

CLARENCE TOWNSHIP ZONING ORDINANCE

Article XVIII

SITE PLAN REVIEW

Section 18.01 - PURPOSE

It is the purpose of this Article to specify standards, application and data requirements, and the review process that shall be followed in the preparation of site plans as required by this Ordinance. These requirements are incorporated into the Zoning Permit application process to ensure that the appropriate bodies are afforded an opportunity to review and evaluate proposed uses and development of sites with regard to such considerations as parking, vehicular and pedestrian circulation, drainage, landscaping and screening, signage, lighting, environmental and community character protection, and conformance with all applicable provisions and standards of this Ordinance. This Article establishes a review process that requires the application materials to be subject to Planning Commission approval except where expressly provided otherwise by this Ordinance.

18.02 - SITE PLAN APPROVAL REQUIRED

A. Uses Requiring Site Plan Approval: Except as provided by subsection (1) below, site plan approval by the Planning Commission is required prior to the Zoning Administrator's issuance of a Zoning Permit for all authorized uses including, but not limited to, commercial and industrial uses, special land uses, site condominiums, and platted subdivisions.

1. **Exceptions:** Site plan approval shall not be required for single family and two-family dwellings and accessory uses and structures thereto, including temporary dwellings, and any other use expressly exempted elsewhere by this Ordinance. See Sec. 2.07 regarding plot plan approval for single family and two-family dwellings and accessory uses and structures thereto.

Section 18.03 - SITE PLAN DATA and PREPARATION

B. Requirements: Twelve (12) copies of a site plan shall be submitted. The site plan shall be provided on a professional quality drawing of scale not less than 1" = 100' and shall clearly present the required information. All information depicted shall be designed by a professional engineer, land surveyor, or landscape architect licensed in Michigan and shall bear the seal and signature of the licensed individual. The site plan shall present all necessary information in a clear and comprehensible fashion and be of such clarity and detail to permit determination of its conformance to this Ordinance and the satisfactory construction of the project, if approved, to ensure public health, safety and welfare. A site plan shall include, at a minimum, the following except where the Planning Commission determines, upon a request by the applicant, that the waiving of specific submittal items identified below, due to the particular character of proposed development or site or surrounding conditions, shall not undermine officials' ability to effectively evaluate the extent to which the site plan complies with the standards of this Ordinance and protects the public health, safety and welfare:

1. The applicant's full name, address and phone number, and the name and address of the person and firm who prepared the plan and the date on which each drawing contained within was prepared or last revised.
2. Maps or other illustrative material showing the location of the site in relation to the surrounding road system, the current use of all properties within two-hundred (200) feet in every direction of the proposed use, including land uses on the opposite side of any road, and the location of all structures, buildings and curb cuts within two-hundred (200) feet of the property.
3. A property line survey, correlated with a legal description, showing property line dimensions and bearings, lot area, graphic scale, and a north arrow.
4. Existing uses, buildings, structures, roads, easements and all other existing site improvements, with a designation as to which are to be retained, removed, or otherwise altered.
5. Existing natural features on and within three-hundred (300) feet of the site including wetlands; drainage courses, water bodies, and 100-year flood plain areas; topography at no greater than two-foot contour intervals; soils by type and drainage features according to the County Soil Survey or well/boring logs; and wooded areas including a differentiation between those that are characterized by understory ground cover growth such as grasses and those that do not permit such ground cover growth.
6. Required front, side and rear yard setbacks for proposed principal buildings.
7. Proposed uses; buildings; structures; lots; signage; trash storage areas including any enclosures; carports or garages; exterior lighting; any areas to be dedicated as open space including recreational areas; and a project narrative that addresses the intended use of the property and each building proposed, the total number of dwelling units and density for each housing type and for the project as a whole, the total and usable floor area of each building, the amount of recreational and open space and type of recreation facilities to be provided,

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computations associated with the number of parking spaces required and provided, and related information as pertinent or otherwise required by this Ordinance.

8. Proposed public right-of-ways, private easements, and deed restrictions.
9. Proposed roads, drives, and alleys (including widths, cross-sections and profiles); acceleration, deceleration and turn lanes; driveways, parking spaces, and parking aisles, with an indication of the total number of spaces and typical space and aisle/driveway dimensions, the direction of travel, and the inside radii of all curves including driveway curb returns; and sidewalks and other non-motorized travel ways. Proposed traffic control measures (including signs) shall also be indicated.
10. Source and location of all public and private utilities including potable water, sewage disposal, and electrical and communication lines, and the necessary easements that exist or are proposed to be established for installation, repair and maintenance of such utilities.
11. Any proposed landscaping/screening to mitigate negative impacts on adjacent uses.
12. A graphic illustration of the location and extent to which natural features on the site shall be disturbed or otherwise cleared including those under subsection (5) above.
13. A grading, storm drainage and storm water management plan, including soil erosion and sedimentation control measures and spot elevations to adequately portray drainage patterns and final elevations and grades. Such plan shall include the location of drainage easements, exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water. The point of discharge for all drains and pipes shall be specified on the site plan as well as invert and related elevations, and pipe lengths and slope, to construct the same. Such plans shall document the extent of clearing of vegetation and the extent of other clearing, cuts, fills, or other grading, and the finished floor elevations of all buildings.
14. The location and specifications for any existing or proposed above or below ground storage facilities for any toxic or hazardous substances, as well as any containment structures or clear zones required by government authorities; a complete inventory of toxic or hazardous substances to be stored or used on the site, including the quantity of substances, substance names and characteristics; the proximity of such materials to ground water aquifers, wetlands, surface waters, existing and proposed wells, storm sewers, storm drains, and sanitary sewers; and a proposed storage and disposal plan for such materials including their transfer and/or transport.
15. A statement identifying all other federal, state and local permits required, if any.
16. Anticipated project completion schedule.
17. Such other information as is necessary to enable the reviewing body to determine whether the proposed site plan shall conform to the provisions of this Ordinance including, but not necessarily limited to, aerial photographs and environmental and traffic impact and mitigation reports.

Section 18.04 - REVIEW PROCEDURES

- A. Application Submittal/Distribution:** Upon receipt of the site plan copies, the Zoning Administrator shall record the date of their receipt and transmit copies of the site plan, and the accompanying zoning permit application form, to the designated approving body. Such designated approving body shall be the Planning Commission except where this Ordinance expressly provides otherwise.
 1. Outside Agency Review: Upon receipt of complete application materials, the Zoning Administrator shall also transmit copies to the Calhoun Conservation District and other agencies or individuals selected to review such plans including but not necessarily limited to engineering and planning consultants, County Road Commission and County Drain Commissioner. The Zoning Administrator shall request all reviewing agencies to respond in writing within twenty (20) days of receipt of the materials. The designated approving body need not delay taking action on the application if such response has not been received within such period.
- B. Review and Action:** The designated approving body shall review the application and upon finding that the application is complete, shall determine its conformity to the requirements and standards of this Ordinance. The designated approving body shall approve, approve with conditions, or deny the application. An application that complies with the requirements and standards of this Ordinance, including Section 18.05, shall be approved or approved with conditions. If it is determined that the site plan is deficient in adequately portraying the required information, the approving body shall delay further consideration of the application until such time that the application materials have been made satisfactory, and shall notify the applicant in writing of the deficiencies. In the case of a special land use, the site plan shall be subject to the same public hearing held according to Article XIX.
 1. Conditions: Any conditions required by the approving body as part of an approval of an application shall be stated in writing, together with the reasons. The approving body may require the submittal of a fully revised site plan upon its determination that the conditions necessary for the approval of such plan are of such an extent or character that a fully revised set of documents is necessary before an approval action can be granted.

