation, existing holes and/or pits may be worked and enlarged on the land which constituted the lot of record on which operations were conducted at the time of becoming nonconforming, predicated upon compliance with the following restrictions:
 - a. The amount of material extracted on an annual basis does not exceed the maximum annual amount extracted during the preceding five (5) year period from adoption of this amendment; and,
 - b. The amount of waste material produced on an annual basis in the mineral extraction process does not exceed the maximum annual amount extracted during the preceding five (5) year period from adoption of this amendment; and,
 - c. The amount of mining and processing equipment used in the operation does not increase; and,
 - d. The normal hours of operation do not increase;
 - e. The amount of noise, vibration, and dust from the operation does not increase; and,
 - f. The extent of the area of the mining operation does not increase beyond the limits of the lot of record used for that purpose at the time of adoption of this amendment.
3. The mining or mineral extraction of less than five hundred (500) cubic yards of material one (1) time from a parcel.
4. Site preparation authorized by a zoning compliance permit or a grading permit required by Section 11.6 of this Ordinance.

A mining and mineral extraction permit shall be obtained for all lawful nonconforming mining and/or mineral extraction operations not meeting these criteria.



7.1 Application for Mining and Mineral Extraction Permit

An application for a mining and mineral extraction permit must contain a Site Plan, Hydrologic Study, Operation Plan, and Reclamation Plan as described herein. Any federal, state, or county requirements that address those points listed here may be substituted for the required application forms.

The applicant shall submit to the Zoning Administrator the following documents, including a cover letter with the signature of the applicant or the applicant's authorized agent.

(A) Site Plan Requirements

A site plan shall be drawn to a scale adequate to illustrate the proposed activity, and shall include, at a minimum:

1. A legal description of the lot or parcel upon which the proposed activity is to be conducted; the name, address and telephone number of the owner, developer, proposed operator and designer;
2. Date, north point, and scale;
3. The actual dimensions of the area upon which the activity is to be conducted, (as shown by a surveyor or engineer, with the survey stakes visible), showing the relationship of the subject property to abutting properties;
4. The location of all existing and proposed structures on the subject property and all existing structures and wells on land immediately adjacent to the site within 100 feet of the site's parcel lines;
5. The location of all existing and proposed drives and parking areas;
6. The location and dimensions of rights-of-way of all abutting streets, alleys, and private easements;
7. The location of proposed planting and screening, required landscaping, fencing, signs, and advertising features, if any;
8. The height, floor area and uses of all proposed structures, if any;
9. The size and location of all existing and proposed public and private utilities, if any;
10. Proposed location, area extent, and estimated depth of proposed excavations, if any;
11. Proposed location of waste dumps, tailing ponds, sediment basins, stockpiles, and other permanent or temporary facilities used in mining, if any;
12. Any other information necessary to establish compliance with this Ordinance.



(B) Hydrologic Study Requirements

A hydrologic study shall be completed as part of the permit application process by an independent consultant agreeable to the applicant and the Township. The consultant shall be retained by, and all fees and costs related to the hydrologic study shall be the responsibility of, the applicant.

The hydrologic study shall include if determined necessary by the Planning Director:

1. Information necessary to establish baseline data on the quality and quantity of the groundwater from all public and private wells within a specified radius as determined by the Zoning Administrator, based on recommendations from the Michigan Department of Natural Resources, the Marquette County Health Department and the independent consultant, of the proposed mining and/or mineral extraction operation. This information shall include well information for at least the previous two (2) years if available.
2. A plan for the ongoing monitoring of all wells within the identified radius of the mining and/or mineral extraction operation if permitted by the private well owners. The well monitoring intervals shall be determined at the time of the permit application based on recommendations from the Michigan Department of Natural Resources, the Marquette County Health Department and the independent consultant. Additional monitoring wells may be required around the perimeter of the operation if it is determined to be necessary due to the location of other wells within the specified radius.
3. A plan for continued well monitoring upon cessation of the mining and/or mineral extraction operation, which may be required to extend for up to 30 years.

(C) Operation Plan Requirements

1. A narrative description outlining the estimated time span which the operation will cover; the type of material to be extracted; the type of mining operation and processing equipment to be used; measures to control noise, vibration, and pollution from the operation; the anticipated effect on groundwater condition; proposed travel routes to be used to transport the mined material to the processing plant or markets, and the proposed steps to be taken to relieve adverse effects.
2. A narrative description of the social, environmental and economic impact on Chocolay Township including an estimate of the number of potential employees, proposed transportation routes for employees and any changes in the present road system that might be made necessary by the proposed operation.
3. Buffers shall be required along boundaries of the mining operation. Proposed buffers shall be included in the operational plan, and shall be established so as to make the mining and/or mineral extraction operation as inconspicuous as may be possible from adjoining properties. Buffers may be by, but are not limited to, the following techniques:



- a. Buffer Zone: An area of sufficient depth to screen the operation from view from adjoining properties.
 - b. Plantings: Plantings of coniferous or other suitable species in rows parallel to the boundaries of the property with the spacing of rows and the spacing of trees in the rows sufficient to provide effective screening. Screening vegetation that dies must be replaced within one year.
 - c. Earth Berms: Earth berms, constructed to a height of at least six feet above the mean elevation of the centerline of the public highway adjacent to the mining property, or six feet above the general level of the terrain along property lines. These berms shall have slopes not in excess of one foot vertical to four feet horizontal, and shall be planted with trees and shrubs.
 - d. Fencing: Solid fences or masonry wall constructed to a height of six feet and inconspicuous in color.
4. A description of the measures to be taken to assure that any dangerous excavations, shafts, pits, pond areas, banks, or slopes will be adequately guarded or fenced and posted with signs to prevent injury to individuals.
 5. A description of the measures to be taken to assure proper handling and use of explosives, in the event any are to be used, including, but not limited to:
 - a. Notification of intended dates of use to:
 - 1) Adjacent property owners; and,
 - 2) Township Chief of Police; and,
 - 3) Township Supervisor; which shall be accomplished either by written notice or personal contact.
 - b. Providing to the Planning Commission by way of the Zoning Administrator a photographic survey of all buildings which might suffer damage from a blast. If the necessary permission to photograph private structures is refused by the owners of such structures, evidence of this refusal shall be filed with the Zoning Administrator. After consultation with the applicant, explosive experts and the County Mine Inspector and after considering all relevant factors and information the Zoning Administrator shall establish the scope of the survey by determining the radius of the survey area as measured from the point or points of the blasting area. The survey shall include a photographic inventory and the foundations of buildings as well as exterior views of all sides of structures by means of photographs or video tapes. In determining the proper scope of the photographic inventory, the Zoning Administrator in concurrence with the Township Supervisor and the applicant shall ensure that the radius of the survey is adequate to provide baseline data for determining the validity of any claims which might be reasonably asserted for damage to structures caused by blasting.



- c. Providing for proper financial security should it be recommended by either the Zoning Administrator, or the Planning Commission and approved by the Township Board to be necessary to insure that proper compensation be available if such use of explosives may cause damage to adjacent properties; and,
 - d. Compliance with laws, rules and regulations of the Department of Alcohol, Tobacco and Firearms.
6. Identification of plans for utilities, access roads, drainage, traffic plans, and other site improvements showing appropriate measures that have, need, or will be provided.
 7. A narrative description outlining the operating schedule; the hours of operation; the days of operation; and the seasonal uses of the facility.
 8. A plan for the care, handling, storage and disposal of any harmful, chemical or toxic materials that might be part of the mining and/or extraction process including plans for contacting the necessary agencies involved with possible emergency response mobilization in the event of possible contamination.

(D) Reclamation Plan Requirements

A reclamation plan shall include a map and description showing:

1. Final grading, anticipated final slope angles, well head protection, benching and terracing of slope stabilization and re-vegetation, and erosion control, returning land to a condition that can appropriately be used within the guidelines of existing zoning districts. The re-vegetation plan shall be reviewed and approved by the soil conservation district with an emphasis on using native species.
2. Description of topsoil stripping and conservation during storage and replacement.
3. Plan and description of anticipated final topography, water impoundments, and artificial lakes on property, if any.
4. Plans for disposition of surface structures, roads, and related facilities after cessation of mining and extraction.
5. A plan for disposal or treatment of any harmful or toxic materials found in any formation penetrated by the mining operations or produced during the processing of minerals, and of chemicals or materials used during the mining or processing operations, if any.
6. Plans and description to provide for the ongoing reclamation of areas that have been mined but are no longer a part of the present mining operation.
7. A timetable for completion of reclamation requirements.



(E) Amendment to Final Plans

Minor changes from the approved plans may be approved by the Chocolay Township Planning Commission without the prior approval of the Township Board, if required by engineering or other circumstances not reasonably foreseeable at the time the plans were approved. The Township Planning Commission may request certification in writing from officials and agencies concerned that the proposed revision constitutes a minor alteration and does not alter the basic design nor any specific conditions of the Plans as approved by the Township Board.

7.2 Financial Security

In order to assure compliance with the reclamation plan required by Section 7.1(D) of this Ordinance, the applicant may, at the time of issuance of a mining and mineral extraction permit and prior to the disturbance of land, be required to provide financial security to the Township, in one or a combination of the following arrangements:

(A) Performance Bond.

A performance or surety bond issued by an acceptable bonding company authorized to do business in the State of Michigan;

(B) Escrow Fund.

A cash deposit or certified check;

(C) Irrevocable Letter of Credit.

An irrevocable letter of credit issued by a bank authorized to do business in the State of Michigan.

The security shall be filed with the Township Clerk and shall be for the same time periods as the mining and mineral extraction permit, and in an amount established by the Township Board, based upon the recommendation of the Zoning Administrator as determined to be reasonably necessary to assure compliance with the approved reclamation plan, as required by Section 7.1(D) of this Ordinance.

The bond shall be conditioned upon the faithful performance of the requirements set forth in the approved plans required by Article VII. Liability under the bond shall be maintained as long as the reclamation is not completed in compliance with the approved plan.

If the reclamation plan provides for ongoing reclamation during the mining and mineral extraction process and identifies areas or units of land that will be reclaimed prior to cessation of mining or extraction operations the financial security may be filed for a minimum of 3 areas or units of land and shall be transferable to other areas or units of land contained within the permit upon the faithful compliance with the approved reclamation plan as required by Section 7.1(D).



Written notification shall be given upon completion or acceptance by the Township Zoning Administrator of the reclamation activity. Copies of this notification shall be sent to the Township Board and Planning Commission and shall also be filed with the permit application.

7.3 Mining and Mineral Extraction General Standards

The Planning Commission and Township Board shall review the particular facts and circumstances of each application for Mining and Mineral Extraction Permit in terms of the following standards and shall find adequate evidence showing that the proposed use:

- (A) Will be harmonious with and in accordance with the general policies and/or with any specific objectives of the Township Comprehensive Development Plan;
- (B) Will provide for adequate environmental protection during the site planning, operational and reclamation stages of the mining and mineral extraction process, including, but not limited to:
 - 1. Proper drainage and erosion protection;
 - 2. Aquifer/groundwater protection;
 - 3. Surface water protection;
 - 4. Air quality protection as it may pertain to:
 - a. Smoke;
 - b. Fumes;
 - c. Odor;
 - d. Dust; and,
 - e. Other airborne pollutants.
 - 5. Compliance with applicable Federal, State, and local laws, rules and regulations;
 - 6. Providing for proper handling and disposal of hazardous material generated and/or used in the mining and mineral extraction process;
 - 7. Providing assurances that upon cessation of the mining and mineral extraction operation the property will be returned to a condition such that it can be used for those uses which are permitted in the zoning district in which the property is located.
- (C) Will provide for the health, safety and welfare of the general public, the community at large and adjacent properties, including, but not limited to:
 - 1. Protection from the effects of increased traffic;
 - 2. Protection from any adverse effects of noise, dust, vibrations and glare;
 - 3. Providing for visual and/or aesthetic quality upon cessation of the mining and mineral extraction operation; and,
- (D) Will be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed mining and mineral extraction



operation shall be able to continually provide adequately for the services and facilities deemed essential to the mining and mineral extraction operation under consideration; and,

- (E) Will not place demands on public facilities and services in excess of current capacity; and,
- (F) Will not be detrimental to the economic welfare of the community.

VIII. Off Street Parking and Loading Requirements

8.1 Off-Street Parking Requirements

Except in the AF District, there shall be provided off-street parking for motor vehicles, and the minimum number of parking spaces to be provided shall be as shown in the following list:

| Use | Spaces Required |
|--|---|
| A | |
| Apartment and townhouses | 2 per dwelling unit or floor area in square feet divided by 440, which ever is greater. |
| Auto Body Repair Shops | 1 Space per bay and 1 per employee |
| B | |
| Banks | 1 per 150 sq. ft. of floor space |
| Barber shops and beauty parlors | 2 plus 1.5 per chair |
| Bed & Breakfast | One space per room for transient guests in addition to spaces required for single family dwellings. |
| Bowling alleys | 5 per lane in addition to spaces required for restaurant facilities |
| C | |
| Churches, theaters, facilities for spectators sports, auditoriums, concert halls | .35 times the seating capacity. |
| Community Center | .35 times the seating capacity. |
| D | |
| Day Care Center | 1 space per 5 children |
| Doctor's and dentist's offices | 1 per 100 sq. feet of waiting room area and 1 per doctor or dentist |
| F | |
| Fast food take-out establishments and restaurants | 1.5 per 100 sq. ft. of floor area |
| Funeral parlors | 1 per 50 sq. ft of floor space |
| Furniture, appliance, carpet | 1 per 250 sq. ft of floor space |
| G | |
| Gas stations | 1 per fueling location plus 2 per lift |



| Use | Spaces Required |
|---|---|
| Golf courses | 7 per hole |
| H | |
| Hardware stores, household equipment, repair shops including shoe repair, contractor's showroom and others. | 1 per 200 sq. ft. of floor space |
| Hotels | 1.2 per room in addition to spaces required for restaurant |
| L | |
| Laundromats | .33 per machine |
| M | |
| Mobile home subdivisions and parks | 2 per mobile home & 1 per 300 sq. ft. for offices. |
| Motor Vehicle Sales | 1 space per each 1000 sq. ft. of display area |
| Museums and galleries | 1 per 100 sq. ft. of floor space |
| O | |
| Offices | 1 per 300 sq. ft. of floor space |
| Other commercial and industrial Uses | .75 times maximum number of employees on premises at any one time |
| R | |
| Restaurants | 1.2 per 100 sq. ft. of floor space |
| Retail stores and service establishments | 1 per 200 sq. ft. of floor space and outdoor sales space |
| Rooming houses, fraternities, sororities, dormitories, convalescent homes. | .4 times maximum lawful number of occupants. |
| S | |
| Senior Housing | 1 per dwelling Unit |
| Single and Two-family dwellings | 2 per dwelling unit |
| W | |
| Warehouses | 1 per 1500 sq. ft. of floor area |

With the exception of residential housing of 4 units or less, Notes #1 through #8 shall also apply.

