

## Chapter 3

# General Requirements

### SECTION 3.1 SCOPE OF REGULATIONS

Any business or organization in violation of local, state or federal law is prohibited from operating or location within the Lincoln Township limits.

### SECTION 3.2 NONCONFORMING USES

It is the intent of this Ordinance to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformity with the provisions of this Ordinance is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this Ordinance.

- a. NONCONFORMING STRUCTURES: Where a lawful nonconforming structure exists on the effective date of this Ordinance, such structure may be continued, subject to the following provisions.
  - 1) No such structure may be enlarged or altered in a way which increases its nonconformance except those allowed in 3.2 (C) 4.
  - 2) Should such structure or portion of structure be destroyed by any means to an amount of more than its State Equalized Value (SEV) at the time of destruction, it shall not be reconstructed in conformity with the provisions of this Ordinance.
- b. NONCONFORMING USE OF LAND. Where a lawful nonconforming use of land exists on the effective date of this Ordinance, such use may continue, provided:
  - 1) No such use shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the effective date of this Ordinance.
  - 2) If any such use of land ceases for any reason for a period more than one hundred eighty consecutive days (180 days), such use shall not be reinstated, and said land shall be used for only conforming use permitted in the district so located.
  - 3) No additional structure shall be erected in connection with such nonconforming use of land.
  - 4) Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any non-conforming building or structure damaged by force, explosion, acts of nature, acts of the public enemy, subsequent to date of this Ordinance, wherein expense of such reconstruction does not exceed ninety (90%) percent of the fair valuation of the building or structure at time such damage occurred, provided that such valuation be approved by the Board of Review of the Township and provided further that said use be identical with the non-conforming use permitted and in effect directly proceeding such damage.

- c. **NONCONFORMING USE OF STRUCTURE:** Where a lawful nonconforming use of a structure exists on the effective date of this Ordinance, such use may continue subject to the following provisions.
- 1) An existing structure devoted to a use not permitted in the district in which it is located shall not be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
  - 2) Any nonconforming use may be extended throughout any parts of a building which are arranged or designed for such use on the effective date of this Ordinance, but shall not be extended to occupy any land outside such building.
  - 3) Any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use after approval of the Zoning Board of Appeals. Whenever a use has been changed to a use permitted in a district or greater restriction it shall not thereafter be changed to a nonconforming use.
  - 4) A dwelling nonconforming due to its location in a non-permitted district, may be expanded or enlarged for residential purposes, by up to fifty (50%) percent of the existing ground floor area. An accessory building may be constructed or expanded upon the same lot.
  - 5) When a nonconforming use of a structure is discontinued or abandoned (6) six months, the structure thereafter shall not be used for any use other than a conforming use of the district it is located within.
- d. **REPAIRS AND MAINTENANCE:** On any nonconforming structure or portion of a structure containing a nonconforming use, structural repairs and alteration may be made which do not add to the bulk of the structure or increase in intensity of the use of the structure. If a nonconforming structure or portion of a structure containing a nonconforming use become physically unsafe or unlawful due to lack of repairs and maintenance and is declared by the Building Inspector to be unsafe or unlawful by reason of physical condition, it shall not be restored, repaired or rebuilt except in which it is located.

### SECTION 3.3 SUPPLEMENTARY USE REGULATIONS

- a. **PRIOR BUILDING PERMITS.** Any building permit issued to the effective date of this Ordinance shall be valid, even though not conforming to the provisions of this Ordinance, provided that construction is commenced within ninety (90) days after the date the permit is issued and that the entire building shall be completed according to the plans filed with the permit application within one (1) year after the issuance of the building permit. All structures must have a building permit or temporary use permit. Temporary uses may exist no more than 90 days per year.
- b. **ACCESS TO A ROAD.** Any lot of record created after the effective date of this Ordinance shall have adequate frontage, as required in this ordinance, on a public street and be a legal lot, or as may otherwise be specifically approved by the Zoning Board of Appeals.
- c. **COMMON DRIVEWAYS.**