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2. Approved Site Plans: Three (3) copies of an approved site plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. Each of the three approved copies shall be signed and dated with the date of approval specified, by the Planning Commission Chairperson and Zoning Administrator.

Section 18.05 - SITE PLAN APPROVAL STANDARDS:

- A. Specific and General Standards:** Site plan approval is required for the issuance of a Zoning Permit. No site plan shall be approved except where the designated approving body finds that such site plan complies with all of the following standards:
1. Specific Site Development Standards: Each site plan shall conform with the specific site development standards of this Ordinance including, but not limited to, requirements pertaining to lot area, lot width, setbacks, heights, permitted uses, lot coverage, off-street parking, natural features setbacks, lighting, potable water, and sewage disposal.
 2. General Site Plan Approval Standards: In addition to compliance with the standards of subsection (1) above, all site plans shall comply with the following general site plan approval standards:
 - a. All elements of the Plan shall be harmoniously and efficiently organized in relation to the size and character of the lot, the manner in which buildings and support facilities on the lot relate to one another both visually and physically, and the character of the proposal as viewed from nearby properties and roads and in relation to the intent of the District in which the property is located.
 - b. The site plan shall not impede the normal and orderly development, improvement, or enjoyment of surrounding property for uses permitted in the District, including matters pertaining to visual impacts from lighting, signage, outdoor storage, and off-street parking.
 - c. The site plan shall preserve the environmental character of the site insofar as practical by minimizing the removal or disturbances to on-site natural features such as trees, woodlands, soils, topography, water courses and wetlands, and ensuring adequate setbacks and buffers are provided between site modifications and such natural features.
 - d. The site plan shall provide for the removal of storm water so as to minimize on-site flood conditions and assure the well being of the users of the property, while not adversely affecting adjacent properties and public and natural drainage systems due to flooding, erosion, sedimentation, or other negative impacts. Storm water management plans shall rely on existing drainage patterns where practical and minimize topographic alterations, and incorporate the necessary measures to discourage soil erosion and sedimentation and impurities entering into the groundwater and nearby water courses.
 - e. The applicant shall demonstrate that sufficient precautions will be made to prevent hazardous materials from entering the environment including adequate measures for sewage and waste disposal and the storage of hazardous substances.
 - f. The site plan shall provide vehicular and non-motorized circulation and parking in a manner that ensures visually clear, safe, convenient and efficient travel in the site and at ingress and egress points, including minimizing congestion and conflicting turning patterns, minimizes negative impacts upon abutting properties and roads including coordination with the existing and planned public circulation system and improvements thereto and the avoidance of unnecessary curb cuts, and ensures that all buildings shall be so arranged as to permit emergency access by some practical means to all sides.
 - g. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Underground facilities shall be provided to the greatest extent feasible.
 - h. All development phases shall be designed in logical sequence to ensure that each phase can independently function in a manner that supports the public health, safety and welfare, should subsequent phases not be completed.
 - i. Site plans shall conform to all applicable Township planning documents including the goals and objectives of the Clarence Township Master Plan, other applicable ordinances, and state and federal statutes.

Section 18.06 - CONFORMITY to APPROVED SITE PLAN

Property which is the subject of site plan approval shall be developed in compliance with the approved site plan and any approved changes thereto. If construction or use of the property does not conform to such approved plans, the approved Zoning Permit shall be subject to revocation by the Zoning Administrator pursuant to Section 2.06.

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Section 18.07 - CHANGES to APPROVED SITE PLAN:

No changes shall be made to an approved site plan prior to, during, or after construction except upon approval by the body that approved the original site plan. Such approving body shall require the applicant to submit all information the approving body considers necessary to accurately determine the extent that the proposed site plan changes comply with the standards of this Ordinance including Section 18.05. The approving body shall refer to Section 18.03(A) to determine all necessary information.

Section 18.08 - PRELIMINARY SITE PLAN OPTION

- A. Authorization, Standards, and Approval Period:** Prior to preparing a detailed site plan and seeking approval of such site plan according to Sections 18.03 and 18.04, an applicant may seek approval of a preliminary site plan for the purpose of receiving approval of the general design and layout of the project. A preliminary site plan shall be reviewed and acted upon in the same manner as a final site plan, and according to the following:
1. **Level of Detail:** The preliminary site plan shall be prepared according to the manner and information required for a final site plan pursuant to Section 18.03, except that detailed construction drawings to address specific site improvements are not necessary. However, the detail of the preliminary information shall adequately portray the arrangement and feasibility of critical components of the project such as, but not limited to, storm water management including flow direction and preliminary location of detention/retention basins; proposed preliminary grading including limits of clearing and one (1) foot contours; vehicular circulation including road alignments, parking spaces and parking circulation; lot areas and lot lines; signage; and landscaping.
 2. **Approval Standards:** A preliminary site plan shall be evaluated according to the same approval standards for a final site plan in Section 18.05, but within the context of the lesser information required at the preliminary plan level. A preliminary plan shall be approved if it contains the information required by, and is in compliance with this Ordinance, conditions imposed pursuant to this Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes.
 3. **Approval Period:** Approval of the preliminary site plan is valid for a period of one (1) year. If a complete final site plan has not been submitted during this period, the approval of the preliminary site plan shall be null and void. This time limit may be extended by the site plan approval body upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that suggest revisions to the layout and/or design of the development. In the case of an expired preliminary site plan that is not granted an extension of time, such plan shall not undergo review or action except upon a wholly new application according to Sections 18.03 and 18.04.”

End of Article XVIII

(Article XVIII Amended 5-11-09 / Ord. 24-1 to clarify and expand scope of ordinance administration provisions)

(Article XVIII Amended 6-14-10 / Ord. 24-3 to address site plan review provisions only)

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Article XIX SPECIAL LAND USES

Section 19.01 - PURPOSE

It is the purpose of this Article to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the landowner, investor or developer, but that will, at the same time, promote the purpose of this Zoning Ordinance and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land uses. In order to provide control and reasonable flexibility, this Article provides for the review of certain specified land uses, referred to as "special land uses" or "special exception uses," which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and/or to the community as a whole. Land uses and structures possessing these characteristics may be authorized within certain zoning districts as specified in Article III (Zoning Districts), by the issuance of a Zoning Permit for the specified Special Land Use. This Article establishes a review process that requires the application materials to be subject to Planning Commission review and final action.