Notes

1. Where calculation in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one half or more shall require one space.



2. Required off-street parking shall be provided on the lot to which it pertains. All spaces shall be provided by adequate access by means of a maneuvering lane. Backing directly onto a street is prohibited.
3. The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the parking of motor vehicles is prohibited.
4. All required parking spaces shall be clearly defined by use of a car wheel or bumper stops, and or painted lanes.
5. No off street parking shall be constructed or altered until approval has been issued by the Chocolay Township Planning Commission under site plan review.
6. Lighting fixtures used to illuminate off-street parking areas shall be designed to reflect light downward and away from adjoining residential properties, institutional premises, or streets and highways. Lighting shall be installed and maintained to be fully shielded and directed downward with a full cut-off angle of illumination of ninety (90) degrees or less. (#34-13-03)
7. Handicap parking spaces shall be provided in accordance with the applicable building code and shall be provided in sufficient number.
8. Parking lot layout should include consideration for snow removal and on-site drainage and plans shall be provided for on the site plan.

For a use not specifically identified the off street parking facilities shall be in accordance with a use, which the Zoning Administrator considers as similar in type.

The following minimum design standards shall be observed in laying out off-street parking facilities.

| Parking Angle | Stall Width | Aisle Width | Parking Stall Length | Curb to Curb |
|---------------|-------------|-------------|----------------------|--------------|
| 0 to 15 | 10 ft. | 12 ft. | 23 ft. | 30 ft. |
| 16 to 37 | 10 ft. | 11 ft. | 19 ft. | 47 ft. |
| 38 to 57 | 10 ft. | 13 ft. | 19 ft. | 54 ft. |
| 58 to 74 | 10 ft. | 18 ft. | 19 ft. | 61 ft. |
| 75 to 90 | 10 ft. | 24 ft. | 19 ft. | 63 ft. |

Note Minimum aisle width is 24' for 2-way traffic

8.2 Required Off-Street Loading Spaces

Loading spaces required under this section shall be at least 50 feet long and 12 feet wide. Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at least 10,000 square feet and every lot used for office or research purposes on which there is a building or buildings having a total floor area of at least 20,000 square feet shall be provided with off-street loading space. An additional off-street loading space shall be required for every additional 20,000 square feet of floor area of fraction thereof.



IX. Site Plan Review

(A) Purpose

The purpose of this Section is to provide for consultation between the applicant, the Planning Commission, and the Township staff to review an applicant's planned objectives in the utilization of land within the regulations of this Zoning Ordinance.

(B) Uses Subject to Site Plan Review

A Zoning Compliance Permit for any proposed use or building or any other improvement requiring a site plan shall not be issued until a Final Site Plan has been reviewed and approved under the following procedure:

1. The following uses shall be subject to Site Plan Review by the Planning Commission:
 - a. All uses within the R-1, R-2, C, I, and District Planned Unit Development Districts, except the following:
 - 1) One and two-family dwellings
 - 2) Temporary buildings and uses
 - 3) Accessory uses or structures
 - 4) A change of use to another principal permitted use in the zoning district, or an expansion of an existing permitted structure, which, in either case, does not increase the floor area by more than twenty (20) percent, nor the parking already developed on site by more than twenty (20) percent, and in which there are no changes in access locations or other site improvements, including, but not limited to landscaping.
 - b. Uses Subject to Special Conditions in any zone district.
 - c. Site condominiums in any district.
2. All site plans shall be subject to site plan review by the Zoning Administrator.
 - a. Such review shall ensure that setbacks, yards, parking and other specific zoning ordinance requirements are met. No person shall commence any use or erect or enlarge any structure without first obtaining the approval of a site plan by the Zoning Administrator as set forth in this Section, and no use shall be carried on, no structure erected or enlarged, and no other improvement or construction undertaken except as shown upon an approved site plan.
 - b. Upon receipt of any site plan not subject to Planning Commission review, the Zoning Administrator shall review it to determine whether it is in proper form, contains all the required information, shows compliance with this and all other ordinances of Chocolay Township, and demonstrates the adequacy of utility service.



- c. Upon demand by the applicant submitting the site plan, the Zoning Administrator shall, within ten duty days, approve it in writing or deny approval in writing, setting forth in detail his reasons which shall be limited to any defect in form or required information, any violation of any provision of this or any other Ordinance, or the inadequacy of any utility, and any changes which would make the plan acceptable. The applicant may appeal any denial to the Township Planning Commission.
- d. Upon obtaining zoning approval of the Zoning Administrator those applicable for Planning Commission or Zoning Board of Appeals site plan review can proceed to request such approval.

9.1 Application and Review Procedures

(A) Application Procedures

- 1. An application for Site Plan Review by the Planning Commission shall be submitted at least twenty one (21) days prior to the next scheduled Planning Commission meeting to the Planning Director, who will review the application materials with the Zoning Administrator to ensure that the requirements of Section 9.1, are met, then transmit it to the Planning Commission. (#34-18-02)
- 2. An application for Site Plan Review shall consist of the following:
 - a. A completed application form, as provided by the Township.
 - b. Copies of the Site Plan as requested by the Planning Director. (#34-18-02)
 - c. Payment of a fee, in accordance with the *Adopted Fee Schedule*. (#34-18-02)
 - d. Ten (10) copies of the Site Plan as outlined in Section 9.1(B)2.
 - e. Payment of a fee, in accordance with a fee schedule, as determined by Township Board resolution.
 - f. A legal description, including the permanent parcel number, of the subject property.
 - g. Other materials as may be required by this Section, the Planning Director, the Zoning Administrator or the Planning Commission.

(B) Site Plan Review Procedures

- 1. Preliminary Site Plan Review
 - a. A Preliminary Site Plan review is encouraged and may be submitted to the Planning Commission for review prior to Final Site Plan review. The purpose of the Preliminary Site Plan Review is to allow discussion between the applicant and the Planning Commission to inform the applicant of the general acceptability of the proposed plans prior to incurring extensive engineering and other costs which may be necessary for the review of the Final Site Plan.



- b. Preliminary Site Plans shall include the same information as required for Final Site Plan Review, unless deemed unnecessary by the Planning Director and the Zoning Administrator.
 - c. The Planning Commission shall review the Preliminary Site Plan and make such recommendations to the applicant that will cause the Plan to be in conformance with the review standards required by this Section and this Ordinance. To this end, the Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impact studies; analysis of impacts on significant natural features and drainage; soil tests; and other pertinent information.
2. Final Site Plan Review
- a. Final Site Plans shall include the following information.
 - 1) Small scale sketch of properties, streets and use of land within one quarter (1/4) mile of the area.
 - 2) A site plan at a scale not to exceed one (1) inch equals sixty (60) feet (1" = 60'). Additional copies may be requested by the Planning Director. (#34-18-02)
The following items shall be shown on the plan:
 - a) Date of preparation/revision.
 - b) Name and address of the preparer who shall be a registered engineer, land surveyor, landscape architect, community planner, architect, or related professional.
 - c) The existing and proposed topography of the size at a minimum of two (2) foot intervals and its relationship to adjoining land.
 - d) Existing man-made features.
 - e) Locations and dimensions of property lines, setbacks; locations, heights and size of existing and proposed buildings and structures, including the locations of existing buildings or structures within one-hundred (100) feet of the boundaries of the property.
 - f) Street right-of-ways, indicating proposed access routes, internal circulation, relationship to existing rights-of ways, and curb cuts within one-hundred (100) feet of the property.
 - g) Proposed grading.
 - h) Location, sizes, and type of drainage, sanitary sewers, water services, storm sewers, and fire hydrants.
 - i) Location, sizes, and type of fences, landscaping, buffer strips, and screening.



- j) Proposed parking areas and drives. Parking areas shall be designated by lines showing individual spaces and shall conform with the provisions of this Ordinance found in Article VIII.
 - k) Easements, if any.
 - l) Dimensions and number of proposed lots.
 - m) Significant natural features, and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, flood plains, hills, and similar natural assets.
 - n) Site lighting plan including the following items:
 - i. Proposed location, mounting height, mounting angle, direction, and hours of illumination of each outdoor light fixture (new and existing), including distance from property lines;
 - ii. Description of each illumination device, luminaire, support, reflector, timing device, and other device (e.g. style, manufacturer's part number, wattage, lumens, type of bulb, photometric data);
 - iii. Manufacturer specifications including photographs of the fixtures indicating certified "cut off" characteristics. (#34-13-03)
 - o) Adjacent property owner zoning must be added to the site plan and presented with the application. (#34-18-02)
 - p) A storm water management plan, which addresses on-site surface runoff problems and how it will be integrated into a general drainage scheme for the area, shall be provided for projects in the commercial, industrial, PUD, and multi-family zoning districts to ensure against any adverse effects to neighboring or off-site property owners as well as to users of the site. (#34-18-02)
- b. The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impact studies; analysis of impacts on significant natural features and drainage; soil tests; and other pertinent information.
- c. The Planning Commission shall approve, deny, or approve with conditions the Final Site Plan based on the requirements of this Ordinance, and specifically, the standards of *Section 9.2*.



9.2 Site Plan Review Standards

- (A) All Final Site plans shall be approved, approved with conditions, or denied based on the purposes, objectives and requirements of this Ordinance, and specifically, the following considerations when applicable:
1. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall be planned to take into account topography, climate considerations, size of the property, the uses on adjoining property and relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 2. Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
 3. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission or Zoning Administrator may require that landscaping, buffers, and/or green belts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
 4. The site plan shall comply with the general purposes and spirit of this Ordinance and the Township *Master Plan*. (#34-18-02)

9.3 Approved Plans and Amendments

- (A) Upon approval of the Final Site Plan, the Chairman of the Planning Commission shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Township's files; one (1) copy of the Final Site Plan shall be forwarded to the Zoning Administrator for issuance of a Zoning Compliance permit; and one (1) copy shall be returned to the applicant.
- (B) Each development shall be under construction within one (1) year after the date of approval of the Final Site Plan, except as noted in this Section.
1. The Zoning Administrator may grant one (1) six (6) month extension if the applicant applies for such extension prior to the date of the expiration of the Final Site Plan and provided that: (#34-18-02)
 - a. the applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
 - b. the site plan requirements and standards, including those of the Zoning Ordinance and *Master Plan*, that are reasonably related to said development have not changed. (#34-18-02)



2. Should neither of the provisions of Section 9.3(B) be fulfilled, or a six (6) month extension has expired without construction underway, the Final Site Plan approval shall be null and void.
3. Amendments to an approved Final Site Plan may occur only under the following circumstances:
 - a. The holder of a valid Final Site Plan approval shall notify the Planning Director of any proposed amendment to such approved site plan.
 - b. Minor changes, requested by the applicant, may be approved by the Zoning Administrator upon certification in writing to the Planning Commission that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the Planning Commission. In considering such a determination, the Zoning Administrator shall consider the following to be a minor change:
 - 1) Reduction of the size of any building and/or sign.
 - 2) Movement of buildings and/or signs by no more than ten (10) feet.
 - 3) Landscaping approved in the site plan that is replaced by similar landscaping to and equal or greater extent.
 - 4) Changes in floor plans which do not alter the character of the use or increase the amount of required parking.
 - 5) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design or reduced required landscaping.
 - 6) Changes required or requested by the Township, Marquette County, or other State or Federal regulatory agency in order to conform to other laws or regulations.
 - c. Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor; a new site plan shall be submitted and reviewed as required by *Section 9.1*.

(C) Appeal

If any person shall be aggrieved by the action of the Planning commission, appeal in writing to the Township Board may be taken within five (5) days after the date of such action. The Township Board shall set a time and place for a public hearing. The appellant shall be notified in writing of the hearing and a notice shall be published in a newspaper of general circulation ten (10) days prior to the hearing. All interested parties shall be afforded the opportunity to be heard thereat. After such hearing, the Board shall affirm or reverse the action of the Planning Commission, stating its findings and the reasons for its action. A written copy of such findings, reasons, and action shall be given to the appellant.



X. Planned Unit Development

(A) Intent

The Planned Unit Development (PUD) is a zoning district intended to accommodate innovative land use developments with mixed or varied uses, sites with unusual topography or unique settings within the community, or land which exhibits difficult or costly development problems, and shall not be allowed where Planned Unit Development approval is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated objectives below.