- 1) A single 66' right of way may serve as ingress and egress for not more than two residences lacking sufficient frontage on a public road as required by this ordinance by administrative action of the zoning administrator.
- 2) Prior to issuing a zoning permit for construction of a structure whose source of access is off a common driveway, the Zoning Administrator shall find that:
  - a) The owner of land upon which the common driveway is to be constructed, records with the Midland County Register of Deeds an easement granting rights of ingress and egress for the benefit of both residences serviced by the common drive.
  - b) A written maintenance agreement signed by the owners of each lot or residence to be served by the common driveway shall be recorded with the Midland County Register of Deeds. The agreement shall allocate the responsibility to maintain the common driveway between or among the owners and shall be binding upon the successive owners of the lots or residences. It shall be the responsibility of the owners to enforce the terms of the agreement.
  - c) A staked boundary survey showing the location of the driveway easement shall be filed with the site plan for a common driveway.
- d. ROADS, RIGHT-OF-WAYS AND EASEMENTS. All road right-of-ways and easements must meet the Midland County Road Commission standards.
- e. PRIVATE ROADS.
  - 1) A private road is a road that provides direct access to a parcel and which is not dedicated to and accepted by an authorized governmental road agency. A common driveway as used in this ordinance does not constitute a private road.
  - 2) Application, review, and approval of a proposed private road shall follow the same procedures as Special Land Use permits with regard to notice and timing.
  - 3) Application for approval of a private road shall include a site plan sealed by a professional engineer showing the following:
    - a) Existing and proposed lot lines.
    - b) The location of existing and proposed structures.
    - c) The width and location of the private road easement.
    - d) A cross section of the proposed road, showing the types of materials, road base and surface of which the road will consist.
    - e) Utility plans including the location and size/capacity of storm water drainage systems, sewer or septic systems, water lines or private wells and private utilities such as telephone, electrical

and cable service and any other utility to be included within the easement (Including but not limited to has lines.)

- f) Proposed locations of driveways on private roads.
- g) Any existing or proposed structures, trees or other obstructions within the proposed right-of-way.
- h) All divisions of land shall be in compliance with the [Land Division Act, Act 288, of 1967](#), as amended.
- i) Typical road cross-sections as identified within the **Midland County Subdivision and Road Standards Guidebook**.

4) The private road shall meet the following standards:

- a) The minimum right of way shall be sixty-six (66') feet.
- b) The **Subdivision Design and Road Construction Standards** published by the Midland County Road Commission shall be the only standards accepted for private road construction within Lincoln Township
- c) A written maintenance agreement signed by the owners of each lot or residence to be served by the private road shall be recorded with the Midland County Register of Deeds. The agreement shall allocate the responsibility to maintain the private roadway between or among the owners, and shall be binding upon the successive owners of the lot or residences. It shall be the responsibility of the owners to enforce the terms of the agreement.

- f. **REAR DWELLING PROHIBITED.** No building in the rear of and on the same lot with a principal building shall be used for residential purposes except for watchmen, caretakers, and domestic employees whose employment functions are related to the function of the principal building; PROVIDED that all other requirements of this Ordinance are satisfied.
- g. **USE OF STRUCTURE FOR TEMPORARY DWELLING.** No structure shall be used for dwelling purposes that does not meet the minimum standards as defined in this Ordinance and the requirements of the Building Code. No temporary structure whether of a fixed or portable construction shall be erected for any length of time unless authorized by the issuance by the Zoning Board of Appeals of a temporary permit.
- h. **ONE DWELLING PER LOT.** Only one (1) single-family detached dwelling will be allowed to be erected on a lot in a single family district.
- i. **FENCES AND WALLS.** No fence, wall or structural screen, other than plant materials shall be erected on any residential property greater than six (6) feet in height nor shall any fence, wall or hedge planting exceed a height of three (3) feet within twenty-five (25) feet of the road edge. On a corner lot, no fence or planting shall be allowed that will interfere with traffic visibility across a corner. No fence, wall or structural screen in a residential area shall have barbed wire, electrified components or otherwise be intended to cause harm in preventing entry to property. Properties in excess of five (5)

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acres and used for agricultural production or enclosure of farm or domesticated animals are excluded for this provision.

j. SCREENING REQUIREMENTS.