Section 19.02 - REVIEW PROCEDURE

- A. Application:** An application for a Zoning Permit for a Special Land Use shall consist of the following:
1. An application form available from the Zoning Administrator, signed by the property owner(s) and applicant(s).
 2. A preliminary or final site plan prepared according to Article XVIII.
 3. A detailed description of the proposed project, in narrative form.
- B. Preliminary Approval/Public Hearing:**
1. An application for a Zoning Permit for a Special Land Use shall follow the same general procedures as delineated for site plan review according to Article XVIII except that upon finding that the application materials are complete, the Planning Commission shall hold a public hearing on such application. Notice of the hearing shall comply with Section 2.12.
 2. Following the hearing and after deliberations, the Planning Commission shall deny, approve, or approve with conditions the preliminary application for special land use/site plan.
 3. An application for a Zoning Permit for a Special Land Use shall be an application to determine the appropriateness of both the proposed use on the subject property, and the manner in which the proposed use is to be arranged and function on the site as delineated in the required site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion.
 4. Action on the preliminary application by the Planning Commission shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions recommended. The Planning Commission shall refer to the approval standards set forth in Sec. 19.06 in addition to those specified for site plan approval (Sec. 18.05) prior to taking preliminary action.
- C. Final Approval:** Following approval of a Special Land Use preliminary application, final application approval shall follow the same general procedures as delineated for final site plan review according to Article XVIII. The Planning Commission shall deny, approve, or approve with conditions the final application for special land use/site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion. A public hearing on the final application, including final site plan, shall not be required provided such final application is substantively similar to the approved preliminary application including both the character and features of the use and site plan.
1. Action on the final application by the Planning Commission shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions recommended. The Planning Commission shall refer to the approval standards set forth in Sec. 19.06 in addition to those specified for site plan approval (Sec. 18.05) prior to taking final action.
- D. Simultaneous Preliminary/Final Approval:** An applicant may voluntarily submit a special land use application that is intended to meet both the preliminary and final application provisions of this Article, including preliminary and final site plan approval, the effect being to avoid the formal and separate preliminary approval phase and seek immediate final approval. An applicant choosing to exercise this option bears the risk of expending the additional time and money that may be required for preparation of final application materials without the benefit of any formal action on a preliminary application. This option is made available in recognition that certain special land uses may be of such character that the normally required two-phased preliminary and final approval process is not necessary. Uses that may be more appropriate for simultaneous preliminary and final approval may be uses that include the erection of no new buildings, uses that do not require alterations to existing topographic conditions,

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uses that require no new off-street parking areas, and/or uses that do not rely on new underground storm or sanitary sewer infrastructure. However, nothing in this subsection (D) shall be construed to require simultaneous preliminary/final approval even if such conditions are part of an application. In the case of a simultaneous preliminary/final application, the applicant shall specify in writing the applicant's intent to seek simultaneous preliminary and final approval.

1. In the case of a simultaneous application and where the Planning Commission denies final approval, the Planning Commission shall specify in its motion whether the denial applies to both the final and preliminary application or whether the alleged final application is approved as a preliminary application only, along with any conditions that may be made part of such preliminary approval.

Section 19.03 - APPEALS

A person aggrieved in association with a special land use decision may appeal the special land use application decision to the circuit court only.

Section 19.04 - REAPPLICATION

No application for a Zoning Permit for a Special Land Use which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original action, as determined by the Planning Commission. Reapplication shall follow all provisions of Section 19.02. The time restrictions of this Section 19.04 shall not apply in the case where the principal basis for the denial of the application was a lack of completeness of the application.

Section 19.05 - CHANGES

A change in the character of the special land use from what the originally approved Zoning Permit authorized is prohibited until such change is applied for and approved according to the application and review procedures of Section 19.02. Examples requiring a new special land use application and review procedure include the erection of additional buildings, the addition of two-hundred (200) square feet or more of floor area to an existing building, or the establishment of another special land use. Any change in the character of the special land use from what the originally approved Zoning Permit authorized shall be subject to the site plan review provisions of this Ordinance.

Section 19.06 - APPROVAL STANDARDS

- A. **General Standards:** No Special Land Use application shall be approved except where the application complies with the following standards:
 1. Be consistent with the goals, objectives, and policies of the Clarence Township Master Plan.
 2. Be designed, constructed, operated and maintained so as to be compatible with the existing and planned character of the general vicinity, taking into consideration such features as the bulk, placement, and materials of construction of proposed structures, open space areas, lighting, and landscaping and screening.
 3. Will not be hazardous, disturbing, or detrimental to the use, peaceful enjoyment, economic value or development of neighboring property, or the vicinity in general, taking into consideration such features as the location of driveways and traffic flow patterns including turning patterns, vehicular and pedestrian safety, the intensity and character of traffic and parking conditions, hours of operation, and the production of noise, glare, vibration, odors, or other external impacts.
 4. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment including air, soil, surface water, and ground water resources.
 5. Be served adequately by essential public facilities and services such as roads, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools; and minimize the impact of traffic generated by the proposed development on adjacent properties.
 6. Will not create excessive additional requirements at public cost for public facilities and services.
 7. Comply with the site plan approval standards of this Ordinance.
- B. **Specific Standards:** In addition to compliance with the above standards in subsection (A), special land uses shall comply with the standards and regulations applicable to each specific land use as may be identified in this Ordinance.

End of Article XIX

(Art. XIX amended 6-14-10 / Ord. 24-3 to relocate from Art. IV to Art. XIX, and expand and clarify special use provisions)

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Article XX ZONING MAP and TEXT AMENDMENTS

Section 20.01 - PURPOSE

This Article establishes procedures for the review and action on amendment requests. Requested amendments to this Ordinance shall be processed according to Public Act 110 of 2006, as amended, and in doing so, the procedures of this Article shall be followed. It is not intended that this Ordinance be amended except to correct an error, to address changed or changing conditions including in a particular area in the Township and in strategies to ensure the public health, safety and welfare, to conform with the Master Plan and/or other ordinances of the Township, and to meet a public need for new or additional land uses in appropriate locations.

Section 20.02 - INITIATION OF AMENDMENTS

Petitions for amendments may be initiated by the Township Board or Planning Commission, by its own motion, or by petition of one (1) or more owners of property to be affected by the proposed amendment. Only the Township Board may amend this Ordinance.

Section 20.03 - PROCEDURES

A. Application, Distribution and Data: A petitioner shall submit twenty (20) copies of a completed application to the Zoning Administrator on a form established for that purpose, which shall include a detailed description of the proposed amendment including the name, address and phone number of the applicant and the desired change(s) and reason(s) for such change(s), along with any application fees. The Zoning Administrator shall record the date of their receipt and transmit copies to the Planning Commission, Township Board, and other agencies or individuals selected to review such material including but not necessarily limited to Township departments and staff, consultants, and the Calhoun County Road Commission.

1. When the petition involves a change in the Zoning Map, an application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment, and the applicant shall also submit the following information:
 - a. A legal description of the property and a scaled map of the property correlated with the legal description, which clearly shows the property's location within the surrounding road network.
 - b. The applicant's name, address and phone number and interest in the property, and if the applicant is not the owner, the name, address and phone number of the owner.
 - c. The desired change and reasons for such change.
 - d. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.