(B) Objectives

The Planned Unit Development provisions of this ordinance are designed to accomplish the following objectives:

1. To permit more flexibility in land development than is generally allowable under conventional zoning regulations where such development will not be contrary to the intent of the Chocolay Township Zoning Ordinance or inconsistent with the Township *Master Plan*; (#34-18-02)
2. To achieve efficiency and economy in the use of land, natural resources, energy, and the provision of public services and utilities;
3. To encourage innovative approaches in developing land and to allow variety in design, layout, and type of structures constructed;
4. To encourage the provision of useful open space and development of recreational opportunities;
5. To provide a desirable living environment through the preservation of the natural character of open fields, tree stands, brooks, ponds, floodplains, hills, and similar natural assets;
6. To provide a procedure for use in encouraging and assisting in the orderly development of uses of property within the township which will result in economic benefit to the township and its residents.
7. To provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the township;
8. To provide a procedure by which the Township Board can grant preliminary approval of a proposed development without first requiring the developer thereof to expend complete design monies, while providing Township officials with assurances that a proposed development will retain the character envisioned at the time such preliminary approval was granted;
9. To provide for adequate protection and safeguards for the site and the surrounding area;



10. To recognize that the timing of development should be consistent with capital improvement planning and that it is both a public and private responsibility to minimize adverse community impacts;
11. Encourage and ensure a continual pattern of compatible land use; and,
12. To provide for public hearings and input in reviewing a Planned Unit Development proposal.

10.1 Uses Permitted, Minimum Size And Fees

(A) Uses Permitted Within a Planned Unit Development District

1. The following uses may be included in a PUD district:
 - a. all residential uses
 - b. all commercial uses
 - c. all light manufacturing uses; or
 - d. a combination thereof
2. Zoning Districts R-1, R-2, WFR, MFR, Commercial, and Industrial are eligible for rezoning to a Planned Unit Development. (#34-12-02)
3. No use shall be permitted except in conformity with a specific and precise Final Development Plan pursuant to the procedural and regulatory provisions hereinafter set forth.
4. Where the Planned Unit Development contains residential uses, non-residential development is permitted provided that:
 - a. Such non-residential uses are primarily for the service and convenience of the residents of the Planned Unit Development and the immediate neighborhood, or;
 - b. Where such non-residential uses are proposed to be situated in an existing district not permitting such uses and/or where such non-residential uses are intended primarily for residents from outside of the Planned Unit Development, it must be shown that:
 - 1) such non-residential development can be justified economically at the location proposed;
 - 2) that such uses are desirable and convenient to the immediate neighborhood; and
 - 3) such uses are site planned, designed and so located as to assure that they will not materially alter the existing character of the neighborhood.

(B) Minimum Planned Unit Development Size

The Planned Unit Development District shall not be less than five (5) acres in actual lot size and shall be capable of being planned and developed as one integral unit. The minimum lot width of a parcel zoned PUD shall be not less than 200 feet.



(C) Ownership Requirements

An application for rezoning to a Planned Unit Development district shall be made by the fee owners of the property for which the application is being made. Any other interested parties may also join in the application.

(D) Processing Fees

For consideration of an application for rezoning to a Planned Unit Development District there shall be a processing fee, paid with the application. If additional or special meeting of the Planning Commission or Township Board are held at the request of the applicant an additional fee per meeting will be assessed to the applicant and must be paid prior to each such meeting. (See “charge for services” fee chart)

10.2 Application and Approval Procedures

(A) Pre-Application Conference

Before submitting an Application for rezoning to PUD District, each applicant shall meet and confer with the Chocoley Township Zoning Administrator, and the Planning Director, and interested Township officials regarding the preparation of the Application. It shall be the responsibility of the Planning Director to contact and invite the appropriate Township officials to such a meeting. The general outlines of the proposed PUD, evidenced by sketch plans are to be reviewed at the meeting before submission of a Planned Unit Development application. Thereafter, the Zoning Administrator and the Planning Director shall furnish the applicant with their written comments regarding the meeting including appropriate recommendations to inform and assist the applicant prior to preparing a Planned Unit Development application. The applicant may then informally discuss the proposal with the Township Planning Commission at his/her option.

(B) Preliminary Application and Plan

The applicant of the Planned Unit Development shall submit an application for rezoning to PUD District and Preliminary Development Plans to the Township Planning Commission through the Planning Director within ninety (90) days of the preliminary meeting(s). The Preliminary Development Plan shall consist of written and graphic documents.

1. The written documents shall consist of:
 - a. A legal description of the total site proposed for development;
 - b. A statement of the nature and character of the proposed development and the methods to be used in achieving the objectives of the Planned Unit Development provisions;



- c. A schedule of the approximate date or dates if the development is to be divided into phases, when construction will begin and be completed;
 - d. A statement of the applicant's intentions with regard to future ownership of all or parts of the development;
 - e. Quantitative data for the following: Total number and type of dwelling and non-residential units, the proposed floor area, ground coverage, outdoor livability and open space ratios the proposed gross residential density and the net residential density of any separate stages, the number of parking spaces for each use proposed, and any market or feasibility studies the applicant wishes to submit in support of this plan;
 - f. A market analysis and/or environmental assessment statement may be required showing economic need for commercial facilities or to insure that environmentally sensitive areas are not disturbed.
 - g. Such additional documentation as may be required by the Planning Commission.
2. The graphic documents shall consist of:
- a. A grading plan may be required if deemed necessary by the Planning Director. The grading plan shall show contour lines at intervals of five (5) feet and the existing and proposed site conditions as well as any bodies of water, unique natural features, rock outcroppings and vegetation.
 - b. A preliminary plat showing proposed lot lines and plat lines if the land is to be platted.
 - c. A site plan or plans showing the location and floor area and use of all existing and proposed buildings, structures, and improvements, including maximum heights, the location and size of all areas to be conveyed, dedicated, or reserved as outdoor livability space, recreational areas, school sites, and similar public or semi-public uses; the proposed circulation system, including private and public streets, parking and loading areas, pedestrian ways, and access to existing and planned streets outside of the development: the existing and proposed utilities, including sanitary and storm sewers and water, gas, electric, telephone, and television cable lines: and preliminary landscape plan;
 - d. A plan at an appropriate scale showing land areas adjacent to the proposed development, their uses, zoning, and general character, and the effects of the proposed development on such land, including the treatment of the perimeter areas of the Planned Unit Development;
 - e. Sketch plans of land uses, densities, site design, adjacent uses, and circulation of remaining lands to be developed in future stages, if any of the project even though not presently under consideration for approval: and,



- f. Such additional material as may be required by the Township Planning Commission to assist the Commission in visualizing and understanding the proposals, including, but not limited to, architectural renderings of typical structures and improvements and three-dimensional work study models.

(C) Preliminary Development Plan Review and Public Hearing

1. The Planning Director shall notify the appropriate State and County government agencies to review the preliminary development plans and proposed rezoning and may obtain the recommendation of a professional planning advisor, and shall submit such review information and recommendations to the Township Planning Commission for its consideration along with a report which evaluates the planning aspects of the project as well as its impact on present and future development plans of the township.
2. Within 60 days following the submission of the application for rezoning and the Preliminary Development Plan the Planning Commission shall hold a public hearing:
 - a. Pursuant to the requirements of Sec. 1.6B of the Township Zoning Ordinance.
 - b. At which time the applicant shall present the Planned Unit Development preliminary development plan.
 - c. At which time the Planning Director shall present his/her recommendation;
 - d. At which time the public will be afforded an opportunity to comment upon the proposed Planned Unit Development.
3. After reviewing all of the evidence, the Planning Commission must take formal action on the application within 45 days of the public hearing. Such formal action to consist of one of the following:
 - a. Recommendation for approval of the preliminary development plan as presented and a recommendation that the application for rezoning, to PUD district be granted; or
 - b. Recommendation for approval of the preliminary development plan subject to compliance with specified conditions, which, if met by the applicant, will also be deemed to be a recommendation that the application for rezoning to PUD District be granted; or,
 - c. Recommendation for disapproval of the preliminary development plan and recommendation that the application for rezoning to PUD District be denied.

Such action shall be stated in a written report prepared by the Planning Commission which shall be submitted to the County Planning Commission for its review and recommendation as required by statute;

4. The Township Board shall thereafter conduct a preliminary review of the written report of the Planning Commission and all related documentary materials, including recommendations of the County Planning Commission and shall, upon consideration of that documentation take any one of the following actions:



- a. Issue preliminary approval of the preliminary development plan and the proposed rezoning to PUD District; or
 - b. Issue preliminary approval of the preliminary development plan and proposed rezoning to PUD District subject to certain specified conditions; or
 - c. Issue a preliminary disapproval of either the preliminary development plan or the proposed rezoning to PUD District or both, and provide written notice to the applicant(s) of the reasons for such preliminary disapproval.
5. The preliminary approval by the Township Board of either the Preliminary Development Plan or the proposed rezoning to a PUD district does not constitute a final approval of the Proposed Development Plan or of the proposed rezoning, and no zoning permits shall be authorized until a Final Development Plan has been approved and a rezoning amendment has been adopted.

(D) Final Development Plan

1. Within a maximum of one (1) year following the preliminary approval by the Township Board of the Preliminary Development Plan and proposed rezoning to PUD District, the applicant shall file with the Township Board, through the Planning Director, in a final detailed form, a Final Development Plan which shall be in substantial compliance with the preliminary approval previously issued by the Township Board. The Planning Director shall have thirty (30) days within which to review the Final Development Plan. At its discretion and for good cause, the Township Board may extend for six (6) months the period for filing of the Final Development Plan. If the applicant fails to file the Final Development Plan for any reason, within the time allowed, the preliminary approval shall be deemed to be revoked and the Township Board shall take appropriate action to deny the application for rezoning to PUD District. All that portion of the area included in the Preliminary Development Plan and proposed rezoning for which final approval has not been given shall thereby remain subject to the existing zoning and subdivision ordinance otherwise applicable thereto.
2. The Township Board shall make a determination as to whether the final development plan is in substantial compliance with the Preliminary Development Plan. The Final Development Plan shall be deemed in substantial compliance with the Preliminary Development Plan, provided any modifications made thereto by the applicant do not:
 - a. Violate any provision of Section X of the Zoning Ordinance;
 - b. Vary the lot area requirement by more than ten (10) per cent;
 - c. Involve a reduction of more than ten (10) per cent of the area reserved for the common open space and/or usable open space;
 - d. Increase the floor area proposed for non-residential use by more than ten (10) per cent; and
 - e. Increase the total ground area covered by buildings by more than five (5) per cent.



3. If the Final Development Plan is not in substantial compliance with the Preliminary Development Plan or if it contains substantial or significant changes from the Preliminary Development Plan, the Township Board, shall hold an additional public hearing before it may grant final approval of such Final Development Plan.
4. The Final Development Plan stage includes review of all of the information required for the Preliminary Development Plan in its finalized, detailed form to ensure substantial compliance with the preliminary development plan. This shall include a review of site plans sufficient for recording and engineering drawings. Any schematic plans presented in the Preliminary Development Plan stage, such as a landscape plan, must be presented in their final detailed form. All items previously reviewed and any final plats and public dedication documents shall be submitted at this time.
5. If the Township Board determines that the Final Development Plan is in substantial compliance with the standards specified in this Ordinance and with the Preliminary Development Plan through the review of finalized site plans and specifications, the Final Development Plan and proposed rezoning to PUD District shall be approved and adopted by the Township Board.
6. The decision of the Township Board shall be made within sixty (60) days of submission of the Final Development Plan, unless said time is agreed to be extended by the applicant in writing; provided that the Township Board may extend such time for periods not to exceed thirty (30) days each if such extensions are necessary for adequate review.

(E) Issuance of Permits

Formal Approval by the Township Board of the Final Development Plan and adoption of the rezoning to PUD District shall entitle the applicant to apply for zoning permits.

(F) Time for Completion of Development

Implementation of the Final Development Plan including all proposed buildings parking spaces, landscaping, usable open space, and amenities must be started within one (1) year of the final approval of the Final Development Plan and work must be continued in a reasonably diligent manner and completed within three (3) years of such final approval. If construction of the entire development or established stages is not significantly complete within the time limits provided by the construction schedule or if time schedule extensions are requested by the applicant, the Township Board shall review the progress being made in implementing the Final Development Plan and, may extend the time for completion or revoke final approval of the Final Development Plan or take such other action as it deems appropriate.

(G) Amendments to the Final Development Plan

1. Minor changes from the approved final development plan may be approved without the necessity of a public hearing by the Township Board, if required by engineering or



other circumstances not reasonably foreseeable at the time the Final Development Plan was approved. The Township Board may request certification in writing from the officials and agencies concerned that the proposed revision constitutes a minor alteration and does not alter the basic design or any specific conditions of the Final Development Plan as approved by the Township Board. Revisions permitted under this Section shall be limited to:

- a. Shifting of building location, heights and elevations, providing such shifting does not exceed ten (10) percent of the previously approved dimension and providing such shifting does not significantly alter the conceptual integrity of the plan;
 - b. Construction of additional or alteration of approved sidewalks provided that pedestrian movement through and around the site is not inhibited thereby;
 - c. Shifting of, additions to, or changes in species of landscaping materials, provided that such change does not reduce the minimum landscape requirements;
 - d. Relocation of refuse collection stations;
 - e. Internal rearrangement of parking lots and curb cut locations, provided such functional rearrangement does not reduce the total number of parking spaces required and further provided that the minimum landscape requirements are maintained and further provided that such rearrangement does not inhibit smooth traffic flow or circulation;
 - f. An increase or decrease in the floor area of any building, provided such increase or decrease does not exceed five (5) percent of that previously approved;
 - g. Construction and location of bus stop stations; and
 - h. Installation of recreational or maintenance facilities that do not require erection of a structure intended for human use or occupancy.
2. All major changes in the final development plan may be formally approved after a public hearing held by the Township Board in accordance with Section 1.6(B) of the Zoning Ordinance. Any changes must be formally adopted and recorded as amendments to the Final Development Plan as approved.

