

ONEKAMA TOWNSHIP
PERMANENT ZONING ORDINANCE
OF 1991

AS AMENDED THROUGH MARCH 2014

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ARTICLE 1- PREAMBLE

101. Title

This Ordinance shall be known as the "Onekama Township Zoning Ordinance."

102. Purpose

- A. To promote the public health, safety and general welfare.
- B. To encourage the use of lands and water in accordance with their character and capabilities and to limit the improper use of the land and water.
- C. To conserve natural resources and energy.
- D. To meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service and other uses of land.
- E. To insure that uses of land and water shall be appropriate for the area in which the uses are located.
- F. To avoid overcrowding of population.
- G. To provide adequate light and air.
- H. To lessen congestion on the public roads and streets.
- I. To reduce hazards of life and property.
- J. To facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements.
- K. To conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and property.
- L. To reasonably consider the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.
- M. To prevent economic and ecological damages due to unwise development within the environmental areas and to prevent the degradation of the shore lands.

103. Legal Basis

This Ordinance is enacted pursuant to Michigan Act 184 of the Public Acts of 1943, as amended, being the Township Rural zoning Act, MCL 125.271 *et seq.* July 1, 2006, the Township Rural Zoning Act, MCL 125.271 *et seq.* was repealed and replaced by the Michigan Zoning Enabling Act, P.A. 110 of 2006, MCL 125.3101 *et seq.*

[Annotation: Modified by Amendment, effective, July 13, 2007.]

104. Effective Date

This Ordinance was adopted by the Township Board of the Township of Onekama, Manistee County, Michigan, at a meeting held on September 3, 1991 and a notice of publication ordered published in the Manistee News Advocate, a newspaper having general circulation in said Township, as required by Public Act 184 of 1943, as amended, being the Township Rural Zoning Act, MCL 125.271 *et seq.* This ordinance shall be effective on September 21, 1991 at 12:01 am.

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ARTICLE 5 – DEFINITIONS

501. Purpose

For the purpose of this Ordinance, certain terms and words are herein defined. Words used in the present tense include the future, words in the singular number include the plural number and words in the plural include the singular number. The word "shall" is always mandatory and not merely directory. The word "person" shall mean an individual, partnership, corporation, or other association or their agents. Terms not herein defined shall have the meanings customarily assigned to them.

502. Standard Industrial Classification Manual

- A. For purposes of this Ordinance, where "uses" and "special uses" are listed for each land use district, those terms are defined in Section 503 of this Ordinance.
- B. Terms denoting "uses" which are not defined in Section 503 of this Ordinance, but which are followed by a capital letter and/or number or series of numbers enclosed in brackets ([]) shall be defined as found under the respective Standard Industrial Classification Code, as found in the Standard Industrial Classification Manual, 1987 published by the Executive Office of the United States President, Office of Management and Budget, and adopted by reference herein. Terms defined by use of the Standard Industrial Classification Code shall be exclusive and shall include only those uses or activities found included in the respective Standard Industrial Classification(s). A listing of more general classifications shall include all sub-classifications included within the general classification. If a term denoting a use is defined in Section 503 of this Ordinance, that use shall not be considered within the respective Standard Industrial Classification(s), Standard Industrial Classification Manual, 1987 notwithstanding.
- C. Terms denoting "uses" which are not defined in Section 503 of this Ordinance, and not followed by a bracketed Standard Industrial Classification reference shall be interpreted within its common and approved usage.

503. Definitions

ACCESSORY BUILDING OR STRUCTURE means

- A. A supplemental building or structure on the same lot or parcel of land as the main building or buildings, the use of which is incidental or secondary to that of the main building. It is the intent of this ordinance not to allow storage buildings in the Resort Residential Districts 1, 2, 3 and 4, and Special and Unique Residential as established in section 1801 of this ordinance, unless main dwelling is located on the same lot of land.
- B. Accessory structures include, but are not limited to tents, sheds, storage structures, playground equipment (non-residential), gazebos, parking lots, sports courts, fences within the setback areas, swimming pools. Recreational vehicles and travel trailers which are clearly not permanent and are easily removed are not considered accessory structures. Under no circumstances shall a septic system or tile field be considered an accessory structure.