- 1) Whenever screening is required between two zoning districts, there shall be provided at the time of development of any premises, and maintained thereafter, an “obscuring screen”, which shall be a fence, wall, plant materials, or other screening device, or combination thereof, that obstructs seventy-five (75%) percent of the field of vision from the ground to a height of six feet (6) when viewed from a distance of five feet (5) or more. Open spaces within such screening shall not exceed a one foot square (1), or exceed a two foot square (2) area when elongated or irregular shape. Such screen shall be constructed in accordance with one (1) or a combination of the following.
  - a) A solid wall or fence with a finished surface fronting on residential district. All materials shall be new or other material if approved by the Building Inspector.
  - b) A landscape buffer not less than fifteen feet (15) in width consisting of not less than seventy-five (75%) percent evergreen material. Plant material shall be of variety which shall maintain and “obscuring screen”.
  - c) A buffer consisting of a combination of earthen berm, fencing, and/or plant materials which will provide an “obscuring screen”.
  - d) All screening shall be a minimum of six feet (6) in height as measured from the highest ground elevation within three feet (3) on either side of the line separating the zoning districts.
- 2) The developer shall submit plans and specifications for the type of screening to be employed at the time application is made for a building permit.
- 3) The Zoning Board of Appeals may waive or modify these requirements where, in its opinion, the public interest would not be served by its strict application.

b. INOPERATIVE OR DISMANTLED CARS, TRUCKS OR BUSES. See [Lincoln Township Ordinance #1 Junk Yards](#).

c. TEMPORARY SALES.

- 1) The sale is temporary and shall not continue for a period to exceeding seven (7) days from date of commencement, and may not commence again for at least ninety (90) days from the last date of prior sale at the location with no more than three (3) such sales per year. No items available during sales may be openly displayed when sales are not in progress.
- 2) The sale shall not be intended for more than incidental income and shall not be intended to operate as a commercial venture providing regular income.

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- 3) PARKING OR STORAGE OF RECREATIONAL VEHICLES, UTILITY TRAILERS AND EQUIPMENT. The parking of licensed and operable recreational equipment including travel trailers, campers, boats and similar recreational equipment, utility trailers, and other equipment is allowed within the following regulations: prohibited

~~a) Within the front yard areas (the area between the road right of way and the main building of house) however,~~

~~b)a) One recreational vehicle, equipment or utility trailer is permitted to park in the front yard, on an improved surface (paved or gravel), on a temporary basis which is not to exceed 90 days, if it not visible from the road or any adjoining property.~~

~~c) Parking is prohibited closer than forty-five feet (45') to road right-of-way in any R-District despite visibility.~~

~~d)b) Vehicles, equipment and trailers shall not be parked or stored closer than four feet (4) to any side or rear property line and~~

~~e)c) Vehicles, equipment and trailers shall have adequate ingress or egress available or potentially available to either public or private right-of-way.~~

- d. HEAVY VEHICLES. Storage of trucks in excess of one & one-half (1.5) ton rated capacity is prohibited within a residential district.

- e. OUTDOOR WOOD FIRED HYDRONIC HEATERS.

1) Definitions

- a) "Clean wood" means wood that has not been painted, stained, coated, preserved, or treated with chemicals such as copper chromium arsenate, creosote, or pentachlorophenol. The term does not include construction and demolition debris.
- b) "EPA" means the United States Environmental Protection Agency.
- c) "Outdoor wood-fired hydronic heater" (OWHH) or "outdoor wood boiler" means a fuel burning device designed to burn wood or other solid fuels; That the manufacturer specifies for outdoor installation or in structures not normally occupied by humans, including structures such as garages and sheds; and Which heats building space and water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.
- d) "Phase I OWHH" means an OWHH that has been certified or qualified by the EPA as meeting a particulate matter emission limit of 0.6 pounds per million BTUs input and is labeled accordingly.
- e) "Phase II OWHH" means an OWHH that has been certified or qualified by the EPA as meeting a particulate matter emission limit of 0.32 pounds per million BTUs output and is labeled accordingly.

## 2) Permit Requirements

- a) No OWHH may be installed or relocated from one lot to another lot in any district without first obtaining a permit from the building inspector. Any new installation or relocation of an OWHH must be inspected by the building inspector prior to use.

## b) Unit Requirements

- (1) No person shall, from the effective date of this ordinance, operate an existing Outdoor Wood Furnace unless such operation conforms to the manufacturer's instruction regarding such operation and the requirements of this ordinance regarding fuels that may be burned in an Outdoor Wood Furnace.
- (2) All new Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this ordinance. In the event of a conflict, the requirements of this local law shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- (3) All new Outdoor Wood Furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards.
- (4) The owner of any new Outdoor Wood Furnace shall produce a copy of the manufacturer's owner's manual or installation instructions and a site plan of where the furnace will be located to the Code Enforcement/Building Department to review prior to installation.