10.3 Standards for Decision

(A) General Standards

A Final Development Plan and proposed rezoning to PUD District shall be denied, approved, or approved with conditions by the Township Board based on findings of conformity or lack of conformity with the following standards:

1. The Final Development Plan and proposed rezoning to PUD District shall be consistent with the Township *Master Plan* and any land use plans and land use regulations adopted by the township board except as hereinafter set forth.

(#34-18-02)



2. The Final Development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area and shall be developed so as not to be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor diminish property values within the neighborhood.
3. Each development shall provide reasonable visual and acoustical privacy for dwelling units within the development. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise.
4. The proposed development shall not involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of noise, dust, smoke, odor, fumes, or glare. Provisions shall be made for the prevention of erosion and dust and to insure that the removal of surface waters will not adversely affect nearby properties.
5. Yard, setback requirements, height, limits, and buildings size limits, density and intensity limits may be altered for the proposed development, provided that the spirit and intent of this section are complied with in the total development plan, as determined by the Township Board. Clustering of dwelling units in one or more locations upon the development is permitted. All buildings or groups of buildings shall be arranged as to permit convenient and direct emergency vehicle access and final determination shall be based on the visual, acoustical, and aesthetic layout as determined by the Township Board.
6. The existing landscape shall be maintained in as natural a state as possible through preservation of trees, groves, waterways, floodplains, scenic points, historic spots, and other community assets and landmarks. The location of such must be considered when planning common open space, location of buildings, underground services, walks, paved area, playgrounds, parking areas, and finished grade levels. The Township Board shall inquire into the means whereby trees and other natural features will be protected during construction.
7. Design of the proposed streets, common vehicular ways, and pedestrian circulation shall be adequate to allow for safe, convenient, and uncongested circulation. Streets in a proposed development may be dedicated to public use or may be retained under private ownership. They shall be constructed in accordance with the standards required by the Chocoley Township Zoning Ordinance.
8. Off-street parking shall be sufficient to meet the minimum required by Article VIII of the Chocoley Township Zoning Ordinance. If deemed appropriate and for good cause, the Township Board may require more or less parking for a proposed development than that required by Article VIII.
9. The proposed development shall be so located in relation to sanitary sewers, water lines, storm and surface drainage systems, and other utilities systems and installations that neither extension nor enlargement of such systems will be required in manner,



form, character, location, degree, scale, or timing resulting in higher net public cost or earlier incursion of public cost than would develop in a form generally permitted in the area, or it shall be demonstrated that the person responsible for the proposed development shall be able to install such systems at his own expense and continually provide adequately for the utilities systems and installations deemed essential to the proposed development.

10. Exterior lighting shall be so arranged that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.
11. If topographical or other barriers within 25 feet of the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Township Board shall impose either of the following requirements, or both:
 - a. Structures located on the perimeter of the development must be set back in accordance with the provisions of the zoning ordinance controlling the area within which the development is situated; and
 - b. Structures located on the perimeter of the development must be well screened in a manner which is approved by the Board.
12. Layout of parking area, service areas, entrances, exits, yards, courts and landscaping, and control signs, lighting, noise or other potentially adverse influences shall be such as to improve visual amenity and protect the residential character within the development itself and the adjoining area district.
13. Fifty (50%) per cent of the dwelling units within a development must be physically constructed and occupancy permits approved prior to any non-residential use construction.

(B) Conditions

The Township Board may impose conditions with the approval of a final development plan which are necessary to insure compliance with the standards for approval contained in this ordinance. Such conditions shall be considered an integral part of the Final Development Plan approval and shall be enforced by the Zoning Administrator. In addition the Township Board shall also consider activity levels of the proposed uses and may impose conditions to insure the preservation and protection of property values and the overall health, welfare, and safety of adjacent properties and surrounding area.



XI. Landscape and Grading Requirements

11.1 Applicability Of Landscape Requirements

The provisions of the following five sections are applicable to every lot with respect to which a zoning compliance permit or a building permit for any new structure or enlargement of any existing structure is hereafter required.

11.2 Required Planting Screens

In Districts C, and I, wherever any parking lot, trash collection, outdoor storage, merchandising, or service area lies within 50 feet of any R-1, R-2, or MFR District, and all conditional uses in Districts R-1, R-2, and MFR where these conditional uses abut any of the principal uses in said Districts, a planting screen of sufficient length to interfere with the view thereof from the adjoining district shall be required except where the view is blocked by change in grade or other natural or manmade features. Where, because of intense shade or soil conditions, the planting screen cannot be expected to thrive, an opaque wooden fence, a chain link fence with interwoven redwood or cedar slats, or a masonry wall may be substituted.

11.3 Planting Screen Specifications

All planting screens required by this ordinance shall consist of plants, at least 30 inches high when planted, maintained in a healthy condition, and so pruned as to provide maximum opacity from the ground to a height of five feet. Any of the plant materials in the following list may be used and plants shall be located no farther apart than the distance indicated in each case.

| Plant | Distance Apart |
|----------------|----------------|
| Forsythia | 3 feet |
| Lilac | 3 feet |
| Privet | 1 1/2 feet |
| Arbor vitae | 4 feet |
| Pfizer Juniper | 4 feet |
| Scotch Pine | 5 feet |

Substitution of other plant materials shall be permitted upon certification by the Zoning Administrator that the proposed plantings can be expected to thrive and provide equivalent screening and will create no nuisance or hazard.



11.4 Parking Lot Planting

Where the provision of off-street parking for 50 or more vehicles is required, there shall be landscaped open space within the perimeter of the parking area, or areas, in the minimum amount of 18 sq. ft. for each parking space, which shall be so located that no parking space is more than 120 feet from a portion of the landscaped open space required by this Section. Landscaped open space required by this Section shall be kept continuously planted with living vegetation. The required landscaped open space need not be contiguous, but there shall be at least one tree in each separate area. Required trees shall be at least 12 feet high when planted or when this Ordinance becomes applicable thereto, shall be maintained in a healthy condition, and shall not be pruned, except to remove dead wood, in such a manner as to prevent growth to a height of at least 15 feet or to reduce existing heights below 15 feet. The following varieties of trees are prohibited in meeting the requirements of this ordinance: poplars, willows, American elms, see-bearing locusts, and box elders. All plant materials shall be kept pruned to maximize visibility through them between the heights of three and eight feet except where located so as to create no hazard to drivers or pedestrians.

11.5 Time of Completion

All plantings required by this Ordinance shall be installed prior to occupancy or commencement of use. Where compliance with the preceding sentence is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay but no permanent certificate of occupancy shall be issued until completion of all required plantings. Any certificate of occupancy may be revoked, after 30 days written notice to the person assessed for taxes on the affected lot and to the occupant, whenever plantings are not maintained as required in this Ordinance.

11.6 Grading Permits

No grading, including any act by which soil, rock, or mineral matter is cut into, dug, quarried, uncovered, removed, displaced, or relocated, and including the removal of vegetable cover, excavation, and land balancing, shall be undertaken without first obtaining a grading permit from the Zoning Administrator and upon payment of a fee of \$10 per acre or fraction thereof, but not exceeding \$200, and a performance bond or other security in the amount necessary to insure compliance with the requirements of Article XI. No grading permit shall be required for agricultural, horticultural and forestry activities, the construction of a driveway which does not at any point vary from the surrounding grade by more than one foot, the normal graveling or grading of a road or driveway, any project that does not involve, in any one year, an area exceeding 2,000 sq. feet or more than 1,000 cubic yards of material, or construction or maintenance of a septic tank or associated drain field. No grading permit for operations requiring more than one year for completion shall be issued.



In addition, no grading permit shall be required for activities for which a permit has been issued pursuant to the provisions of the Soil Erosion and Sedimentation Control Act, Act 347, Public Acts of 1972.

11.7 Grading Requirements

Anyone engaged in grading shall at all times take all appropriate and reasonable steps to prevent erosion including the construction of silt traps, the mulching and temporary or permanent planting of all areas exposed by grading, the construction of diversions, channel linings, grade stabilization structures, and bank protection structures, and shall limit, insofar as is practical, the area of land exposed to erosion resulting from grading at any one time and length of time that any area is exposed, and shall, upon completion of operations, leave the area in a condition where further erosion will not take place and the land is at least as suitable for uses permitted under this Ordinance as when grading operations commenced.

11.8 Applications For Grading Permits

An application for a grading permit must contain sufficient information to enable the Zoning Administrator to determine that the applicant proposes to take such measures as are necessary to meet the requirements of the preceding section. Where necessary, the Zoning Administrator shall require the submission of topographic maps, soil boring reports, or other necessary technical information. Upon receiving an application meeting the requirements set forth in this section, and the fee required in Sec. XI, the Zoning Administrator shall issue a grading permit to the applicant. No grading permit shall be valid except for work described in the application. The Zoning Administrator shall impose such conditions or requirements in granting the permit as may be necessary to insure compliance with the requirements of the preceding section and shall impose such limits on working hours and time limits for completion of operations and various stages thereof as may be necessary to minimize incompatibility with nearby land uses, and failure to take any action or refrain from any action specified either in the application or on the face of the permit shall constitute a violation of this Ordinance.

11.9 Financial Security

Pursuant to the provisions of Sec. XI, the applicant shall provide financial security in one or a combination of the following arrangements:

(A) Performance Bond

A performance or surety bond issued by an acceptable bonding company authorized to do business in the State of Michigan.

(B) Escrow Fund

A cash deposit or by certified check.



(C) Irrevocable Letter of Credit

An irrevocable letter of credit issued by a bank authorized to do business in the State of Michigan.

The security shall be filed with the Township Treasurer and shall be for same time periods as the grading permit and of an amount estimated by the Zoning Administrator as necessary to make the site as suitable for uses permitted in this ordinance as before grading operations commenced.

11.10 Grading Operations

Whenever, during or following grading operations, conditions arise which require the taking of any measures or precautions or the imposition of any limits or restraints to assure compliance with the requirements of Sec. XI, the Zoning Administrator shall make a written order requiring the taking or refraining from any such action and post such order on the premises, and any violation thereof shall constitute a violation of this Ordinance. Wherever it appears that measures or precautions previously required are unnecessary, the Zoning Administrator shall waive them in writing.

11.11 Building Grades, Fill To Increase Height

Filling with earth or other materials to an elevation above the established or natural grade of adjacent land is prohibited without the express written approval of the Zoning Administrator. The intent of this provision is to prohibit the erection of buildings taller than the natural grade plus what the height restriction of this Ordinance would otherwise permit. All water runoff shall be detained on site; no water shall be directed into public storm drains, sanitary sewers or abutting property unless owned by the applicant. Where a new building is constructed between two existing buildings or on a vacant lot adjacent to an existing building, the natural grade shall be used to determine the finished grade for the new building and the required yard space.

11.12 Outside Lighting (#34-13-03)

(A) Purpose

Chocolay Township finds that the naturally lit night sky is an important aspect of Township rural character, and is a valuable natural resource that contributes significantly to quality of life. These regulations are intended to provide for illumination that:

1. Does not exceed the minimum levels necessary for safety, utility, security, productivity, enjoyment, and commerce while minimizing adverse offsite impacts of lighting such as light trespass and glare.
2. Curtails light pollution in rural residential areas and adjacent to Lake Superior.
3. Reduces skyglow to preserve the rural character of the Township and avoid negative impacts to navigation on Lake Superior.



4. Helps protect the natural environment from the adverse effects of night lighting.
5. Protects vehicular and pedestrian traffic from dangerous glare or distraction, such as that caused by lighting that exceeds that of surrounding areas by great margins and compromises visibility and safety, particularly for ageing eyes.
6. Conserves energy and resources.

(B) Applicability

All outdoor lighting established before July 1, 2013 shall, at minimum, be directed away from residential properties and public or private streets. Except as described below, all new outdoor lighting shall comply with these requirements. Additionally, all outdoor lighting shall be brought into compliance with this Ordinance at time of commencement of a new or changed use requiring a zoning compliance permit, or whenever a light fixture that existed on the effective date of this Ordinance is replaced by a new outdoor light fixture. The following are not regulated by this Ordinance:

1. Lighting within the public right-of-way or easement for the principal purpose of illuminating streets or roads;
2. Lighting solely for signs (lighting for signs is regulated in Section 18.1);
3. Temporary lighting for theatrical or television events, performance areas, construction sites, celebrations, and holiday seasons;
4. Gas lighting; glass tubes filled with Neon, Argon, or Krypton; and small decorative fixtures of 800 lumens or less (equivalent to a 60 watt incandescent bulb).
5. Lighting that is only used under emergency conditions;
6. Low voltage landscape lighting;
7. Lighting required by federal or state laws or regulations.

(C) Prohibited Lighting

1. Searchlights, lasers, or other high-intensity lights designed or used primarily to light the sky or buildings for advertising or entertainment purposes. Lights shall not be of flashing (as defined for sign illumination), strobing, moving, or intermittent type.
2. Broad-spectrum lighting, such as quartz and mercury vapor lighting because of the diffusive and reflective characteristics.

(D) General Requirements

All exterior illuminating devices shall be installed in conformance with the provisions of this Ordinance and all applicable building codes.

1. In all districts, all outdoor lighting shall be installed and maintained to deflect light away from any adjoining residential district or use, or from public or private streets. Any lamp visible from an adjoining property must be shielded. Flood or spot lamps must be aimed no higher than 45 degrees above straight down.