B. Planning Commission Action

1. **Public Hearing:** The Planning Commission shall review the application materials. Upon finding that the application materials are satisfactorily complete and the Planning Commission has a clear understanding of the requested amendment, the Planning Commission shall establish a date for at least one (1) public hearing on the application and hold such hearing. Notice of the public hearing shall comply with Section 2.12. Any application not properly filed or complete may be returned to the applicant with a written notice of deficiencies.
2. **Planning Commission Review / Recommendation:** In reviewing any amendment application, the Planning Commission shall identify and evaluate all factors relevant to the application.
 - a. If the petition involves an amendment to the official zoning map, matters to be considered by the Planning Commission shall include, but need not be limited to, the following:
 - 1) What, if any, identifiable conditions related to the petition have changed which justify the change in zoning district classification?
 - 2) What is the impact of the proposed district change on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed change is adopted?
 - 3) Will the district change adversely affect the value of the surrounding property?
 - 4) Is the site's environmental features compatible with the host of uses permitted in the proposed district, and will development under the petitioned district change be likely to adversely affect environmental conditions?
 - 5) Can the subject parcel comply with all requirements of the proposed zoning classification?
 - 6) Is the subject property able to be put to a reasonable economic use in the zoning district in which it is presently located?

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- 7) Is the proposed district change consistent with the zoning classification of surrounding land?
 - 8) Does the petitioned district change generally comply with the Master Plan?
 - 9) What are the precedents and the possible effects of such precedents which might result from the approval or denial of the petition?
- b. If the petition involves an amendment to the text of the Ordinance, matters to be considered by the Planning Commission shall include, but need not be limited to, the following:
- 1) Is the proposed amendment supported by documentation, such as from past minutes of the Planning Commission or the Zoning Board of Appeals, that the proposed amendment would minimize problems or conflicts with specific sections of the Ordinance?
 - 2) Is the proposed amendment supported by reference materials, planning and zoning publications, information gained at seminars or experiences of other communities to more effectively deal with certain zoning issues?
 - 3) Is the proposed amendment supported by significant case law?
3. Planning Commission Recommendation/Transmission: The Planning Commission shall transmit its findings and a summary of comments received at the public hearing to the Township Board, along with its recommended action on the amendment request. The Planning Commission shall also forward the same to the Calhoun County Planning Commission.

C. Township Board Action

1. After receiving the findings and recommendations of the Clarence Township Planning Commission, and after considering the comments of the Calhoun County Planning Commission, the Township Board at any regular meeting or at any special meeting called for that purpose, shall consider said findings and recommendations. The Township Board may refer any proposed amendment back to the Planning Commission for further consideration and comment within a time specified by the Township Board. The Township Board may adopt the amendment, with or without changes. Such action shall be by Ordinance, requiring a majority vote of the Township Board.
 - a. If the Township Board has not received County Planning Commission comments within thirty (30) days of the submittal of the Township Planning Commission's recommendation and summary of public hearing comments, the Township Board need not delay taking action on the amendments.
 - b. The Township Board may hold additional public hearings if the Township Board considers it necessary. The Township Board shall grant a hearing on the proposed amendment to any interested property owner who has filed a written request to be heard. Such written request shall take the form of a certified mail letter from the property owner to the Township Clerk. A hearing under this subsection (a) is not subject to the notice requirements of Section 2.12, except that notice of the hearing shall be given to the interested property owner according to Section 2.12 (A) and (C). The Township Board may require the property owner to justify the property owner's interest on which the additional hearing request is based.

D. Publication of Notice of Ordinance Amendments:

Following adoption of amendments by the Township Board, the amendments shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Following adoption of an amendment by the Township Board, the notice of adoption shall also be mailed to the airport manager of each airport that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice. The adoption notice shall provide either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment, the effective date of the amended Ordinance, and the place and time where a copy of the amendment ordinance may be purchased or inspected.

1. Effective Date: The effective date of an amendment shall occur no less than the expiration of 7 days after publication of the notice of adoption as provided in (D) above.

Section 20.04 - RESUBMITTAL

No application for an amendment which has been denied by the Township Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions, found upon inspection by the Planning Commission to be valid.

End of Article XX

(Art. XX amended 6-14-10 / Ord. 24-3 to relocate from Art. XIII to Art. XX, and expand and clarify amendment provisions)

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Article XXI

VIOLATIONS, ENFORCEMENT and PENALTIES

Section 21.01 - VIOLATIONS, ENFORCEMENT and PENALTIES

- A. **Notice of Violation:** The Zoning Administrator shall inspect each alleged or apparent violation. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, the Zoning Administrator shall issue a written Notice of Violation that specifies all circumstances found to be in violation. Such notice shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.
- B. **Violation Correction Period:** All violations shall be corrected within a period of fifteen (15) days after the violation notice is issued except where the Zoning Administrator permits a longer correction period due to seasonal or other conditions that make a fifteen (15) day correction period impractical or unfeasible. In no case shall the authorized correction period exceed 180 days.
- C. **Stop Work Order:** The Zoning Administrator may issue a stop work order upon determining that work on any structure or premises is being conducted contrary to the provisions of this Ordinance, and such work shall be immediately stopped. The stop work order shall be posted on the property. The stop work order shall be in writing and shall be served upon the owner of the property involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which the work may be resumed. Any person who shall continue any work in or about the structure or premises after having been served with a stop work order, except such work as such person is directed by the Zoning Administrator to perform in order to remove violations or unsafe conditions, shall be liable for penalties set forth in subsection (D) below.
- D. **Misdemeanors / Penalties.** Any person who shall violate any provision of this Ordinance or shall fail to comply with any of its requirements, or who shall erect, construct, alter or repair a structure in violation of an approval, permit or directive as provided in this Ordinance, shall be guilty of a misdemeanor. Upon conviction, such person shall be punishable by a fine of not more than Five Hundred (\$500) Dollars, or by imprisonment not exceeding ninety (90) days, or both. The imposition of any sentence shall not exempt an offender from compliance with the provisions of this Ordinance. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law. The owner of record or tenant of any building, structure, premises, or part thereof, and any architect, building contractor, agent, or other person who commits, participates in, assists in, or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided.
- E. **Nuisance Per Se:** Any structure which is erected, altered or converted, or any use of any structure or lot which is commenced, exists or changes in violation of any of the provisions of this Ordinance or approval, permit or directive as provided in this Ordinance, is declared to be a nuisance per se, and shall be abated by order of any Court of competent jurisdiction.

End of Article XXI

(Art. XXI amended 6-14-10 / Ord. 24-3 to expand and clarify enforcement and penalty provisions)

(Art. XXI amended 5-14-12 / Ord. 24-6 for comprehensive revisions)

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ARTICLE XXII
Reserved for Future Use

End of Article XXII

(Art. XXII amended 6-14-10 / Ord. 24-3 to reserve for future use, its previous subject matter, validity, relocated to Art.I)

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Article XXIII SUPPLEMENTAL PROVISIONS

Section 23.01 - PURPOSE

The purpose of this Article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations, or standards in addition to the regulations contained elsewhere in this Ordinance, and to establish such exceptions, regulations, and standards. The following supplemental provisions apply to all zoning districts unless otherwise indicated.

Section 23.02 - CONDITIONAL APPROVALS

- A. Conditions on Discretionary Decisions:** Any person or body may attach conditions to a discretionary approval that it is authorized to grant, such as in the case of the Planning Commission's approval of a site plan and the Zoning Board of Appeals' approval of a variance. Such conditions shall be based upon standards in this Ordinance and may be imposed to:
1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
 2. Protect the natural environment and conserve natural resources and energy.
 3. Insure compatibility with adjacent uses of land.
 4. Promote the use of land in a socially and economically desirable manner.
- B. Requirements for Valid Conditions:** Conditions imposed shall meet all of the following requirements:
1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- C. Record of Conditions and Changes:** Any conditions imposed shall be recorded in the record of the approval action. These conditions shall not be changed except upon the mutual consent of the approving authority and the property owner.
- D. Performance Guarantees:** Performance guarantees may be required to ensure compliance with conditions on discretionary decisions pursuant to the requirements of Section 2.10.