[Annotation: Modified by amendment effective February 9, 1999]

[Annotation: Modified by Amendment, effective, July 13, 2007.]

ACCESSORY USE means a use naturally or normally incidental and subordinate to, and devoted exclusively to, the main use of the land or building (premises).

ADMINISTRATOR means the Onekama Township Zoning Administrator.

ADULT BOOK AND/OR VIDEO STORE means an establishment having, as a substantial or significant portion of its stock in trade, books, videotapes, computer services, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting ,

describing or relating to "specified sexual activities" or "specified anatomical areas," hereinafter defined;

[Annotation: Added by amendment effective August 10, 1997]

ADULT LIVE ENTERTAINMENT ESTABLISHMENTS REGARDLESS OF WHETHER AGRICULTURAL LAND means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities. **ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SERVED** means establishments which include a nightclub, bar, restaurant, or similar commercial establishment, which features (a) persons who appear nude or in a "state of nudity" or "semi-nude"; and/or (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"

[Annotation: Added by amendment effective August 10, 1997]

ADULT MOTION PICTURE THEATER means an enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or specified anatomical areas," as hereinafter defined for observation by patrons therein;

[Annotation: Added by amendment effective August 10, 1997]

ADULT MINI MOTION PICTURE THEATER means an enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined for observation by patrons therein;

[Annotation: Added by amendment effective August 10, 1997]

ADULT PANORAMS means an establishment which has a substantial or significant portion of its business devoted to the viewing by patrons of films, tapes, or live entertainment showing "specified sexual activities" or "specified anatomical areas";

[Annotation: Added by amendment effective August 10, 1997]

ADULT PARAPHERNALIA/NOVELTY STORE means an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal;

[Annotation: Added by amendment effective August 10, 1997]

ALTERATION means any change, addition or modification in use or type of occupancy, any change in the structural members of a building, such as walls, partitions, columns, beams, girders, or any change which will substantially change the appearance or size of the structure. **AGRICULTURAL LAND** means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

[Annotation: Modified by Amendment, effective, July 13th, 2007.]

APARTMENT BUILDING means a use which is a building or portion thereof used or designed as three (3) or more dwelling units, each designed for a family, each dwelling unit having living and cooking facilities independent of each other.

ARTICLE means the main divisions of this Ordinance, cited by the words "section XXX, *et seq.*" **ARTICLES** are further divided by sections.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

BASEMENT or CELLAR means a basement is that portion of a building partly below grade but so located that the vertical distance from the average grade to the floor is not greater than the vertical distance from the average grade to the ceiling. A cellar is that portion of a building partly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

BED AND BREAKFAST means a home occupation in an owner occupied or resident manager occupied dwelling unit wherein up to eight (8) bedrooms are used for transient guest use for compensation and by pre-arrangement. A continental or American breakfast may be served to overnight guests only. (A breakfast that includes more than coffee, juice and commercially prepared rolls requires a permit from the Michigan Department of Health.)

[Annotation: Added by amendment effective February 9, 1999]

BEACH ACCESS STRUCTURE means a stairway or other device allowing access to the beach.

[Annotation: Added by amendment effective July 5, 2005]

BILLBOARD or ADVERTISING SIGN means any structure or portion thereof upon which a sign or advertisement is used as an outdoor display for the purpose of making anything known to the general public, but not including bulletin boards used to display official court, church or public office notices.

BLUFFLINE means the line which is the edge or crest of the elevated segment of the shoreline above the beach which normally had a precipitous front inclining steeply on the lake ward side. Where there is no precipitous front indicating the bluff line, the line of continuous perennial vegetation may be considered the bluff line.