2. All outdoor lighting shall be installed and maintained to be fully shielded and directed downward with a full cut-off angle of illumination of ninety (90) degrees or less.
3. Bare light bulbs shall not be permitted.
4. A light source mounted on a building shall not exceed the height of the building.
5. Lighting that is designed for the external illumination of buildings or structures, so as to feature said buildings or structures, shall be located and shielded so as not to project light upward, or to illuminate other objects, or to interfere with the vision of persons on adjacent public or private streets. The light will be directed to the object itself and to the premises on which it is mounted.
6. The height of a light source mounted on a pole or building shall not exceed thirty (30) feet.

(E) Outdoor Lighting in Commercial and Industrial Districts and for Non-Residential Uses in Residential Districts

1. Outdoor lighting shall be extinguished between 11:00 p.m. (or when the business closes, whichever is later) and sunrise. This does not include motion activated lighting; lighting at building entrances; and approved lighting for outdoor storage areas, which must be fully shielded. It does include off-street parking areas and outdoor display areas except during regular business hours and the periods of time when employees/visitors are arriving or leaving.
2. Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch, or equivalent functions. Automatic lighting controls are not required under canopies, in tunnels, parking garages, or similar facilities.
3. Canopy lighting shall only be permitted underneath the canopy structure, and shall be recessed entirely into the canopy without any portion of the light source or fixture extending below the bottom face of the canopy. Canopy lighting shall utilize flat lenses. Canopies shall not contain any other form of internal or external illumination.
4. All outdoor lighting shall use the minimum amount of light to meet the lighting criteria set forth by the Illuminating Engineers Society of North America (IESNA) for safety and visibility relevant to the land use where the lighting is installed.
5. Information shall be supplied on all illumination devices, luminaires, mounting, timing devices, and supports on the site, including the style, manufacturer's part number, height, direction, mounting angle, location (including distance from property lines), hours of operation, wattage, lumens, type of bulb, photometric data, and any other information needed to determine conformance with this Ordinance.



XII. Site Condominium

12.1 Purpose

The purpose of this Section is to provide for a consistent consultation, review and approval process for all condominium and site condominium projects within the Township. The review and approval process will ensure that these projects comply with the Township *Master Plan* and Zoning Ordinance. (#34-18-02)

12.2 Site Condominium Projects Approval Procedures

Prior to recording the master deed as required by Section 72 of the Condominium Act, as amended, all Site Condominium Projects shall undergo a pre-application conference, site plan review and approval pursuant to this ordinance. Pursuant to the authority conferred by Sec 141 of the Condominium Act, preliminary and final site plans for all site condominium projects shall be approved by the Chocolay Township Board. In determining whether to approve a site plan for a condominium project the Township Board shall consult with the following persons and organizations regarding the adequacy of the master deed, deed restrictions, utility systems and streets, site layout and design and compliance with all the requirements of the condominium act and this ordinance:

- The Chocolay Township Planning Commission
- The Chocolay Township Planning Director
- The Chocolay Township Zoning Administrator
- The Chocolay Township Attorney
- The Supervisor of Public Works
- The Marquette County Health Department
- The Marquette County Road Commission
- The Michigan State Highway Department
- The Department of Environmental Quality
- The Marquette County Drain Commissioner



12.3 Definitions

The following terms are defined both in the context of the Condominium Act and in a manner intended to make comparison possible between the terms of the Chocolay Township Zoning Ordinance and the Subdivision Control Ordinance with the Condominium Act.

| Word or Phrase | Definition |
|-------------------------------|---|
| C | |
| Condominium Act | Means Act 59 of 1978, as amended. |
| Condominium Subdivision Plan | Means the site, survey and utility plans; floor plans' and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, boundaries' acreage and volume for each condominium unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location, and approximate size of common space elements. |
| Condominium Unit | Means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed. |
| Consolidating master deed | Means the final amended master deed for a contractible site condominium project, and expandable site condominium project or a site condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed. |
| Contractible site condominium | Means a site condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the site condominium documents and in accordance with this Ordinance and the Condominium Act. |
| Conversion site condominium | Means a site condominium project containing site condominium units some or all of which were occupied before the establishment of the site condominium project. |
| Convertible area | Means a unit or a portion of the common elements of the site condominium project referred to in the site condominium documents within which additional site condominium units or general or limited common elements may be created pursuant to express provision in the site condominium documents and in accordance with this Ordinance and the Condominium Act. |
| E | |
| Expandable site condominium | Means a site condominium project to which additional land may be added pursuant to express provision in the site condominium documents and in accordance with this Ordinance and the Condominium Act. |



| Word or Phrase | Definition |
|--------------------------------------|--|
| F | |
| Front setback | shall be equal to the distance between the front lot line of the condo unit and the structure of that unit. |
| L | |
| Lot | Shall mean the same as “site condominium unit.” |
| M | |
| Master deed | Means the condominium document recording the site condominium project to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved site condominium plan for the project. |
| Mobile home site condominium project | Means a site condominium project which mobile homes are intended to be located upon separate sites as condominium units. |
| R | |
| Rear setback | Shall be equal to the distance between the rear line and the structures on said unit. |
| S | |
| Side setback | Shall be equal to the distance between the side line of the site condominium unit and the structures on said unit. |
| Site Condominium | Shall be equivalent to the term “subdivision” as used in the Zoning Ordinance and the Subdivision Control Ordinance. |

12.4 General Requirements

- (A) The applicant shall pay a reasonable fee, as determined from time to time by resolution by the Township Board.
- (B) No construction, grading, work, or other development shall be done upon the land intended to be used for a site condominium until a final site plan has been approved, except with express permission of the Township Board. This requirement shall include contractible, conversion, and expandable site condominiums.
- (C) If a building, structure, or use to be placed on a condominium unit requires site plan approval under Article IX herein, a site plan for that building, structure, or use shall be approved in accordance with Article IX herein, before a zoning compliance permit may be issued.
- (D) The Township Board shall have the authority to review and approve or deny preliminary and final site plans for site condominiums based on whether or not the site plans comply with the provisions of this ordinance.
- (E) Each condominium unit shall be located within a zoning district that permits the proposed use.



- (F) For the purposes of this Ordinance, each site condominium unit shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located. In the case of a site condominium containing single-family detached condominium unit, no more than one single condominium unit shall be located on a condominium unit, nor shall a dwelling unit be located on a condominium unit with any other principal structure or use. Required setbacks shall be measured from the boundaries of a condominium unit. Ground floor coverage and floor area ratio shall be calculated using the area of the condominium unit.
- (G) Each condominium unit shall be connected to public water facilities and to sanitary sewer facilities if available.
- (H) Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
- (I) Each condominium unit that results from a subdivision of another condominium unit, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.
- (J) All information required by this Ordinance shall be updated and furnished to the Planning Director and Zoning Administrator until applicable zoning compliance permits have been issued per Section 17.2 herein.

12.5 Application and Approval Process

(A) Pre-application Conference

Before submitting any formal documents for approval of a site condominium each applicant shall meet and confer with the Chocolay Township Planning Director and interested Township officials regarding the preparation of the Application. It shall be the responsibility of the Planning Director to contact and invite the appropriate Township officials to such a meeting. The general outlines of the proposed site condominium evidenced by sketch plans are to be reviewed at the meeting before submission of a site condominium application. Thereafter, the Planning Director shall furnish the applicant with his written comments regarding the meeting including appropriate recommendations to inform and assist the applicant prior to preparing a site condominium. The applicant may then informally discuss the proposal with the Township Planning Commission at his/her option.



(B) Preliminary Site Plan Requirements

1. A preliminary site plan shall be filed for approval at the same time the notice of proposed action is filed with Chocolay Charter Township.
2. The preliminary site plan shall include all land that the developer intends to include in the site condominium project.
3. The preliminary site plan shall include all information required in Article IX, herein, except in the case of a development that consists only of condominium units and not buildings or other structures at the time of site plan application, the location and dimensions of condominium units and all required yards, rather than individual buildings, shall be shown on the preliminary site plan.
4. A final site plan for any phase of development shall not be filed nor reviewed by the Planning Commission unless a preliminary site plan has been approved by the Planning Commission and is in effect.

(C) Final Site Plan Requirements

1. A final site plan shall be filed for review for each phase of development shown of the approved preliminary site plan.
2. A final site plan shall include all information required in Section 66 of the Condominium Act, and the master deed and bylaws. The final site plan shall also include all information required in Article IX, herein, except in the case of a development that consists only of condominium units and not buildings or other structures at the time of site plan application, the location and dimensions of condominium units rather than individual buildings, and required yards shall be shown on the final site plan.
3. The applicant shall provide proof of approvals by all County and State agencies having jurisdiction over the improvements in the site condominium development, including but not limited to the County Drain Commissioner and the Marquette County Road Commission and the County Health Department. The Planning Commission shall not approve a final site plan until each County and State agency having such jurisdiction has approved that portion of the final site plan that is subject to its jurisdiction.

(D) Revision of Condominium Subdivision Plan

If the condominium subdivision plan is revised, the final site plans shall be revised accordingly and submitted for review and approval or denial by the Township Board before building permit may be issued, where such permit is required.

(E) Streets/Roads

All streets/roads proposed for any site condominium shall be developed according to Section 6.7, herein, in the minimum design, construction, inspection, approval, and maintenance requirements of Chocolay Township.



(F) Amendment to Master Deed or Bylaws

Any amendment to a master deed or bylaws that affect the approved preliminary or final site plan, shall be reviewed and approved by the Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require review of any amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the approved site plan.

(G) Relation to Subdivision Ordinance

All site condominiums shall conform to the plan preparation requirements, design, layout, and improvements standards as listed, and any financial guarantees determined to be necessary by the Township Board. The standards and requirements of these sections that are intended to apply to lots in a subdivision shall apply instead to site condominium units. Nothing in this Section shall be construed as requiring a site condominium to obtain plat approval under the Subdivision Ordinance of the Subdivision Control Act.

(H) Development Agreement

The Township Board may require, as a condition of approval that the applicant enters into a development agreement with the Planning Commission and Chocolay Charter Township, incorporating the terms and conditions of final site plan approval and record the same in the Office of the Register of Deeds for Marquette County.

(I) Construction Located in General Common Element

Any application for a building permit for construction to be located in a general common element shall include written authorization by the Condominium Association for the application.

(J) Monuments and Lot Irons

Monuments shall be set in accordance with the Michigan Condominium Act and all other State rules and regulations. The Planning Commission may grant a delay in the setting of required monuments for a reasonable time, but not to exceed one year, on condition that the developer deposit with the Township Clerk cash, a certified check, or any irrevocable bank letter of credit endorsed to Chocolay Charter Township, whichever the developer selects, in an amount as determined from time to time by resolution of the Township Board. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified, If the developer defaults, the Township Board shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not to exceed the amount of the security deposit.



(K) Right-of-Way and Utility Easements

All right-of-way and utility easements shall be described separately from individual condominium lots and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities. Water, sewer and electrical easements may be placed within streets, subject to the Township and the standards of the Marquette County Road Commission.

(L) Compliance with Federal, State and Local Law

All condominium projects shall comply with Federal and State statutes and local ordinances.

XIII. Wireless Communication Facilities

13.1 Purpose

The Township has a clear and identifiable interest in accommodating the communication needs of residents and businesses but also has an interest in regulating highly visible structures such as large, high communication towers. It is the Township's interest, also, to induce, to the extent reasonable, cooperative use and collocation of such towers and their associated facilities and structures.

It is the policy of Chocolay Township to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the Township and encourage the use of existing structures for Attached Wireless Communication Facilities. It is the Township's interest to the extent reasonable to encourage the cooperative use and co-location of such towers and their associated facilities and structures. All new and modified Wireless Communication Facilities shall be designed and constructed so as to accommodate co-location. **(#34-12-04)**

13.2 Wireless Communication Facility Requirements (#34-12-04)

- (A)** All sites must contain a minimum area sufficient to contain the wireless communication facility and all related accessory uses. The site shall have legal documented access to a public road.
- (B)** The maximum height of the new or modified wireless communication support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant. The applicant shall demonstrate a justification for the proposed height of the structures and as evaluation of alternative designs that might result in lower heights. The Planning Commission may request that the height requested be reviewed by a professional engineer, architect, or an individual or firm that has extensive



knowledge in telecommunications and wireless towers, and this shall be done at the applicant's expense. The applicant shall submit a site plan as part of the conditional use permit application as required under ~~Section~~ Article IX of this Zoning Ordinance. All towers shall be certified by a licensed professional verifying that the structural design will withstand wind speeds and icing under the worst conditions experienced in the area.

- (C) All wireless communication facilities towers shall have a safety zone sufficient, in the judgment of the Planning Commission, to protect the public and adjacent properties from either a structural collapse or from wind-blown ice. Unless the applicant provides convincing evidence to the contrary, the base of any telecommunication facility shall be set back from all property lines a distance equal to its height. The Planning Commission may require a greater setback distance to address wind-blown ice.
- (D) Accessory structures shall not exceed six hundred (600) square feet of gross building area.
- (E) No wireless communication facility shall be approved unless the applicant is able to establish that any existing tower, structure or facility is not available for co-utilization based upon technical inadequacy or incapacity, unreasonable or prohibitive cost, denial by owner or other practical impediment to use or access.
- (F) There shall not be displayed on the wireless communication facility advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
- (G) All wireless communication facilities must comply with the standards of the Federal Aviation Administration, the Federal Communications Commission, the Airport Zoning Ordinance for Marquette County and all applicable State or Local codes. If any of these applicable standards should change then any existing wireless communication facility shall immediately be brought into compliance unless waived by controlling state and federal agency.
- (H) The wireless communication facility shall be located and operated so that they do not interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.
- (I) All wireless communication facilities shall be removed by the property owner or lessee within six (6) months of being abandoned by all users.
- (J) Minimum spacing between wireless communication facilities shall be one (1) mile in order to prevent a concentration of towers in one area.
- (K) Wireless communication facilities shall not be artificially lighted unless required by the Federal Aviation Administration.
- (L) The base of any tower and any cable supports shall be fenced with a minimum six (6) foot high security fence and all fencing shall be screened with landscaping. Accessory structures shall match the construction characteristics of other existing buildings in the surrounding area.