Section 23.03 - ONE SINGLE-FAMILY DWELLING TO A LOT

No more than one (1) single family dwelling unit shall be permanently established on a platted lot unless specifically provided for elsewhere in this Ordinance.

Section 23.04 - MOVING BUILDINGS

No existing building or structure within or outside of the Township shall be relocated on any lot within the Township unless the building or structure meets all provisions of this Ordinance and the State Construction Code.

Section 23.05 - FLOOR AREA REQUIREMENTS for DWELLINGS

All single family dwelling units hereafter constructed containing not more than two (2) bedrooms shall contain not less than seven hundred twenty (720) square feet of first-floor space as measured around the exterior of said dwelling. All single family dwelling units hereafter constructed containing more than two (2) bedrooms shall contain an additional one hundred fifty (150) square feet of habitable floor area for each bedroom in excess of two (2) within said dwelling unit; provided, however, that a three (3) bedroom, single-level private dwelling unit shall contain not less than nine hundred (900) square feet of first floor space as measured around the exterior of said dwelling.

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Section 23.06 - GENERAL OUTDOOR LIGHTING and SCREENING REQUIREMENTS

- A. General Outdoor Lighting:** All outdoor lighting upon any premises used principally for commercial, industrial, or other non-residential purpose, regardless of district, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or to the traveling public on public highways.
- B. Screening**
1. Except as otherwise provided in this Ordinance, any parcel located in a Commercial District or Industrial District, and any other parcel in any other district that is used principally for business or institutional purposes, including public buildings and religious institutions, shall be screened from adjoining parcels by either of the following:
 - a. A natural compact planting area of evergreens or shrubbery which maintain their density and screening effect throughout the calendar year, not less than four (4) feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential district.
 - b. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants or adjoining premises, not less than five (5) feet in height and maintained in a neat attractive manner, commensurate with the adjoining residential district.
 2. No such planting area, wall or fence shall be closer than ten (10) feet from any adjoining street right-of-way line.
 3. The designated site plan approval body may require additional vegetative screening than that specified in subsection (1)(a) above, and/or a wall or fence be erected, where it determines the proposed vegetative screening will not adequately mitigate the potential impacts upon adjoining premises. Further, any of the requirements of this Section may be modified through site plan review proceedings provided the approving body makes a finding that identifies characteristics of the site or site vicinity that would make required screening or fencing unnecessary, inappropriate, or ineffective, or where it would impair vision at a driveway or street intersection.
 4. Plant material used to meet the requirements of this Section shall be free of insects and diseases, and hardy to the climate. Plant species which are generally considered undesirable due to limited disease tolerance, low wood strength and/or high wood-splitting tendencies, such as boxelder, mulberry, and willows, are prohibited unless specifically authorized by the site plan approving body based on the manner in which the plant material is to be used or located. All plant material shall be maintained in a healthy condition, and free of refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All proposed plant material shall be specified on the site plan including species, size, number and location.
 5. All required fencing and walls shall be constructed and maintained in a sound manner to assure long-term structural integrity and visual character. Site plans shall include all necessary construction details to illustrate compliance with this requirement. The finished side of fencing required under this Section shall face abutting properties.

Section 23.07 - TENTS and RECREATIONAL VEHICLES

Tents and recreational vehicles shall not be used for dwelling purposes within the township limits; provided, however, that recreational vehicles may be used for temporary dwellings for a total period of not more than thirty (30) days in any one (1) calendar year when located upon premises having running water and sewage facilities, and provided further that recreational vehicles may be occupied for dwelling purposes within campgrounds or other recreational facilities as may be permitted by and approved under this Ordinance and appropriate licensing has been obtained. For the purposes of this Section, a recreational vehicle shall be defined as a vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle, and includes but is not limited to vehicles commonly referred to as travel trailers, motor homes, and pop-ups.

Section 23.08 - DISMANTLED, NON-OPERATING and UNLICENSED MOTOR VEHICLES

- A.** For the purposes of this Section, the following phrases shall have the following meanings:
1. Motor vehicles are hereby defined as any licensed wheeled vehicles which are self-propelled or intended to be self-propelled.
 2. Inoperable vehicles are defined as motor vehicles which, by reason of dismantling, disrepair or other cause, are incapable of being propelled under their own power.
 3. Dismantled and partially dismantled motor vehicles are defined as motor vehicles from which some parts, which are ordinarily a component part of such motor vehicle, has been removed or is missing.

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- B.** No person, firm or corporation shall use or permit to be used any lot to park or store any unlicensed, dismantled, partially dismantled or inoperable motor vehicle or parts thereof for a period of more than ninety (90) days in any calendar year. This section shall not apply to unlicensed, dismantled, partially dismantled or inoperable motor vehicles, partially dismantled or inoperable motor vehicles stored on a lot approved for such use under this Ordinance, such as in the case of a vehicle repair shop, or that which is not visible to the public and is in compliance with all the ordinances of the Township of Clarence and the Statutes of the State of Michigan.
1. Any person, firm or corporation owning a dismantled, partially dismantled or inoperable motor vehicle, who is repairing, or who is about to have said motor vehicle repaired, may apply to the Zoning Administrator for a single thirty (30) day extension period to have such motor vehicle remain on the premises. The Zoning Administrator shall approve such extension upon finding satisfactory evidence that the applicant is taking necessary actions for the repair of the vehicle within such time frame.
- C.** No inoperable vehicle shall be maintained on a parcel for more than thirty (30) days except where all fluids and other hazardous materials in such vehicle, including fuels, oils, and coolants, are fully drained. Such fluids shall be disposed of in accordance with all local, county, state and federal regulations. The leaking or discharging of such materials onto the ground is prohibited. Grasses within fifty (50) feet of an inoperable vehicle shall not be permitted to exceed two (2) inches in height, and articles other than those that are part of the vehicle shall not be stored in or around the vehicle.

Section 23.09 - BOTTLED GAS and OIL STORAGE

- A. Definitions:** For the purpose of this Section, the following terms and phrases shall have the following meanings.
1. Liquefied petroleum gas: Petroleum products of any chemical composition suited for use as fuel, which are gaseous at ordinary temperatures and atmospheric pressure but are sold, transported, dispensed, and stored, in liquid form.
 2. Fuel oil: A liquid petroleum product of any chemical composition, viscosity, and method of production suited for use as fuel.
 3. Tank or storage tank: Any container designed, suited or used for the storage of liquefied petroleum gas or fuel oil, which exceeds two (2) cubic feet in area or is otherwise intended to be moved by vehicle only.
- B. Restriction on placement.** No tank shall be placed in a front yard except in the case where the principal use of the lot is the sale of such tanks and such use has been approved according to this Ordinance including site plan approval.
- C. Building and Fire Codes; Conflicts.** This Section shall not be construed to waive or alter in any respect any applicable building, fire or other code or regulatory provision governing the placement of a tank, or the proximity of a tank, to a structure, which is more restrictive than this Section.