## 3) Setback Requirements. The Outdoor Wood Furnace shall be located

- a) Behind the principal structure and at least 15 (fifteen) feet from the owner's property line.
- b) At least 250 (two hundred and fifty) feet from any residence that is not served by the Outdoor Wood Furnace unless the owner of the neighboring property gives written permission and agrees to a deed notification for the property waiving the required setback.

## 4) Permitted Fuels. Permitted fuels means any fuel burned in an OWHH:

- a) Clean wood;
- b) Wood pellets made from clean wood;
- c) Home heating oil, natural gas, or propane that complies with all applicable sulfur limits and is used as a starter or supplemental fuel for dual-fired OWHHs.
- d) Corn

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- 5) Prohibited Fuels. Prohibited fuels means any fuel burned in an OWHH other than permitted fuels. Prohibited fuel includes but is not limited to:
- a) Wood that does not meet the definition of clean wood,
  - b) Garbage, refuse, tires, yard waste, materials containing plastic or rubber
  - c) Newspaper, cardboard or any material with ink or dye products
  - d) Petroleum products, including asphalt products, other than those that are permitted fuels,
  - e) Paints and paint thinners, chemicals, coal,
  - f) Plywood, particleboard, manure or other animal products or wastes.
- 6) Fuel Storage. Fuel must be stored behind the principal structure and in the rear or side yard and meet the setback for accessory structures.
- 7) Nuisance. A nuisance, is defined by this ordinance is “an offensive, annoying, unpleasant, or obnoxious thing, or practice, a cause or source of annoyance, especially a continual or repeated invasion of a use or activity which invades the property line of another so as to cause harm or discomfort, to the owner or resident of that property.”
- 8) If an existing Outdoor Wood Furnace is, through the course of a proper investigation by local authorities, creating a verifiable nuisance, the following steps may be taken by the owner and the (appropriate department) having jurisdiction:
- a) Cease and desist operating the unit until reasonable steps can be taken to ensure that the Outdoor Wood Furnace will not be a nuisance
  - b) Modifications made to the unit to eliminate the nuisance such as extending the chimney/stack, or relocating the Outdoor Wood Furnace or both.
- f. GROUND WATER PROTECTION. All uses shall comply with following provisions.
- 1) Wastewater treatment systems, including on-site septic systems, shall be located to minimize any potential degradation of surface water or ground water quality.
  - 2) Sites which include storage of hazardous materials of waste, fuels, oil, salt, fertilizers or chemicals shall be designed and constructed to prevent spills and discharges of polluting materials to the surface of ground water or nearby water bodies.
- g. FLOODPLAIN MANAGEMENT. No building, structure, or dwelling designed, constructed, intended, or used for human occupancy shall be moved on, constructed, erected, or occupied, in the one hundred (100) year floodplain of the Tittabawassee River and its tributaries.
- h. PONDS. Ponds less than one acre and constructed for recreational purposes only where all mined material is left on site, are exempt from the following regulations:
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- 1) **SCOPE OF REGULATIONS.** This Section regulates extraction, filling or repositioning of soil, sand, gravel, clay or other geologic deposit involving disturbance of more than one thousand (1,000) cubic yards of material, when such disturbance is not related to construction of a building, structure, or parking lot. This Section also applies to artificial ponds created by soil excavation or intervention in watercourses, surface drainage or groundwater aquifers, regardless of size and whether the creation of the pond is an end in itself or merely a by-product of soil extraction activity. Ponds created by embankments or dams across streams or watercourses are not permitted in Lincoln Township. Finally, oil wells are specifically exempted from this Section, because they are regulated solely by the Michigan Department of Natural Resources.
- 2) **ADDITIONAL INFORMATION REQUIRED FOR SITE PLAN.** The Site Plan for any activity regulated by this Section must include the following additional information.
  - a) A profile of the proposed excavation, illustrating elevations and changes in slope, with elevations noted in five (5) foot intervals. If water is expected to accumulate in the excavation, the projected water level must also be shown.
  - b) A soil evaluation report describing the excavation site and any needed drainage or seepage corrections.
  - c) The specifications for any spillway or drain for a proposed pond, including the proposed methods of foundation preparation or fill placement.
- 3) **EXCAVATION SITE REQUIREMENTS.**
  - a) Avoid sites of ecological significance, such as wetlands or mature forest. If wetlands are to be affected, a State permit may be needed.
  - b) Excavations that create ponds should be located to minimize the chance of pollution from sources such as feedlots, corrals or septic tanks.
  - c) Excavations may be no closer than fifty (50') feet, measured horizontally, to a power line, and may not be within a public utility or transportation easement.
- 4) **CONSTRUCTION AND OPERATION REQUIREMENTS.**
  - a) An excavation should not change surface drainage or underwater aquifers so as to adversely impact neighboring uses.
  - b) Any pond banks shall have a maximum slope of one (1') foot vertical to four (4') feet horizontal which extends below the projected low water surface elevation to a depth of at least eight (8') feet.
  - c) Minimum designed water depth of a pond must be fifteen (15') feet to insure proper aeration and circulation of the water.