- (M) All wireless communication facilities shall be inspected after being constructed and then once every three (3) years for compliance with all ordinance, structural and operational requirements and shall be certified as in compliance by a licensed mechanical, civil, professional engineer or architect, or other professional competent in assessing the structural integrity of such towers, and said certification shall be submitted to the Township.
- (N) A conditional use permit for a new wireless communication facility shall not be granted until the applicant demonstrates that feasible co-location is not available for the coverage area and capacity needs.
- (O) Wireless communication facility shall meet or exceed the current national and state regulations. As a condition of every approval of a Wireless Communication Facility, adequate provisions shall be made for the decommissioning of any Wireless Communication Facilities that are no longer needed with the installation of a new Tower.
- (P) Wireless Communication Facilities located in the AF District are subject to the above qualifying conditions and/or regulations (1 through 16) with the following exceptions or additional requirements in order to reduce the impact of wireless communication facilities on the low intensity intent of the AF District and the tourism related aesthetic qualities of the Township's outlying areas:
 1. The wireless communication facility and any accessory structures shall be set back a minimum of 150' from all public or approved private road rights-of-way. Said set back shall be left in its natural state in order to provide screening or buffering to the roadway.
 2. The wireless communication facility and any accessory structures shall be set back a minimum of 300' from any existing residential dwellings.

XIV. Nonconforming Uses and Structures

14.1 Definitions of Lawful Nonconforming Uses and Structures

Nonconforming uses and structures are those which do not conform to a provision or requirement of this Zoning Ordinance or an amendment thereto, but were lawfully established and in existence at the time of the enactment of this Zoning Ordinance or such amendment thereto; PROVIDED, HOWEVER, that for purposes of Article 14, inclusive, of this Ordinance, any such structure which does not conform to a provision or requirement of this Zoning Ordinance solely because it does not comply with the minimum front yard setback requirements of this Ordinance shall be deemed to be in conformance with this Ordinance if the actual front yard setback of such a structure is eighty percent (80%) or more of the minimum front yard setback required by the provisions of this Ordinance, in which event such structure shall not be considered to be a nonconforming structure.



14.2 Regulations Pertaining to Lawful Nonconforming Uses and Structures

All lawful nonconforming uses and structures shall be subject to the following regulations:

- (A) No lawful nonconforming use shall be extended, expanded, enlarged, or increased in intensity without first securing the approval of the Zoning Board of Appeals. The activities prohibited by this Section 14.2(A) shall include, but not necessarily be limited to, the following:
1. Extension, expansion, or enlargement of a lawful nonconforming use to any building or other structure other than the one occupied by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming);
 2. Extension, expansion, or enlargement of a lawful nonconforming use within a building or other structure to any portion of the floor area that was not occupied by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming), provided, however, that a lawful nonconforming use may be extended throughout any part of such building or other structure that was lawfully and specifically constructed, designed, and arranged for such use prior to such effective date;
 3. Operation of a lawful nonconforming use in such a manner as to conflict with, or to further conflict with if already conflicting on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that results in such use becoming nonconforming), any performance standards established for the district in which the use is located;
 4. The movement of such lawful nonconforming use, in whole or in part, to any other portion of the premises or parcel occupied by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming): Provided, however, that notwithstanding anything to the contrary hereinbefore or hereinafter contained, in no event shall approval be granted for the extension, expansion, enlargement, or increase in intensity of a lawful nonconforming use beyond the boundary lines of the premises or parcel occupied in whole or in part by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming).
- (B) Without first securing the approval of the Zoning Board of Appeals, a lawful nonconforming sign: (#34-21-03)
1. Shall not be changed to another type of sign which is not in compliance with this ordinance.
 2. Shall not have any changes made in the words or symbols used or the message displayed on the sign unless the sign is designed for periodic change of message.



3. Shall not be structurally altered so as to prolong the life of the sign or to change the shape, size, type, or design of the sign.
 4. Shall not have its face or faces changed unless the sign is brought into conformity with the requirements of this ordinance.
 5. Shall not be reestablished after the activity, business, or usage to which it relates has been discontinued for a continuous period of 90 days or longer, and when it is apparent that it is the intent of the owner is to discontinue.
 6. Shall not be reestablished after damage or destruction if the estimated expense of repair exceeds 50 percent of the appraised replacement cost of a new conforming sign constructed with comparable materials.
- (C) As a condition of securing the approval of the Zoning Board of Appeals required by Section 14.2(A), the applicant must, at a minimum, establish to the satisfaction of the Zoning Board of Appeals that the proposed extension, expansion, enlargement, or increase in intensity of the existing lawful nonconforming use:
1. Would not be contrary to the public health, safety, or welfare, or to the spirit of this Zoning Ordinance, the Township *Master Plan*, or any other land use plans and/or Ordinances enacted by the Township or any of its Boards, Commissions, or other agencies; and (#34-18-02)
 2. Would not be more objectionable in external effects than the lawful nonconforming use in its existing status with respect to:
 - a. Traffic generation and congestion, including truck, passenger car and pedestrian traffic;
 - b. Noise, smoke, fumes, dust, noxious matter, heat, glare, vibration;
 - c. Indoor or outdoor storage or parking of machinery, equipment, or vehicles;
 - d. Indoor or outdoor storage of building, construction, or other business related materials;
 - e. Indoor or outdoor storage or display of items or materials offered for sale, rent, or lease;
 - f. Waste disposal;
 - g. The existence and safety of aboveground or underground storage tanks;
 - h. Appearance; and
 - i. The property values of nearby properties.
 3. Will not displace, inhibit, or otherwise limit a permitted or conforming use upon the subject premises, or any nearby premises; and,
 4. Will meet all reasonable conditions which might be imposed by the Zoning Board of Appeals as a condition to the granting of the Application.
- (D) No lawful nonconforming structure shall be extended, expanded, or enlarged without first securing the approval of the Zoning Board of Appeals.



- (E) As a condition of securing the approval of the Zoning Board of Appeals required by Section 14.2(C) the applicant must, at a minimum, establish to the satisfaction of the Zoning Board of Appeals that the proposed extension, expansion, or enlargement of the existing lawful nonconforming structure:
1. Would not be contrary to the public health, safety, or welfare, or to the spirit of this Zoning Ordinance, the Township *Master Plan*, or any other land use plans and/or ordinances enacted by the Township or any of its Boards, Commissions, or other agencies; and (#34-18-02)
 2. Would not displace, inhibit, or have any type of deleterious effect upon a permitted or conforming structure, either on the subject premises or upon any nearby premises;
 3. Will not increase any existing nonconformity such as, but not limited to, setbacks, height limitations, absence of sufficient parking space, or the like;
 4. Will not result in any new nonconformity which did not exist prior to the proposed change; and,
 5. Will meet all reasonable conditions which might be imposed by the Zoning Board of Appeals as a condition to the granting of said Application.
- (F) No lawful nonconforming use may be substituted for by, or changed to, another nonconforming use without first securing the approval of the Zoning Board of Appeals.
- (G) As a condition of securing the approval required by Section 14.2(E), the applicant must, at a minimum, establish to the satisfaction of the Zoning Board of Appeals that:
1. The existing lawful nonconforming use cannot reasonably be changed to a use permitted in the district where such existing lawful nonconforming use is located; and,
 2. The proposed change will be less objectionable in external effects than the existing lawful nonconforming use with respect to:
 - a. Traffic generation and congestion, including truck, passenger car and pedestrian traffic;
 - b. Noise, smoke, fumes, dust, noxious matter, heat, glare, vibration;
 - c. Indoor or outdoor storage or parking of machinery, equipment, or vehicles;
 - d. Indoor or outdoor storage of building, construction, or other business related materials;
 - e. Indoor or outdoor storage or display of items or materials offered for sale, rent, or lease;
 - f. Waste disposal;
 - g. The existence and safety of aboveground or underground storage tanks;
 - h. Appearance; and
 - i. The property values of nearby properties.



- (H) Nothing herein contained shall prevent the reconstruction or restoration of a lawful nonconforming structure damaged by wind, fire, flood, earthquake, act of God, act of public enemy, or any other calamity, where the cost of such reconstruction or restoration will not exceed seventy-five percent (75%) of the cost of reproduction of the entire structure as it existed immediately prior to the time of such damage, or the continuation of a lawful nonconforming use within said structure, if such restoration or reconstruction is commenced within six (6) months following the occurrence of said damage, and completed within twelve (12) months of the occurrence of such damage. Failure to commence such reconstruction or restoration within six (6) months of the occurrence of such damage shall be conclusively presumed to be an abandonment of such lawful nonconforming use or structure. Where the cost of restoration or reconstruction of such a structure exceeds seventy-five percent (75%) of the cost of reproduction of the entire structure as it existed immediately prior to the time of such damage, such lawful nonconforming structure may not be restored or reconstructed, nor shall any lawful nonconforming use which may have been occurring within said structure be resumed or continued upon the premises upon which said structure was located, and the lawful nonconforming structure shall be conclusively presumed to be abandoned.
- (I) A lawful nonconforming use of a structure or premises which has been abandoned shall not thereafter be returned to such nonconforming use, or to any other nonconforming use. A lawful nonconforming use shall be considered abandoned:
1. When such use has been discontinued for a continuous period of twelve (12) months or more; or,
 2. When the intent of the owner to discontinue the use is otherwise apparent; or,
 3. When the characteristic equipment and furnishings of the nonconforming use have been removed and have not been replaced by similar equipment within twelve (12) months; or,
 4. When the use has been replaced by a conforming use.
- (J) A request for the approvals required by the provisions of Article XIV of this Ordinance may be initiated by the Zoning Administrator or by any person having an interest in the premises upon which the lawful nonconforming use or structure exists by filing with the Township Zoning Board of Appeals a written Application, upon forms to be provided by the Zoning Administrator, and by paying the appropriate filing fee. Such Application shall include, but not necessarily be limited to, all of the information described in Article XIV of this Ordinance, and shall also include a detailed description of the changes or modifications for which approval of the Zoning Board of Appeals is being sought. The procedure to be followed by the Zoning Board of Appeals in hearing and deciding such Application shall be the same as described in Article 15 of this Ordinance, to the extent applicable.



XV. Zoning Board Of Appeals--Powers, Duties, Rules

There is hereby established a Zoning Board of Appeals as provided for in the Michigan Zoning Enabling Act, Public Act 110, of 2006, which shall have all of the powers and duties provided by State law and no others except as specifically set forth in this or any other Ordinance of Chocolay Township. The Zoning Board of Appeals shall not except, nor grant “use variances”. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property or to authorize any use of land not expressly permitted in the district, nor to make any change in the terms or intent of this Ordinance; these powers are reserved to the Planning Commission and Township Board.

The Zoning Board of Appeals shall have five members plus not more than two alternate members, appointed by the Township Board; the first member shall be a member of the Township Planning Commission, the second member may be a member of the Township Board, and the remaining members shall be selected and appointed from among the electors residing in the unincorporated area of the township. It shall hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official charged with enforcement of this or any other Ordinance of Chocolay Township. It may make any rules or procedure, consistent with law, which may be necessary or convenient for carrying out its functions. Copies of such rules shall be made available to the public by the Zoning Administrator at cost, be filed with the Township Clerk, and be open to public inspection.

XVI. Conditional Use Permits

No conditional use shall be established in any zoning district except upon permit issued by the Township Planning Commission, which shall be guided in making a decision by the standards set forth in this Ordinance. Any person seeking a conditional use permit shall provide to the Township Planning Commission such information as it may reasonably require to determine whether the grant of the requested permit is authorized by law. Procedure shall be pursuant to Section 1.6 of this Ordinance and shall require a public hearing.

16.1 Purpose

Conditional uses are those uses of land which are essentially compatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Section is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish conditional uses. The criteria for decision and requirements provided for under the provisions of this Section shall be in addition to those required elsewhere in this Ordinance which are applicable to the conditional use under consideration.



16.2 Basis Of Determination and General Standards

The Township Planning Commission shall review the particular circumstances of the conditional use request under consideration in terms of the following standards, and shall approve a conditional use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance.

1. The conditional use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
2. The conditional use shall not change the essential character of the surrounding area.
3. The conditional use shall not interfere with the general enjoyment of adjacent property.
4. The conditional use shall represent an improvement to the property under consideration and the surrounding area in general.
5. The conditional use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
6. The conditional use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed conditional use shall be able to continually provide adequately for the services and facilities deemed essential to the conditional use under consideration.
7. The conditional use shall not place demands on public services and facilities in excess of current capacity.
8. The conditional use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted township development plan.
9. The conditional use shall be shown by the applicant to be compliant with all other applicable federal, state, or local statutes, regulations, and ordinances.
10. Failure of continued compliance with those federal, state, or local statutes, regulations, and ordinances as they existed at the time the conditional use was issued may result in Planning Commission review and revocation of the Conditional Use Permit
11. A conditional use permit shall not be effective until the applicant has provided proof that they have obtained all other required permits or licenses.

The Township Planning Commission's decision, all findings of fact and conclusions forming the basis for the decision, and all conditions imposed shall be incorporated in a written statement, which shall be made a part of the record of the meeting (#34-19-05).