Section 23.10 - SITE CONDOMINIUMS

- A. Intent:** The intent of this Section is to provide regulatory standards for site condominium projects similar to those required for projects developed under other forms of ownership. This section is not intended to prohibit or treat proposed or existing condominium projects different than projects developed under another form of ownership.
- B. Applicability of District Regulations:** A site condominium project, including single family detached units, shall comply with all applicable site development standards of the district within which it is located including use, setback, height, coverage and area requirements, and all other provisions of this Ordinance. A condominium unit in a site condominium is that portion of the project intended to function generally similar to a platted subdivision lot and shall comply with the minimum lot area, width and yard setbacks of the District within which it is located.
- C. Review and Approval Procedures:**
1. Zoning Permit Required: No grading or any other form of construction shall be initiated for a site condominium prior to the approval of a final site plan and issuance of a zoning permit. The future erection of any dwelling or other structure or building in the site condominium, not expressly approved as part of the final site plan, shall require an additional zoning permit prior to erection.
 2. Site Plan Approval Required: The issuance of a zoning permit shall require the submittal and approval of a site plan pursuant to Article XVIII, Site Plan Review, and master deed and bylaw documents.
 - a. In addition to the preliminary and final site plan information required by Article XVIII, the applicant shall also submit information constituting a condominium subdivision plan, including the size, location, area, width, and boundaries of each condominium unit; building locations; the nature, location, and approximate size of common elements; and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.

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3. **Master Deed/Bylaws Approval Required:** The applicant shall include as part of the Zoning Permit application a copy of the proposed master deed and bylaws. These shall be reviewed for compliance with Township ordinances and to ensure that an assessment mechanism has been included to guarantee adequate funding for maintenance of all common elements. The common area funding responsibility of the association shall include any necessary drainage-ways and the cost to periodically clean out such drainage ways to keep them functioning as intended in the approved plans. The master deed shall clearly state the responsibility of the owner and co-owners and shall state that all amendments to the master deed must conform to Township, County, and state laws and regulations. The Master Deed shall also include any variances granted by Township, County, or State authorities and include a hold harmless clause from these variances. All provisions of the condominium subdivision plan which are approved by the Township Board shall be incorporated, as approved, in the master deed for the condominium subdivision.
4. **Issuance of Zoning Permit:** Upon approval of the final site plan, by-laws and master deed, the applicant shall furnish the Planning Commission a copy of the final bylaws and master deed, and a copy of the approved site plan on a mylar sheet of at least twenty-four inches by thirty-six inches (24" x 36"). Upon the satisfactory submittal of these documents, the Planning Commission shall direct the Zoning Administrator to issue a zoning permit.
5. **Changes:** Any changes to an approved site condominium including changes in the by-laws, master deed, or site plan, including changes in lot line or road configuration and the addition or relocation of buildings, shall require approval by the Planning Commission prior to such change.

D. Building Permit: No building shall be erected prior to the issuance of a zoning permit by the Zoning Administrator, and a building permit by the Building Inspector.

E. Utilities: The site condominium shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

F. Roads: All roads within a site condominium shall be designed and constructed in conformance with the standards of the Calhoun County Road Commission.

G. As-Built Plan and Occupancy: Submission of as-built plans of a condominium subdivision is required. The Township Board may allow occupancy of the project before all required improvements are installed provided that a financial performance guarantee is posted pursuant to Section 2.10.

H. Monuments: All condominium units which are building sites shall be marked with monuments as if such units were lots within a platted subdivision, and such monuments shall comply with the requirements of the P.A. 591 of 1996, the Land Division Act, as amended.

Section 23.11 - STANDARDS for SINGLE-FAMILY DWELLINGS

- A. All single family dwellings shall comply with the following standards, provided that the foregoing standards shall not apply to temporary dwellings, or mobile homes located in a licensed manufactured housing community except to the extent required by State and Federal law.
 1. All single-family dwellings shall comply in all respects with the Michigan Construction 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 and different than those imposed by the Michigan Construction Code, then and in that event such federal standard or regulation shall apply.
 2. All single-family dwellings shall meet the minimum floor area requirements of Section 23.13 unless provided otherwise by this Ordinance..
 3. All single-family dwellings shall have a minimum front, side and rear elevation width of twenty (20) feet.
 4. All single-family dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the state building code and shall have a wall of the same approximate perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer 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, shall be set on a concrete footing with a masonry wall extending from the perimeter wall of the dwelling to ground, or on a concrete footing with fireproof supports and shall have a continuous skirt

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extending from perimeter to ground, made of commercial quality or equivalent. In the case of a mobile home, each mobile home shall be installed with the wheels removed and no mobile shall have any exposed towing mechanism, undercarriage or chassis.

5. All single family dwellings shall be connected to a public sewer and water supply or to such private facilities approved by the local health department.
6. All single family dwellings shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, and such storage area shall be equal to 10% of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
7. All single family dwellings shall be aesthetically compatible in design and appearance with other such dwellings in the vicinity, with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from receipt of notice of the Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this Section as well as the character, design and appearance of one or more such dwellings located outside of manufactured housing communities within two thousand (2,000) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more such dwellings located outside of mobile home parks throughout the township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
8. All single family dwellings shall contain no additions or rooms or other areas which are not constructed with similar or better quality workmanship as the original structure including permanent attachment to the principal structure and construction of a foundation as required herein.

Section 23.12 - STANDARDS for HOME OCCUPATIONS

- A. Home occupations shall comply with the following standards.
 1. The occupation shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential residential character of the premises including both the dwelling and yard areas. There shall be no change in the exterior appearance of the dwelling, nor shall there be any evidence of the conduct of such home occupation other than a sign according to Article IV. There shall be no evidence of the outdoor storage associated with a home occupation including vehicles, equipment, material, and refuse.
 2. The occupation, including associated equipment, shall not produce any noise, odors, vibration, fumes or smoke detectable to normal sensory perception beyond the lot lines. No equipment or process shall be used which creates electrical interference in any radio, television, or communication receivers off the premises, or cause fluctuations in line voltage off the premises.
 3. The home occupation shall not involve the use or storage of explosive, flammable, or otherwise hazardous materials and waste not otherwise of a customary household nature. Refuse generated by the occupation shall be safely and properly disposed of.
 4. The home occupation shall not employ any persons on the lot except for employees residing in the dwelling.
 5. The home occupation shall not occupy an area greater than one-quarter (1/4) of the gross floor area of the dwelling including the basement.
 6. Visitors, customers and deliveries to the home occupation shall not exceed a total of that which is customarily associated with a single family dwelling, and traffic associated with such home occupation shall not unreasonably interfere with the use and enjoyment of nearby properties, taking into consideration such matters as the size and noise characteristics of vehicles associated with visitors, customers and deliveries, and the location of the driveway and parking area on the lot and in relation to the lot lines and nearby dwellings.

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Section 23.13 OUTDOOR FURNACES

A. Definitions: For the purpose of this Section and Ordinance, the following definitions shall apply:

1. **Natural wood:** Tree trunks and branches of a minimum diameter of one (1) inch excluding leaves and needles; wood that has been milled and dried including wood pellets; and corn and agricultural seeds. However, no such material shall constitute natural wood if it has been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.
2. **Outdoor furnace:** An accessory structure intended not to be located within a building occupied by humans or domestic animals, which is designed for heating spaces or liquids within an occupied building, or outdoor swimming pool or spa, through the burning of fuel.