- d) All required environmental permits shall be obtained and obeyed, including the soil and sedimentation control permit under [Act 451 of 1994](#).
- e) Any excavated material not removed from the site shall be graded to a continuous slope which does not exceed one (1') foot vertical to three (3') feet horizontal and arranged to prevent runoff from impacting adjacent properties. Said fill shall blend visually with the surrounding landscape. The completed portion of an excavation and any disturbed area around it, shall be graded, and seeded.
- f) No machinery or equipment shall operate, and no trucks, trailers, or other conveyances shall arrive at any excavation site before 7:00 a.m. or after 8:00 p.m.
- g) Proper measures shall be taken to minimize the nuisance of traffic noise and flying dust or soil while a site is being excavated.
- h) When two (2) or more Dwellings are located within two hundred feet (200') of the edge of any water body on an excavation site or on any parcel, said water body shall be enclosed by a fence at least four feet (4') high with a lockable gate.
- i) Ponds constructed for recreational purposes must be located behind the principle structure and outside of the rear and side yards.

## SECTION 3.4 DWELLING REGULATIONS

- a. DWELLING UNIT STANDARDS. The following standards shall be applied to each dwelling unit constructed or placed in Lincoln Township:
  - 1) It complies with the minimum square footage requirements of Chapter 3 for the district in which it is located.
  - 2) It has a minimum width across any section of sixteen feet (16') and complies in all respects with the Township 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 the standards of construction are less stringent than those imposed by the Township building code, then the more stringent Township regulations shall apply.
  - 3) It is firmly attached to a permanent foundation, constructed on the site in accordance with the Township building code and co-extensive with the perimeter of the building, which attachment shall also meet all applicable building codes and other state and federal regulations.
  - 4) It does not have exposed wheels, towing mechanism, undercarriage, or chassis.
  - 5) The dwelling complies with all pertinent building and fire codes including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "[Mobile Home construction and Safety Standards,](#)" effective June 15, 1976, as amended.

- 6) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the code of the Township pertaining to these parks.
- b. TEMPORARY MOBILE HOME. One (1) Mobile Home may be placed temporarily on a Parcel. The Mobile Home may house only the owner(s) of the parcel and immediate family members during the repair of a Single Family Home. The Temporary Permit shall be valid for up to six (6) months and may be issued by the Zoning Administrator under emergency conditions. The permit may be renewed not more than once for the same period by the Building Inspector.
- c. STRUCTURES TO BE OF UNIFORM QUALITY. Any additions, rooms or other areas of a dwelling must be constructed using workmanship and materials similar or higher in quality than the original structure. Such additions, rooms or other areas must be permanently attached to the principal structure and must be supported by a foundation.
- d. MAINTENANCE. A dwelling must be properly maintained and protected against deterioration and damage from the elements or the passage of time by prompt and appropriate repairs, surfacing, coating and any other necessary protective measures.
- e. ONE SINGLE FAMILY DWELLING PER PARCEL. Unless the structure is part of an approved Planned Unit Development, only one (1) single family detached dwelling will be allowed to be erected on a parcel.

## SECTION 3.5 HOME OCCUPATION

Any business carried on by one or more members of family residing on the premises PROVIDED it:

- a. Be operated within the principal dwelling,
- b. Not more than one (1) employee not residing in the dwelling,
- c. All activities and storage shall be carried on indoors,
- d. Home occupations shall not be conducted in any accessory building or part thereof,
- e. Not use more than twenty-five (25%) percent of the total actual floor area of the dwelling.