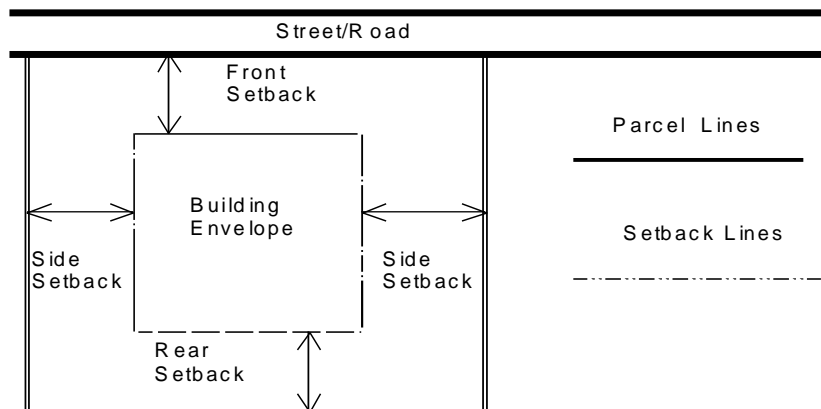
[Annotation: Added by amendment effective July 5, 2005]

BOAT LIVERY means a use which is a premises on which boats or floats of any kind are kept for the purpose of renting, leasing or providing use thereof to persons other than the owners for a charge or fee.

BUILDABLE AREA means an area of a lot which is of sufficient size and character so as to support a principal structure and a reasonable use of the property without being in violation of any local, state or federal environmental or other regulations adopted to protect the public health, safety or general welfare. Buildable area shall not include any wetland, 199-year floodplain, high risk erosion area, drainage way, lake or similar natural feature which poses an impediment or hazard to safe construction or use of property without sufficient upland property to meet ordinance requirements. Contour changes to create a Buildable area are permissible only if not contrary to this ordinance, or any other state or federal statute.

BUILDING means a structure, either temporary or permanent, having a roof supported by columns or walls, used or capable of being used for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING ENVELOPE means that portion of a parcel of land excluding the setbacks as applied to that parcel by this "Ordinance".



[Annotation: Added by amendment effective September 12, 2000]

BUILDING HEIGHT means the vertical distance measured from the average existing grade at the building site to the highest part of the roof.

[Annotation: Added by amendment effective February 9, 1999]

BUILDING, PRINCIPAL means a building in which is conducted the principal use of the premises on which it is situated.

CABIN means a small roughly built building to be used in connection with camps, but not necessarily including all the amenities of a dwelling as the state allows. A cabin may contain shared bathing and eating facilities.

[Annotation: Added by amendment, effective, January 12, 1997.]

COMMUNICATION TOWER: A radio, telephone, cellular telephone or television relay structure attached directly to the ground or to another structure, used for the n or reception of radio, telephone, cellular telephone, television, microwave, or any other form of telecommunication signals. Common examples include, but shall not be limited to, towers used in connection with Personal Communications Systems (PCS), cellular radiotelephone services, television, microwave relay, radio and paging. Also included are services that are non-licensed, but are deployed through equipment authorized by the FCC and common carrier wireless exchange services designed as competitive alternatives to traditional wireless exchange providers. Not included are towers for residential use such as television, radio or ham radio antennae. For the purposes of this Ordinance, communication towers are not considered essential services.

[Annotation: Added by amendment effective July 16, 1998]

CONDOMINIUM means a site or any portion of a structure which is or will be used for commercial, single-family residential and/or family residential purposes land which is or will be a unit in a condominium project lawfully established in accordance with the Michigan Condominium Act, as amended, being MCL 599.101 *et. seq.* Each residential condominium shall be used solely as a home residence, or living or sleeping place for one or more human beings, either permanently or as transients, and shall be designed to provide living space for one (1) family, which space will contain sleeping space and may, but need not, contain cooking and eating space.

[Annotation: Added by amendment effective January 8, 1995. This amendment was challenged by petition. The electors of Onekama Township at a referendum approved this amendment at a special election June 6, 1995.]