B. Approval Procedure: Outdoor furnaces are classified as accessory structures and shall be subject to Zoning Administrator approval. A zoning permit application for an outdoor furnace shall include a clearly legible drawing, to scale, that identifies the parcel's lot lines and existing structures, the proposed location of the furnace, and the proposed furnace's distance from all lot lines, and a copy of the manufacture's specifications for such furnace. The Zoning Administrator shall issue a zoning permit for an outdoor furnace upon finding that the application complies with the standards and regulations of this Section and Ordinance.

C. Standards:

1. Outdoor furnaces are authorized on all lots in all districts provided the lot is of a minimum one (1) acre in area and where there is compliance with all other standards of this Section and Ordinance.
2. An outdoor furnace shall be equipped with properly functioning spark arrestors and shall comply with all building codes of the Township and all other regulations and requirements of county, state and federal agencies. Where local codes, state or federal regulations establish standards in excess of the manufacture's specifications, such furnace shall not be erected.
3. The furnace shall be located a minimum of one hundred (100) feet from a lot line except where the furnace is to be located in an R-2 or R-3 District, in which case such minimum setback shall be one hundred fifty (150) feet.
4. The outdoor furnace shall have a chimney that extends at least fifteen (15) feet above the average ground surface below as measured at all corner points of the furnace, and in no case shall the chimney be less than two (2) feet above the peak of any existing building on a separate lot that is within three hundred (300) feet of the furnace and intended for human occupancy. "Existing building" shall mean any building existing on the effective date of this Section 23.13 or any building for which a building permit has been issued prior to the effective date of this Section 23.13 but yet to be constructed. Nothing in this subsection (4) shall be construed to authorize a chimney height that exceeds the manufacturer's specifications. See subsection (1) above.
5. No outdoor furnace shall rely on any fuel except natural wood as defined in subsection (A) above. For clarification purposes, prohibited fuels include, but are not limited to, rubbish or garbage including but not limited to food wastes; food wraps; packaging; animal carcasses; paint or painted materials; furniture; composite shingles; construction or demolition debris or other household or business wastes; asphalt and products containing asphalt; plywood or composite wood; any plastic material including but not limited to nylon, PVC, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers; rubber including tires and synthetic rubber-like products; and newspaper, corrugated cardboard, container board, office paper and other similar materials.

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Section 23.14 FARM-BASED BIOFUEL PRODUCTION FACILITIES

- A. Definitions:** For the purpose of this Section, the following terms and phrases shall have the following meanings:
1. Biofuel: Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol and biodiesel. Biofuel does not include methane or any other fuel product from an anaerobic digester.
 2. Ethanol: A substance that meets the ASTM international standard in effect on July 19, 2011 as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.
 3. Farm: That term as defined in section 2 of the Michigan Right to Farm Act, 1981 PA 93, MCL 286.472.
 4. Proof gallon: That term as defined in 27 CFR 19.907.
- B. Production Facilities Classified as “Accessory Uses”:** A biofuel production facility located on a farm with an annual production capacity of not more than 100,000 gallons of biofuel, is classified as an “accessory use” and is not subject to special land use approval, provided all of the following requirements are met:
1. The biofuel production facility is located not less than 100 feet from the boundary of any contiguous property under different ownership than the property on which the biofuel production facility is located and meets all other applicable setback requirements of this Ordinance.
 2. On an annual basis, not less than 75% of the feedstock for the biofuel production facility is produced on the farm where the biofuel production facility is located, and not less than 75% of the biofuel or another product or by-product produced by the biofuel production facility is used on that farm.
- C. Production Facilities Classified as “Special Land Uses”:**
1. A biofuel production facility located on a farm with an annual production capacity of not more than 100,000 gallons of biofuel is classified as a “special land use” if the facility meets the requirements of subsection (B)(1) but that does not meet the requirements of subsection (B)(2).
 2. A biofuel production facility located on a farm with an annual production capacity of more than 100,000 gallons but not more than 500,000 gallons of biofuel, is classified as a “special land use” if the facility meets the requirements of subsection (B)(1).
- D. Application Requirements:** An application for special land use approval for a biofuel production facility described in subsection (C) shall include the required information according to Article XIX in addition to the following:
1. A description of the process to be used to produce biofuel.
 2. The number of gallons of biofuel anticipated to be produced annually.
 3. An emergency access and fire protection plan that has been reviewed and approved by the appropriate responding police and fire departments.
 4. For an ethanol production facility that will produce more than 10,000 proof gallons annually, completed United States department of the treasury, alcohol and tobacco tax and trade bureau, forms 5000.29 (environmental information) and 5000.30 (supplemental information on water quality considerations under 33 USC 1341(a)), or successor forms, required to implement regulations under the national environmental policy act of 1969, 42 USC 4321 to 4347, and the federal water pollution control act, 33 USC 1251 to 1387.
 5. Information that demonstrates that the biofuel production facility will comply with the requirements of subsections (2) and (5).
 6. Any additional information requested by the Planning Commission and relevant to compliance with this Ordinance.
- E. Special Land Use Public Hearing:** The Township shall hold a hearing on a special land use application for a biofuel production facility under subsection (C) not more than 60 days after the application is filed.
- F. Special Land Use Conditional Approval:** Special land use approval of a biofuel production facility described in subsection (C) shall be made expressly conditional on the facility meeting all of the following requirements before the facility begins operation and no additional requirements:
1. Buildings, facilities, and equipment used in the production or storage of biofuel comply with local, state, and federal laws.
 2. The owner or operator of the biofuel production facility provides the local unit of government with proof that all necessary approvals have been obtained from the department of environmental quality and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:
 - a. Air pollution emissions.
 - b. Transportation of biofuel or additional products resulting from biofuel production.
 - c. Use or reuse of additional products resulting from biofuel production.
 - d. Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
 3. The biofuel production facility includes sufficient storage for both of the following:
 - a. Raw materials and fuel.

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- b. Additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