## SECTION 3.6 SUPPLEMENTARY YARD REGULATIONS

- a. PERMITTED YARD ENCROACHMENTS.
  - 1) Driveways shall not be subject to yard requirements.
  - 2) Paved terraces, patios and uncovered porches excluding driveways shall not be subject to yard requirements provided:

- a) The area is unroofed and without walls or other forms of solid continuous enclosure that link the area to the principal dwelling. Such areas may have noncontiguous windbreaks or walls not over six feet (6) high and not enclosing more than one-half (1/2) the perimeter.
  - b) No portion of any paved area is closer than five (5') feet from any lot line nor projects into any front yard setback area.
- 3) Unenclosed covered or uncovered porches or decks, may project into a required side or rear yard area a distance not to exceed four feet (4') provided:
- a) The porch is no higher than one (1) story and, is erected on supporting piers.
  - b) The porch shall not be closer than five feet (5') to any side or rear lot line.
- 4) Enclosed porches shall be considered an integral part of the building and shall be subject to all yard and area dimensional requirements established for principal buildings.
- 5) Signs may encroach into yard areas but no sign, or portion thereof, shall be closer to any lot line or street right-of-way than ten feet (10').
- b. YARD EXCEPTIONS. In cases where less than the full required future right-of-way width of a street has been deeded or dedicated, the building setback on any property abutting thereon shall be measured from the future required sixty-six feet (66) of road right-of-way line. The required street width shall be determined by the standards set forth and adopted by the Midland County Road Commission.

## SECTION 3.7 SUPPLEMENTARY HEIGHT REGULATIONS

- a. PERMITTED EXCEPTIONS FOR STRUCTURAL APPURTENANCES. The following kinds of structural appurtenances shall be permitted to exceed the height limitations for authorized uses.
- 1) Institutional steeples, belfries, cupolas, domes, ornamental towers and flag poles; provided that such structural elements do not exceed twenty (20%) percent of the gross roof area.
  - 2) Appurtenances for mechanical or structural functions, such as chimneys, smoke stacks, water tanks, elevator and stairwell penthouses, ventilators, radio or television towers, aerials, farm structures, windmills, and fire and base towers; provided the total height of the building and appurtenances is one hundred seventy-five feet (175') or less from the ground. The foregoing permitted exceptions shall not be for human occupancy or dwelling.
- b. PERMITTED EXCEPTIONS: RESIDENTIAL DISTRICTS.
- 1) No exceptions are permitted for residential structures.
  - 2) Principal hospital and religious structures may be permitted to exceed height limitations with a maximum total height limit of seventy-five feet (75') provided each front, side and rear yard requirements is increased one foot (1') for each additional one foot (1') above the district requirement.

c. PERMITTED EXCEPTION: BUSINESS AND INDUSTRIAL DISTRICTS.

In any business or industrial district, and principal building may erect to a height in excess of that specified for the district, provided each front, side and rear yard minimum is increased one foot (1') for each additional one foot (1') above the district requirement.

## SECTION 3.8 ACCESSORY BUILDINGS

a. REQUIRED YARDS.

- 1) IN A FRONT YARD. No accessory building shall project into any front yard.
- 2) IN A SIDE YARD. No accessory building, including detached garages, shall be erected closer to any side lot line than fifteen (15') feet. (Amended November 27, 1999)
- 3) REAR YARD. No accessory building, including detached garages, shall be erected closer to rear lot line than permitted within the district for principal building. (Amended November 27, 1999)
- 4) ON A CORNER LOT. No accessory building shall be closer to the side street lot line than one-half (1/2) the front yard setbacks of the principal building on the lot. (Amended November 27, 1999)

b. MAXIMUM SIZE. Accessory buildings may occupy not more than four (4%) percent of the lot area. Accessory structures greater than 100 square feet are not permitted on lots without a principal structure.

c. HEIGHT. In a residential District, the height of an accessory building may not exceed sixteen feet (16') maximum height for the sidewall as measured from the grade and may not exceed a total height of twenty-four feet (24') to the peak. (Amended November 27, 1999)

d. DWELLING. No portion of an accessory building in any zoning district is to be used as a dwelling.

e. GARAGES.