CONSERVATION EASEMENT: means that term as defined in Section 2140 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL.

[Annotation: Added by amendment, effective, July 18th, 2008]

CORNER LOT means a lot on which at least two (2) adjacent sides abut for their full length upon a street, provided that such two (2) sides intersect at an angle of not more than 135 degrees.

CORNER LOTS, SETBACKS – front yard setbacks for the respective zoning district shall be used for yards adjacent to rights-of-ways. Side yard setbacks for the respective zoning district shall be used from the remaining lot lines.

[Annotation: Added by amendment effective July 5, 2005]

DEQ means the State of Michigan Department of Environmental Quality.

[Annotation: Added by amendment effective February 9, 1999]

DNR means the Michigan Department of Natural Resources.

DRIVEWAY means a short private road leading from the street to a house, garage or parking area.

[Annotation: Added by Amendment, effective, January 12, 1997.]

DUPLEX means a use which is a dwelling designed to provide separate living, cooking and eating space for two (2) families.

DWELLING means a use which is any house, building, structure, state licensed residential facility, or portion thereof which is occupied in whole or in part as a home, residence, living or sleeping place for one or more human beings, either permanently or as transients designed to provide living, cooking and eating space for one family only, and does not have a common wall with any other dwelling. In no case shall a trailer coach, automobile chassis, tent or portable building be considered a dwelling.

EASILY REMOVABLE – a structure that is not built on a slab and does not have a permanent foundation that can be easily removed.

[Annotation: Added by amendment effective July 5, 2005]

ERECTED means built, constructed, reconstructed, moved upon, or any physical operation on the premises required for the building.

EXISTING BUILDING means a building existing in whole or whose foundations are completed and whose construction is being diligently prosecuted on the effective date of this Ordinance.

FAMILY means:

- A. An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or

- B. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

FAMILY DAY-CARE HOME and GROUP DAY-CARE HOME mean those terms as defined in Section 1 of 1973 P.A. 23, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group day-care home.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

FARM means a use which is all of the continuous, neighboring or associated land operated as a single unit on which bona fide farming operations are being carried on directly by the owner, operator, manager or tenant farmer, by his own labor, or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a continuous lot of ten (10) acres or more in area; provided, further, that green houses, nurseries, orchards, apiary, poultry hatcheries, poultry farms, and similar specialized operations may be considered as farms without regard to aforesaid ten (10) acre limitation; but establishments keeping or operating fur bearing animals, game fish hatcheries, dog kennels, stock yards, slaughter houses, stone quarries, gravel or sand pits, shall not be considered farms hereunder, unless combined with and constituting a minor part of bona fide farm operations on the same continuous tract of land. Premises operated as fertilizer works, boneyards, or for the reduction of animal matter, or for the disposal of garbage, sewage, rubbish, offal or junk shall not constitute a farm hereunder.

FARM BUILDINGS means any building or structure other than a dwelling, moved upon, maintained, used or built on a farm which is essential to and customarily used on farms in the pursuit of agricultural activities.

FENCE means a structure or planted hedgerow designed to restrict passage and/or vision through it; and/or for purposes of decoration.

FLOOR AREA of a principle structure means the area a building covers on the ground; exclusive of garage, breezeway, porch, patio and deck.

GARAGE means any building or part thereof for storage of motor vehicles or trailer coaches where no servicing for profit is conducted which is accessory to a dwelling, duplex or apartment building.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

GUEST HOUSE means a structure that is used on a temporary basis as overflow housing, and is not a rental unit.

[Annotation: Modified by Amendment, effective, July 13th, 2007.]

HABITABLE GROUND FLOOR AREA means, unless otherwise designated, floor area shall be considered as the habitable main floor area, exclusive of garage, breezeway or porches of a dwelling.

[Annotation: Appeals Board on Jan 29, 1988, ruled "Habitable Ground Floor Area" and "Minimum Floor Area" as used in the Ordinance text are synonymous.]