Section 23.15 MEDICAL MARIJUANA

- A. Definitions:** For the purpose of this Section, the following terms and phrases shall have the following meanings:
1. Marijuana: As defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.
 2. Primary caregiver: A person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana, who has been issued and possesses a registry identification card to do so according to the Medical Marijuana Act, MCL 333.26421 et seq, and who otherwise meets the definition of a primary caregiver under the Act.
 3. Qualifying patient: A person who has been diagnosed by a physician as having a debilitating medical condition, as defined by the Medical Marijuana Act, MCL 333.26421 et seq, and who has been issued and possesses a registry identification card according to the Act.
- B. Authorization:** The growing, distribution and use of marijuana is prohibited except as provided in this Section. The growing, possession and medical use of marijuana in accordance with the Michigan Medical Marijuana Act, MCL 333.26421 et seq, is permitted only as a home occupation though the growing and possession of the medical marijuana may occur in an accessory structure on the premises. Such home occupation may operate within a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver or registered qualifying patient, and which may be located within the associated dwelling or within an accessory structure on the premises.
1. Nothing in this Section shall be construed as authorizing any retail store, store front, office building, or other structure or any type of mobile unit or entity that dispenses, facilitates, stores, sells, or provides, in any manner, marihuana or cannabis or any product containing marihuana or cannabis, or any facility used to cultivate marijuana, except as a Class 1 home occupation according to the requirements of this Section.
 2. Nothing in this Section shall be construed as authorizing any use of a parcel for a club or other entity whose purpose includes the gathering of qualified patients to smoke or otherwise ingest marijuana.
- C. Standards and Conditions:** The following standards and conditions shall apply in addition to the standards of Section 23.12, except where expressly provided otherwise. Where the following standards and conditions are more stringent than those of Section 23.12, the more stringent standards and conditions shall apply.
1. No medical marijuana home occupation shall be operated except in a single family dwelling or accessory structure thereto.
 2. No medical marijuana home occupation shall be operated by anyone other than a primary caregiver. Such primary caregiver shall reside in the dwelling on the parcel where the home occupation is occurring.
 3. No more than one (1) primary caregiver residing in a dwelling shall operate a medical marijuana home occupation.
 4. The growing of marijuana shall be contained in a closet, room, or other enclosed area equipped with locks or other security devices that permit access only by a registered primary caregiver according to the Medical Marijuana Act, MCL 333.26421 et seq., and such containment area shall not exceed 600 square feet in floor area.
 5. No more than seventy-two (72) marijuana plants shall be grown on the parcel at any one time.
 6. There shall be no sign erected pertaining to the home occupation.
 7. All aspects of a medical marijuana home occupation shall comply at all times with the provisions of the Michigan Department of Community Health and the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

End of Article XXIII

(Art. XXIII amended 6-14-10 / Ord. 24-3 to address supplemental provisions, its previous subject matter, amendment procedures, relocated to Art. XX)

(Art. XXIII amended 3-14-11 / Ord. 24-4 to insert Sec. 23.11 Standards for Single Family Dwellings, Sec. 23.12 Standards for Home Occupations, and Sec. 23.13 Outdoor Furnaces)

(Art. XXIII amended 5-14-12 / Ord. 24-6 to insert Sec. 23.14 Farm-Based Biofuel Production Facilities and Sec. 23.15 Medical Marijuana)

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Article XXIV DEFINITIONS

Section 24.01 - Construction of Language

- A. For the purpose of this Ordinance, certain rules of construction apply to the text as follows:
1. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
 2. The word "person" includes a corporation, association, partnership, trust, firm, or similar activity as well as an individual.
 3. The word "building" includes the word "structure" and both include any part thereof.
 4. The word "lot" includes the word "plot", "tract", or "parcel".
 5. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
 6. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended to be used or occupied," "arranged to be used or occupied," "maintained to be used or occupied," or "designed to be used or occupied."
 7. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, and schedules, as included or attached as enacted or subsequently amended.
 8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
 9. The "Township" is the Township of Clarence in the County of Calhoun, State of Michigan. The "Township Board", "Zoning Board of Appeals" and "Planning Commission" are, respectively, the Board of Trustees, Zoning Board of Appeals, and Planning Commission of the Township.
 10. Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
 11. Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

Section 24.02 - DEFINITIONS

Accessory Building or Structure: A building or structure, or portion thereof, customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.

Accessory Use: A use of a building, lot, or portion thereof, which is customarily incidental and subordinate to the principal use of the building or lot, or portion thereof, and located on the same lot as the same.

Adult Entertainment Businesses: See Sec. 7.03.

Adult Foster Care Facility: An establishment licensed under Public Act 218 of 1979, as amended, that provides to adults, for compensation, supervision, personal care, and protection in addition to room and board, for 24 hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks, including facilities for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. A foster care facility does not include a home for the aged licensed under Article 17 of Public Act 368 of 1978, as amended, nor a nursing home licensed under Public Act 139 of 1956, as amended.

- a. **Family Home:** An adult foster care facility consisting of a private residence with the approved capacity to receive six (6) or fewer adults, the licensee for which shall be a member of the household and an occupant of the residence.
- b. **Group Home:** An adult foster care facility with the approved capacity to receive seven (7) but no more than twenty (20) adults.

Agricultural Service Establishments: Establishments which engage in performing agricultural, animal husbandry or horticultural services on a fee or contractual basis, including but not limited to centralized bulk collection, refinement, storage and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower; and agricultural produce milling and processing); the storage and sale of seed, feed, fertilizer and other products essential to agricultural production; hay baling and threshing; crop dusting; fruit picking; harvesting and tilling; veterinary services; slaughter houses, and facilities used in the research

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and testing of farm products and techniques.

Agriculture: The commercial 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, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. "Agriculture" includes buildings and machinery used in such commercial production. "Agriculture" does not include kennels.

Assisted Living Facilities: Any facility licensed by the State of Michigan that provides residential services to adults in addition to any other services essential for sustaining the activities of daily living, and not otherwise constituting an adult foster care facility as defined in this Ordinance. Such additional services may include, but need not be limited to, the provision of meals including congregate meals, transportation services, entertainment, occasional or regular nursing care, and day trips. The phrase "assisted living facility" shall include a facility that houses disabled persons who receive a wide range of health and support services and which may also be referred to as a nursing home or convalescent home, but shall not include a hospital or medical clinic as defined in this Ordinance.

Basement: That portion of a building below the first story floor joists, at least half of whose clear ceiling height along the perimeter of such building portion is below the level of the adjacent ground. A basement shall not be considered as a story.

Bed and Breakfast: A structure that was constructed for single family residential purposes and in which the structure's owner resides, but which is used for the purpose of renting bedrooms on a nightly basis to tourists, including the provision of bathing and lavatory facilities and a breakfast meal only for such tourists only.

Building: Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes but is not limited to greenhouses, tents, sheds, and dwellings including mobile homes.

Building Height: The vertical distance from the average of the highest and lowest finished elevation along the perimeter wall of the building to the highest point of the roof surface.

Building Inspector: An individual hired by the Township or Calhoun County to administer the Michigan Construction Code.

Cemetery: Property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings or customary household pets.

Certificate of Occupancy: A document signed by the Building Inspector as a condition precedent to the commencement of a use or the occupation of a structure or building, which acknowledges that such use, structure or building complies with the provisions of this Ordinance and the Michigan Construction Code.

Church: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Club: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit nor open to the general public, and does not provide merchandise, vending, or commercial activities except incidentally for the membership and purpose of such club.

Commercial Campground: A facility where sites are offered for the establishment of temporary living quarters, for a fee, and which is not owned by an agency or department of a city, village, township, county or state government. Temporary living quarters means a tent, recreational vehicle, or any portable temporary housing designed to be carried or towed by a vehicle and placed for temporary living quarters. A "commercial campground" shall not be construed to include any facility or portion of a facility where such temporary housing sites are purchased by users or otherwise not owned by the facility owner, including but not necessarily limited to condominium ownership.

Communication Tower: A relay structure, including both antenna and structural supports, attached directly to the ground or to another structure, used for the transmission or reception of radio, television, telephone, microwave, or any other form of telecommunications signals. Not included within this definition are: citizen band radio facilities; short wave receiving facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and governmental facilities that are subject to state or federal law or regulations that preempt municipal regulatory authority.

Condominium: A project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Public Act 59 of 1978, as amended).

Condominium Master Deed: The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project.

Condominium, Site: A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision, wherein in the condominium units function largely as lots within a platted subdivision.