- 1) Attached garages shall be considered part of the principal building for the purpose of computing required yards.
- 2) Attached garages may be located in front of, behind or on the side of principal structures and must be located outside of the required yard for principal structures.
- 3) Detached garages may be located behind or on the side of principal structures and may be located within the required side or rear yard but must comply with minimum setbacks for accessory structures. Detached garages may not occupy any part of the required front yard.

f. OUTDOOR STORAGE CONTAINERS

When used for permanent storage in the R-1 or R-2 districts, outdoor storage containers must meet the following requirements:

- 1) All outdoor storage containers must meet all applicable Michigan Building Code regulations.

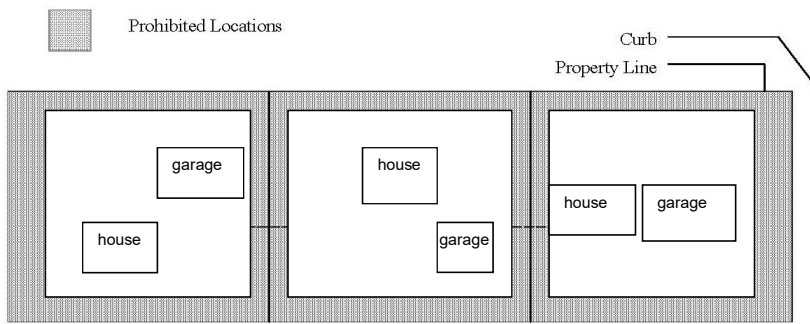
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- 2) No permanent electrical connection shall be provided to the container.
- 3) Outdoor storage containers shall be used only for the storage of personal goods and property associated with the dwelling, lot, or parcel on which the container is placed. The container shall not be used for the storage of commercial goods, business inventory, or personal property not associated with the property.
- 4) Outdoor storage containers are prohibited on a vacant lot or parcel.
- 5) Outdoor Storage Container shall not be stored on a lot smaller than 1 acre.
- 6) There shall not be more than two (2) outdoor storage containers located on a single parcel.
- 7) Outdoor storage containers may only be located in the rear and side yards according to Section 3.8 (a)(2) and 3.8(a)(3).
- 8) Outdoor storage containers shall not be stacked.
- 9) Outdoor storage containers shall be maintained, with no signage or logos, and each unit should be painted one solid color.

**f.g.** The following graphic shows where the prohibited locations for detached accessory structures and sample of house and garage configurations.



**g.h.** USES: Nothing in this Ordinance shall be construed to prohibit the following accessory uses:

- 1) Customary refreshment and service uses and buildings in any public park or recreational area incidental to the recreational use of such area.
- 2) Essential services as defined in Chapter 2.
- 3) Garden, garden ornaments, yard improvements and usual landscape features within required yard space.
- 4) Fences within required yards provided the provisions of 3.3 (i) are met.
- 5) Retaining walls and public playgrounds.
- 6) Off-street parking for motor vehicles as specified in Chapter 4.
- 7) Home occupations.

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- 8) Use of premises as a voting place in connection with local, state or national elections.
- 9) Freestanding individual wind turbines less than 65' in height with a minimum lot size of 2 acres is required.
- 10) Storage sheds, playhouses, dog houses, detached garages and shelters for transit or school bus passengers.
- 11) Swimming pools – See applicable State laws.
- 12) Front yard handicap access facilities in residential districts with proof of need.
- 13) Roof Mounted On-Site Solar Energy Systems ~~Rooftop solar energy systems~~:
  - a) Solar panels shall be permitted as a rooftop installation in any zoning district as an accessory use on a structure.
  - b) The solar panels shall not exceed a height of 8" from the rooftop. In no event shall the placement of the solar panels results in a total height including building and panels than what is permitted in the zoning district which they are located for the principle building.
  - ~~b)c)~~ The solar panels shall be placed so as not to produce any direct or indirect (reflective) lighting on a neighboring roadway, residence, or commercial area.
- 14) CARPORTS. Carports, must comply with the building code in effect and a permit must be obtained.

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### SECTION 3.9 REQUIRED WATER SUPPLY AND WASTEWATER DISPOSAL FACILITIES

No building or structure shall be constructed or used in whole or in part for dwelling, business, commercial or recreational purposes without sanitary sewer and connected toilet facilities inside the building or structure. These facilities must be connected to a sanitary sewer disposal system approved by the Midland County Health Department. The disposal system must not contaminate any body of water or water supply through its use. Only septic systems with tanks or municipal sewage disposal systems are allowed, except in municipal parks, municipal buildings and seasonal temporary uses when approved by the Zoning Administrator. Alternate methods of sewage disposal are not allowed, specifically lagoons systems.