The Township Planning Commission may impose conditions with the approval of a conditional use which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Conditional Use Permit and shall be enforced by the Zoning Administrator. In addition, the Township Planning Commission shall also consider the activity levels of the proposed



use and may impose conditions to ensure the preservation and protection of property values of adjacent properties (#34-19-05).

16.3 Fees

Neither the Township Planning Commission nor the Zoning Board of Appeals shall consider any matter until there is first paid a fee, except that such fee shall not be required where the Township Board (#34-10-12) or any official body thereof is the moving party. The Township Board, by resolution, shall set all fees. The Township Board, by resolution, may change these fees, from time to time, as they determine appropriate.

XVII. Zoning Administration

17.1 The Zoning Administrator

The office of Zoning Administrator is hereby established. The Zoning Administrator shall be appointed by the Township Board and shall serve at its pleasure. He shall receive such compensation as the Township Board may, from time to time, determine. The Zoning Administrator may also serve in some other capacity as an employee or appointed officer of Chocolay Township. He shall administer the provisions of this Ordinance and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body. He shall have no power to vary or waive Ordinance requirements.

17.2 Zoning Compliance Permits

Hereafter, no land use shall be commenced or changed and no structure shall be erected or enlarged until the person conducting such use or erecting or enlarging such structure has obtained a zoning compliance permit from the Zoning Administrator. The Zoning Administrator shall issue such permit upon the furnishing in writing, over the signature of the applicant, of such information as may be necessary to establish that the proposed use, structure, or addition is in full compliance with all provisions of this Ordinance, a finding by the Zoning Administrator that such is the case, and payment of a permit fee as established by resolution of the Township Board. No zoning compliance permit shall be issued where it appears that any land area required to conform to any provision of this Ordinance is also required as a part of any adjoining property to keep the development or use thereof in conformity with this Ordinance, or to keep it from becoming more non-conforming, if such land area was, at any time subsequent to the commencement of development or use of such adjoining property, in common ownership with such adjoining property. Any zoning compliance permit based on any material false statement in the application of supporting documents is absolutely void and shall be revoked. No zoning compliance permit shall remain valid if the use or structure it authorizes becomes non-conforming.



In the event that the office of Zoning Administrator is vacant or that the Zoning Administrator is absent from work for a period of more than five (5) consecutive business days due to illness, vacation, or for any other reason, the authority to issue zoning compliance permits in accordance shall devolve upon the Township Designee, and the duties shall remain with the Township Designee for the duration of such vacancy or absence. **(34-10-01)** The devolution of such authority upon the Township Designee shall not, however, become effective unless and until the Township Designee is so notified, in writing, by the Township Supervisor, which writing shall become and remain a part of the permanent records of the office of the Zoning Administrator.

17.3 Conveyance

The applicant for a Zoning Compliance Permit shall agree that neither he nor his successor in title, shall sell, convey, lease, or otherwise dispose of any land surrounding a structure if such conveyance will result in the structure being left on a lot which fails to meet the minimum requirements set forth in this Ordinance.

17.4 Special Zoning Orders Book And Map

The Zoning Administrator shall keep in his office a book to be known as the Special Zoning Orders Book, in which he shall list, with a brief description, all variances, designations of nonconformance, and any termination of any of them. Each item shall be assigned a number when entered. The Zoning Administrator shall also keep a map, to be known as the Special Zoning Orders Map. The Special Zoning Orders Map shall be open to public inspection.

17.5 Violations And Penalties

Any person who violates any provision of this Ordinance or any amendment thereto, or who fails to perform any act required hereunder or does any prohibited act, shall be responsible for a civil infraction, and, upon a finding of responsibility therefore shall be punishable by a fine of not more than Two Hundred Dollars (\$200.00), plus court costs, for each offense. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Any violation of this Ordinance is hereby declared to be a public nuisance per se and in addition to the penalties specified herein for such violations, the Township may seek to enforce compliance with the terms and provisions on this ordinance by means of any and all other remedies or measures available to it by Statute, Ordinance, Resolution, Regulation, or Civil or Criminal Law.



XVIII. Signs and Fences

18.1 Applicability and Purpose (#34-21-03)

A) Applicability

- 1) These regulations apply to signs that are visible from the public right of way, public facilities, trails open to the public, and navigable waterways.
- 2) The sign regulations within Section XVIII shall govern and control the erection, placement, alteration, enlargement, movement, operation, and maintenance of all signs by permitted uses within all districts.
- 3) Nothing herein shall be deemed a waiver of the provisions of any other ordinance or regulation applicable to signs.
- 4) This Section shall be construed in such a manner consistent with, rather than in conflict with, any regulations or restrictions imposed by any federal, state, county or other governmental body to the fullest extent possible.
- 5) To the extent that any applicable regulations or restrictions imposed by this Ordinance conflicts with any applicable regulations or restrictions imposed by any other governmental body, those applicable regulations and restrictions imposed by another governmental body shall supersede any conflicting portions of this Ordinance.
- 6) No sign shall be erected or maintained in violation of any state or federal law or regulation.
- 7) Additional sign provisions apply for the US-41 / M-28 Access Management Overlay District as found in Section 5.3 of this Ordinance.

B) The purpose of these regulations is to:

- 1) Regulate and control the installation, location, alteration, size, type, and maintenance of signs visible to the public within Chocolay Township that enable the public to locate goods, services, and facilities with minimum difficulty and confusion.
- 2) Improve traffic safety by avoiding sign distractions and the canceling effect of excessive signage.
- 3) Establish a climate that is attractive to business.
- 4) Preserve the scenic and natural character of the Township.
- 5) Provide opportunities for expression of constitutionally protected free speech and dissemination of information.
- 6) Protect and promote the health, safety and general welfare of the Township, its businesses, and residents.



18.2 General Exceptions

The following signs do not require a permit:

- A) Governmental signs including notices, or markers placed by the Township, Marquette County, state, or federal agencies.
- B) Signs not exceeding one square foot in area that contain only the property address, post box numbers, names of occupants or premises, or other identification of premises.
- C) Signs that contain multiple property address information for properties located on a private driveway.
These signs cannot exceed 32 square feet in area and cannot be more than 10 feet in height.
- D) On-site real estate signs meeting the following criteria:
 - 1) The sign shall not exceed 32 square feet in area or 10 feet in height.
 - 2) Such signs shall be allowed on a temporary basis for a period not to exceed two years. However, the Zoning Administrator shall have the authority to grant authorizations to continue such a sign for a reasonable period beyond the two years, providing that a number of lots, buildings, or units remain vacant.
 - 3) The Zoning Administrator shall have the authority to require a sign be kept in good repair for any sign that exceeds the two year period.
- E) Seasonal and holiday decorations.
- F) Community event signs which advertise public entertainment or events of public interest that occur either in the Township or in surrounding communities.
 - 1) These signs cannot exceed 6 square feet in area or 6 feet in height.
 - 2) These signs must be removed within 10 days of the event.
- G) On-site directional signs visible from the road that do not exceed 6 square feet or exceed 6 feet in height.
- H) Art and signs not related by language or logo to the identification of any business.
- I) Political signs:
 - 1) These signs cannot exceed six square feet in area or exceed 6 feet in height.
 - 2) These signs must be removed within 10 days of the election for which they were placed.
 - 3) These signs cannot be placed on public properties under the zoning jurisdiction and authority of Chocolay Township.
- J) Signs advertising residential sales (such as garage and yard sales).



- K) Home occupation sign:
 - 1) One home occupation sign for a home occupation authorized by the Township.
 - 2) The sign shall not exceed six square feet in area or exceed six feet in height.
 - 3) A home occupation sign must not be lighted.
- L) Vehicle signs located on the rolling stock of licensed motor vehicles or trailers which are primarily and actively used for business purposes and / or transportation.

18.3 Nonconforming Signs

- A) Any existing sign on the effective date of the amendment to the ordinance from which this ordinance is derived, shall be in compliance with Section 14.2(B) of this ordinance.

18.4 Prohibited Signs

The following signs shall not be permitted in any zoning district:

- A) Any sign which simulates or imitates in size, color, lettering, or design any traffic sign or signal, or uses words, phrases, symbols, or character in such a manner as to interfere with, mislead, or confuse traffic.
- B) Any sign that obstructs or interferes with the effectiveness of any traffic light, sign, or signal authorized by Chocolay Township, Marquette County, State, or Federal agencies.
- C) Any sign which obstructs the clear-vision triangle as defined by the road authority at any road intersection.
- D) Any sign which prevents the driver of a motor vehicle from having a clear and unobstructed view of approaching, intersecting, merging traffic or pedestrians.
- E) Any sign which extends into or is placed in the public right-of-way or on public property without authorization from Chocolay Township, Marquette County, State, or Federal agencies.
- F) Signs which emit any odor, noise, smoke, or visible matter other than light.
- G) Projecting sign under eight feet from the bottom of the sign that interferes with pedestrian, non-motorized or motorized traffic.
- H) Signs that hinder entrance or exit in the event of an emergency from any door, window, or fire escape.
- I) Any suspended signs.
- J) Any sign containing phosphorescence, luminescence, mirrors, strobe lights, search lights, other high intensity light fixtures
- K) Flashing, animated, or moving signs.



- L) Signs visible from the public road which are affixed to trees or other natural vegetation, utility poles, fences, fence posts, benches, perimeter walls, outbuildings, or any other buildings or structures except as otherwise permitted in this Ordinance.

This does not include conventional “no trespassing”, “no hunting”, “beware of animal”, other signs warning of danger, or other legal postings in accordance with state law.

- M) Banners, portable signs, balloon signs, or other gas-filled figures except as provided elsewhere in this Ordinance.
- N) Off-site signs within the zoning jurisdiction and authority of Chocolay Township that do not advertise on-site construction, on-site home improvement, on-site landscaping, or temporary on-site events (such as a yard sale).

18.5 General Provisions

The following conditions shall apply to all signs erected or located in any use district:

- A) Except for signs erected by the Township or Marquette County, State, or Federal agencies, no sign shall be located in, project into, or overhang a public right-of-way or dedicated public easement without authorization from the appropriate agency.
- B) When possible, signs must be down-shielded to minimize light encroachment onto surrounding properties.
- C) Temporary signs are allowed in any district. Temporary signs that will be displayed longer than five calendar days will require an approved permit from the Zoning Administrator.

18.6 Agriculture / Forestry (AF) District

- A) One freestanding sign identifying a subdivision or multiple housing development, nursing home, convalescent center, or adult foster care congregate facility. Such signs shall not exceed 32 square feet, or exceed a height of six feet.
- B) One temporary sign for a new residential development, advertising the sale or lease of lots, buildings, or units within the development.
 - 1) The sign shall not exceed 32 square feet in area nor six feet in height.
 - 2) Such signs shall be allowed on a temporary basis for a period not to exceed two years. However, the Zoning Administrator shall have authority to grant authorizations to continue such a sign for a reasonable period beyond the two years, providing that a substantial number of lots, buildings, or units remain vacant.
 - 3) The Zoning Administrator shall have the authority to require a sign to be kept in good repair for any sign that exceeds the two year period.
- C) Nonresidential uses permitted in the district such as hospitals, churches, and schools:



- 1) Shall be allowed one sign, not exceeding 32 square feet in area nor six feet in height.
 - 2) In addition, such uses shall be allowed one nonilluminated sign not to exceed 50 square feet and mounted flat against the wall of the principal building.
- D) Signs complying with the Michigan Right to Farm Act (Act 93 of 1981 with revisions) are permitted.
- E) Roadside stand or a farm offering customer harvesting or sale of harvests signs shall be located within a one and one-half (1.5) mile radius of the advertised roadside stand or farm.

18.7 Residential (R-1), High-Density Residential (R-2), Multi-Family Residential (MFR), Planned Unit Development (PUD), and Waterfront Residential (WFR) Districts

- A) One freestanding sign identifying a subdivision or multiple housing development, nursing home, convalescent center, or adult foster care congregate facility that does not exceed 32 square feet or exceed a height of six feet.
- B) One temporary sign for a new residential development, advertising the sale or lease of lots, buildings, or units within the development.
- 1) The sign shall not exceed 32 square feet in area nor six feet in height.
 - 2) Such signs shall be allowed on a temporary basis for a period not to exceed two years. However, the Zoning Administrator shall have authority to grant authorizations to continue such a sign for a reasonable period beyond the two years, providing that a substantial number of lots, buildings, or units remain vacant.
 - 3) The Zoning Administrator shall have the authority to require a sign to be kept in good repair for any sign that exceeds the two year period.
- C) Nonresidential uses permitted in the district such as hospitals, churches, and schools:
- 1) Shall be allowed one sign, not exceeding 32 square feet in area nor six feet in height.
 - 2) In addition, such uses shall be allowed one nonilluminated sign not to exceed 50 square feet and mounted flat against the wall of the principal building.

18.8 Commercial (C), Industrial (I), and Mixed Use Overlay Districts

- A) Ground signs:
- 1) Ground signs shall not be more than eight feet in height. Such signs may be multifaced but shall not exceed 60 square feet in surface display area per face.



- B) Freestanding signs:**
- 1) A business center shall be permitted one on-premises freestanding sign, which may be directly or indirectly illuminated. Such sign shall not exceed 30 feet in height. A maximum of 20 square feet per business unit in the center is permitted up to a sign maximum of 100 square feet.
 - 2) One on-premises freestanding sign, directly or indirectly illuminated, shall be permitted for each zoning lot, and the sign shall have a maximum area of 20 square feet and a maximum height of 30 feet.
 - 3) The aggregate size of both signs cannot exceed the maximum area of 20 square feet per business unit.
- C) Two on-premises signs may be permitted on a corner lot that has at least 200 feet of frontage on each of two thoroughfares, provided that only one sign is oriented toward each thoroughfare.**
- D) For each lot having a frontage of 300 feet or more, one additional free-standing sign shall be permitted provided that such signs are at least 200 feet apart.**
- E) Wall signs:**
- 1) Each use shall be permitted one wall sign on each building facade with road frontage.
 - 2) The sign shall be limited to an area equal to not more than 25 percent of the area of the wall of the establishment upon which the sign is placed.
- F) Electronic message signs may be utilized on any permitted ground sign, freestanding sign, or wall sign subject to the following:**
- 1) All electronic message signs shall have automatic dimming controls, either by photocell (hardwired) or software settings adjustable to ambient light.
 - 2) Blinking or flashing of the electronic display area is prohibited.
 - 3) Electronic message signs shall be equipped with a default mechanism that displays a static message or shuts the display area off if a malfunction occurs.
- G) Temporary signs are permitted to be mounted on the insides of glass storefront windows.**
- H) One sandwich sign or portable sign per store front subject to the following restrictions:**
- 1) No sandwich sign or portable sign shall be placed in a manner that would impair sight distance for the safe operation of a vehicle.
 - 2) The sandwich sign or portable sign must be placed directly on the ground, and may not be placed on a bench, chair, platform, vehicle, trailer or other device to raise the height of the sign.



- 3) The sandwich sign or portable sign must be associated with and in front of the establishment using the sign.
 - 4) Total sign face area for the sandwich sign cannot exceed 16 square feet per side.
 - 5) Total sign face area for the portable sign cannot exceed 32 square feet per side.
 - 6) The sandwich sign must be removed from the front of the store front when the business is closed.
- I) Automobile service stations shall be permitted one additional accessory sign per gasoline pump, affixed to each pump and not more than two square feet in area.

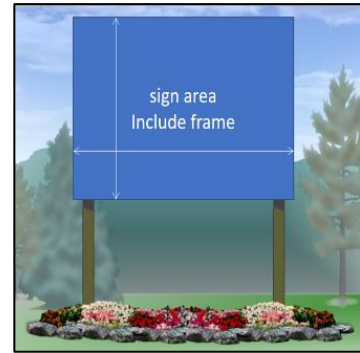
18.9 Sign Measurements

A) Sign Area

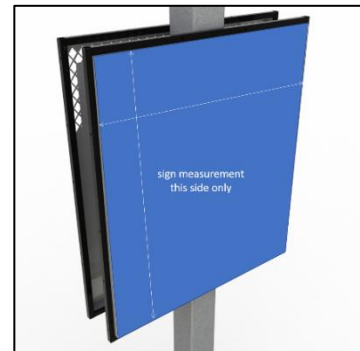
1. For a wall sign which is framed or outlined, the area shall include the entire portion within the frame or outline.
2. For a wall sign composed of individual letters, figures, or elements mounted on a wall or similar surface, the area shall be the area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which form or approximate the perimeter of all sign elements in the display.



- For a ground or freestanding sign, the sign area shall include the frame, if any, but shall not include the pole or other structural support unless the pole or structural support is internally illuminated or otherwise designed to be a display device.

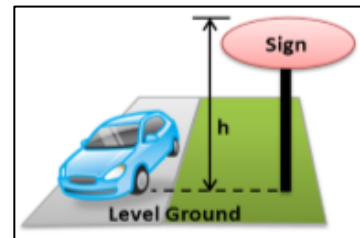


- When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and are part of the same sign structure, the sign area shall be computed as the measurement of one of the two faces. The area of all other multiple-sided signs shall be computed as fifty percent of the sum of the area of all faces of the sign.

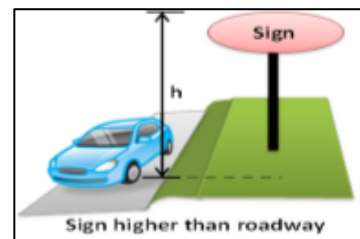


B) Freestanding Sign Height

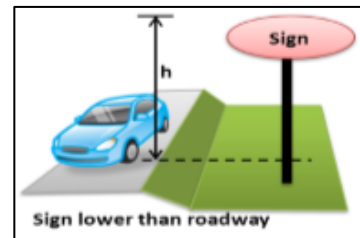
- Height is measured from the base of the sign or supportive structure at its point of attachment to the ground to the highest point of the sign.



- A freestanding sign on an earth mound or other base that has the effect of raising the grade shall be measured from the grade of the nearest paved road.



- Where a freestanding sign is mounted along a road that has a higher grade level as compared to the grade level directly below the freestanding sign, then height shall be measured from the road grade to the highest point of the sign.



C) Shapes

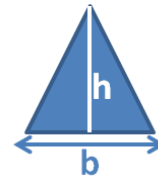
1. The area of a circle or sphere is calculated by multiplying the square of the radius (r) by 3.1416. Radius is the distance from the center to the outer edge.
2. The area of a square, rectangle, or parallelogram (four-sided figures with two pair of parallel sides) is calculated by multiplying the length (L) by the width (W).
3. The area of a triangle (three-sided figure) is calculated by multiplying one-half of the base (b) times the height (h).
4. The area of a trapezoid (four-sided figure with only one pair of parallel sides) is calculated by multiplying the altitude (a) by the sum of its bases ($b+c$) and taking one-half of that product.



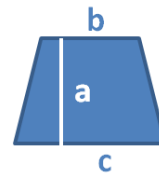
$$\text{Area} = 3.1416 * r^2$$



$$\text{Area} = L * W$$



$$\text{Area} = 1/2b * h$$



$$\text{Area} = 1/2 a(b+c)$$

18.10 Administration and Enforcement

- A) Except for exempted signs or other signs identified in Section 18 as not requiring a permit, it shall be unlawful for any person to erect, re-erect, alter, or relocate any sign unless a *Sign Permit* has been obtained from the Zoning Administrator. The Zoning Administrator will review the *Sign Permit* for conformance to zoning ordinance standards.
- B) All permitted signs and related supports shall be kept in compliance with the plans and specifications filed and approved for issuance of the *Sign Permit* and shall be kept and maintained in good repair, and in a functional, legible, and safe condition. Compliance review by the Zoning Administrator will be conducted.
- C) Should any sign be found improperly constructed, or not in accordance with the requirements of this ordinance, the owner shall be required to make the sign safe, secure, and otherwise in compliance with the requirements of this ordinance within 30 calendar days of notice from the Township.



- D) An abandoned and/or un-maintained sign shall be removed from a property within 15 calendar days of a notice given by the Zoning Administrator. In the case of non-compliance with the notice, the Township reserves the right to contract for the removal and cleanup of the sign and to assess the costs to the property.
- E) If the Township determines an existing sign is unsafe and an immediate hazard to health or safety, the sign shall be removed or repaired at the owner’s expense within 48 hours of notification from the Township to the owner.
- F) These enforcement provisions are in addition to those authorized in Section 17.5 of this Ordinance

18.11 Fences

(A) Purpose

The purpose of this ordinance is to regulate the size, type, and location of fences within the Charter Township of Chocoday.

(B) Definitions

For the purpose of enforcing the provisions of this ordinance, certain terms and words herein have the following meanings:

| Word or Phrase | Definition |
|----------------|--|
| Fence | Means any permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure, including hedges or living bushes or shrubs, within or along the bounds of a lot or parcel. |
| Height | Means the distance from the grade (ground) to the top of the highest point of the fence at any given point along the fence. |
| Material | Means the product that is used to construct said fence, including wood, metal, plastic, or vegetation. |
| Person | Means an individual, firm, corporation, or other entity of any kind. |
| Setback | Means the distance from the property owner’s property line to the fence. |

(C) Application and Permit

A person desiring to build or cause to be built a fence upon his or her property, shall first apply to the Zoning Administrator for a permit to do so. Application for said permit shall contain any and all information, including drawings, required and necessary for the determination of whether the erection of said fence would be contrary to the provisions of this ordinance or the laws of the State of Michigan. Any permit issued under the provisions of this ordinance in which construction has not been completed within six (6) months from the date of issuance, shall expire. Permit extensions may be granted by the



Zoning Administrator not to exceed one (1) six (6) month extension. Permit fees shall be set by the Chocolay Township Board.

(D) Regulations

It shall be unlawful for any person to construct or cause to have constructed any fence upon any property within the limits of Chocolay Township, except in accordance with the requirements and restrictions herein provided.

1. Residential Areas (R1, R2, MFR, & WFR)

- a. Fences, on lots of record in residential districts, shall not contain barbed wire, razor wire, concertina, electrification or similar materials that are injurious to people or animals.
- b. No person shall install, construct or maintain any fence on easements, right-of ways or any properties not owned by that person, leased or rented by that person.
- c. Materials shall consist of cyclone-type metal links and posts, wood components or equivalent materials or natural vegetation.
- d. Fences on all lots of record, in all residential districts which enclose property and/or within a required side and rear yard, shall not exceed 6.0 feet in height, measured from the surface of the ground and shall not extend toward the front of the lot nearer than the front of the house or the minimum required front yard setback, whichever is greater.
- e. Fences shall be constructed to allow ample space for maintenance, without having the applicant trespass on the neighboring property to maintain their fence, or there must be a written agreement from all neighboring properties that abut the proposed fence that state they will share the maintenance of the fence. This written agreement will then be registered at the County Register Deed office.
- f. Fences up to 4.0 feet in height may be erected from the front edge of the dwelling to within 15.0 feet of the right-of-way unless the fence is of chain link, split rail or other see through material described in (3) above then can be erected from the front edge of the dwelling to and along the road right-of-way.
- g. Fences shall be constructed such that posts and framework are on the interior or fence owner's side of the fence and that the sheeting or face of the exterior, as seen from the adjoining properties or street is the more presentable and attractable side of the fence.
- h. Consideration shall be given to whether a proposed fence enhances the neighborhood or blocks scenic views for nearby property owners and be aesthetically pleasing and in keeping with the character of the neighborhood.



- i. All fences shall be maintained in good condition. Including but not limited to paint, stain, and repair or damaged portions, rusted metal, holes, loose components and sagging.
 - j. Abandoned and/or un-maintained fences shall be removed within 10 days of a notice given by the Zoning Administrator. In the case of non-compliance, with the notice, the Township reserves the right to contract for the removal and clean up of said fence and assesses the costs to said property.
 - k. A permit, application and inspection shall be required. Compliance review by the Zoning Administrator will be conducted. The landowner shall assume full liability arising from any fence.
2. Commercial And Industrial Districts (C & I)
 - a. Fencing proposals shall be included in any plans submitted for review to the Planning Director and be subject to review by the Planning Commission. Site security needs, current commercial and/or industrial recommendations or standards shall be considered. The Planning Commission may approve the plan, approve with conditions, or deny.
 - b. Salvage yards shall be required to have a minimum 8.0 foot high opaque/solid fence encircling the area devoted to that activity. The fence shall obscure the view of the enclosure from ground level to the top.
 - c. Contractors yards, visible from residents' areas, must be screened by an 8.0 high opaque/solid fence.
 - d. Gravel pits, mineral extraction, mining sites and other sites that are inherently dangerous to people or animals shall be protected by an encircling 8.0 foot high fence.
 - e. An application shall be required and a fee shall be assessed on the owner to assure compliance with the approved plan as determined by the Township Board in these districts.
 3. Agricultural/ Forest Districts (AF)
 - a. Fencing may include barbed, electrified, woven, steel or wooden posts, natural vegetation or other similar fencing materials and shall be of sufficient height and strength to confine domestic animals and/or to deter entry by unwanted animals either domestic or wild. There will be no application fee for those in the AF district or inspection required. The landowner shall assume full liability arising from any fence.
 4. Exempt from this ordinance is temporary fencing for gardens in all zones.



(E) Nuisance

Any violation of the provisions of this ordinance is hereby declared to be a public nuisance which may be enjoined or subject the violator to civil damages, fines and penalties herein provided for under Section 17.5.

Fences must be maintained so as not to endanger life or property. Any fence which, through lack of repair, nature of construction, or otherwise, that creates an unreasonable risk of harm to person or property, shall be deemed a nuisance. In the case of immediate danger to life or property the Chocolay Township Zoning Administrator may require immediate abatement.

(F) Construction

This Ordinance shall not prevent operations or uses legally authorized under the Zoning Ordinance of the Charter Township of Chocolay, and conducted in conformance therewith.

(G) Severability Clause

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the ordinance other than said part of portion thereof.

XIX. Zoning Maps

The location and boundaries of the zoning districts established by this Ordinance are set forth on the zoning maps of Chocolay Township which accompany this Ordinance and which maps, with all notations, references, and other information shown thereon, is incorporated herein and is as much a part of the Ordinance as is fully described and set forth herein. The following are the zoning maps of Chocolay Township.

19.1 Chocolay Township Zoning Map

19.2 Harvey Area Zoning

19.3 Interpretation of the Zoning Map

Where, due to the scale, lack of detail or illegibility of the zoning map in Section 19.1 or 19.2, there is any uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of said map upon request of any person. Any person aggrieved by such interpretation may appeal such interpretation to the Zoning Board of Appeals. The Zoning Administrator and the Zoning Board of Appeals, in interpreting the zoning map or deciding any appeal, shall apply the following standards:



- (A) Zoning district boundary lines are intended to follow lot lines or be parallel or perpendicular thereto, or along the center lines of alleys, streets, rights-of-way, or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.
- (B) Where zoning districts boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
- (C) Where a zoning district boundary line divides a lot, the location of any such zoning district boundary lines, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
- (D) If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of uses of property and the history of zoning ordinances and amendments in the Township of Chocolay as well as all other relevant facts.