Public waste water systems shall not be installed without sufficient capacity for, and optional use by, Lincoln Township residents.

All water supplies must be approved by the Midland County Health Department.

Adopted by the Township Board of Lincoln, County of Midland, Michigan on March 20, 2001.

### SECTION 3.10 ANIMALS AND FOWL OTHER THAN HOUSEHOLD PETS

- a. It is prohibited to keep animals or fowl other than household pet in Residential or Business Districts unless, when adequately fenced, the parcel is at least five acres (5) in area; where the building housing the animal is at least two hundred and fifty (250') from the nearest adjoining residence and the fence or corral is a minimum one hundred feet (100') from the nearest adjoining residence.
- b. No wild or exotic animal shall be kept permanently or temporarily in any district in the Township except in an accredited American Association of Zoologies Parks and Aquariums facility.

### SECTION 3.11 DANGEROUS AND ABANDONED BUILDINGS

#### a. UNLAWFUL CONDUCT

It is unlawful for any owner or owner's agent to keep or maintain any dwelling or structure or part of a dwelling or structure that is a dangerous building.

#### b. DEFINITION

As used herein, "dangerous building" means any building or structure that has any of the following defects or is in any of the following conditions:

- 1) Whenever any portion of the building or structure has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of the Township Building Code for a new building or similar structure.
- 2) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the Township Building Code.
- 3) Whenever the building or structure or any part, has been structurally weakened because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion of the building or structure.
- 4) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.
- 5) Whenever any dwelling becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
- 6) An exposed basement or similar large hole that could present a danger is left on the site.

#### c. NOTICE INFORMATION



- 1) Whenever the Township Building Inspector determines that the whole or any part of any building or structure is a dangerous building, the Township Code Enforcement Officer shall issue a notice of the dangerous and unsafe condition.
- 2) Such notice shall be directed to each owner or party in interest in the building in whose name the property appears on the last local tax assessment records.
- 3) All notices shall be in writing and shall be served upon the owner or party in interest directly and personally, or in lieu of personal service may be mailed by certified mail - return receipt requested and addressed to the owner or party in interest at the address shown on the tax records, at least ten (10) days before the date of the hearing described in the notice. A copy of the notice shall be posted upon a conspicuous part of the building or structure.
- 4) The Township Zoning Administrator shall file with the Planning Commission a copy of the notice of the dangerous and unsafe condition.
- 5) The notice shall specify the time and place of a hearing to be held before the Planning Commission on the condition of the building or structure, at which time and place the person or persons to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

d. HEARING INFORMATION

- 1) The Planning Commission shall take testimony from the Township Zoning Administrator, the owner of the property, and any interested party or other witness. The Planning Commission shall render its decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.
- 2) If it is determined by the Planning Commission that the building or structure should be demolished or otherwise made safe, or basement or hole filled in and graded to the contour of the site, it shall so order, fixing a time in order for the owner or party in interest to comply.
- 3) If the owner or party in interest fails to appear or neglects or refuses to comply with the time limit of the citation of civil infraction, the Planning Commission shall file a report of its findings and a copy of its order with the Township Board and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the Planning Commission shall be served on the owner or party in interest.
- 4) The Township Board shall fix a date for the hearing, reviewing the findings and order of the Planning Commission, and shall give notice to the owner or party in interest of the time and place of the hearing. At the hearing the owner or party in interest shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe and the Township Board shall either approve, disapprove or modify the order for the demolition or the making safe of the building or structure.
- 5) The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the Township who shall assess the cost against the property on which the building or structure is located.

- 6) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If the owner or party in interest fails to pay within thirty (30) days after mailing by the assessor of the notice of the amount due, the assessor shall add the cost to the next tax roll of the Township and the amount due shall be collected in the same manner as provided by law for the collection of taxes by the Township.

e. JUDICIAL REVIEW

An owner or party in interest aggrieved by any final decision or order of the Township Board may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within twenty (20) days from the date of the decision.

f. STATUTORY AUTHORITY

This section is promulgated pursuant to [Act 61 of the Michigan Public Acts of 1969, MCLA 125.538](#) et seq. MSA 5.2891 et seq; and [Act 359 of the Michigan Public Acts of 1947](#), MCLA 42.1 et seq. MSA 5.46(1) et seq.

Field Code Changed

Field Code Changed