HAZARDOUS WASTE/HAZARDOUS SUBSTANCE includes but is not limited to flammable, corrosive, toxic and/or reactive materials such as insecticides, herbicides, paints, poisons, wood preservatives, petroleum based materials, chemical solvents. Reference Public Law 96-510, 94 Stat 2767, and 1979 PA 64, being MCL 299.501 to MCL 299.551, The Hazardous Waste Management Act.

[Annotation: Added by amendment, effective, January 12, 1997.]

HIGH RISK EROSION AREAS means an area designated as a high risk area due to shore land erosion by the Department of Natural Resources pursuant to the Shore Lands Protection and Management Act, Public Act 245 of 1970, as amended.

HIGH WATER MARK; See Ordinary High Water Mark.

HOME OCCUPATION means a use which is any activity carried out for gain by a resident and conducted as an accessory use in the person's home, but not a hobby.

HOBBY means an activity carried out by a person primarily for pleasure and self-entertainment.
 HOST OR HOSTESS ESTABLISHMENTS means establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee.

[Annotation: Added by amendment effective August 10, 1997]

HOTEL means a use which is any of a series of attached or semi-detached or detached rental units under common ownership and management in which all rental units of the facility remain available for rental to the general public on a short term transient basis for a reasonable portion of the operational year and containing bedroom, bathroom, closet space, and common areas for laundry facilities, recreational areas and related services, and which also include a restaurant and/or drinking establishment where food and drink are served or provided for guests and the public by preparation for direct consumption or service on the premises or elsewhere. A Hotel may include reasonably necessary staff quarters. A Hotel site shall contain a minimum of 10 acres. For purposes of this Ordinance, boat dockage which is established, maintained and operated exclusively for the direct use and/or benefit of current hotel guests, or patrons, shall be an accessory use of a Hotel when such boat dockage is operated in compliance with all applicable laws and in accordance with the provisions of a Special Use Permit obtained pursuant to Section 8601, *et seq.*, of this Ordinance, but in no event shall any guest or patron or association of guests or patrons be given the exclusive right to use any specific dock slip, nor shall any dock slip be rented for overnight use, except in conjunction with the contemporaneous rental of a hotel unit or units.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

IMPROVEMENTS means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project that is the subject of zoning approval.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

JUNK means

- A. old scrap ferrous or nonferrous material, rubber, cloth, paper, rubbish, refuse, litter;
- B. materials from demolition, waste building materials; and junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, farm equipment, boats, trailers, mobile homes, appliances and all other machines.

But shall not include

- A. Items being held for a customer while parts are being sought for its repair,
- B. Items that are classic or antique kept and collected for their antique or collectable value, and
- C. Items and junk kept at a licensed Type I, II or III landfill for purposes of disposal of solid waste, incineration, recycling and resource recovery.

JUNKYARD means a business enterprise, or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion, or recovery of junk, and is a business which is included in the Standard Industrial Classification Manual of 1972 prepared by the U. S. Office of Management and Budget, classification 5093 and some enterprises in classification 5931, whether a part of a licensed landfill operation or not; but shall not include any part of a landfill as defined in the Solid Waste Management Act.

LAND USE PERMIT means a standard form issued by the Administrator or his agent or the Zoning Board of Appeals pursuant to this ordinance, upon application by an owner or his agent, for the proposed construction of a structure and/or the use of land in compliance with the provisions of this ordinance. A Basic Site Plan is required.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

LEGISLATIVE BODY means the Onekama Township Board.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

LOT means any portion, piece or division of land, excluding any portion in a street or other right-of-way, of at least sufficient depth as to comply with the setback requirements provided for in this ordinance. Such lot may consist of:

- A. A single lot of record;
- B. A portion of a lot of record;
- C. Any combination of complete and/or portions of contiguous lots of record; or
- D. A lot of land described by metes and bounds, provided that in no case of a lot division or combination shall the depth of any lot created, including residuals, be less than that necessary to comply with the setback requirements of this ordinance. See also the definition of "PARCEL".

[Annotation: Added by amendment affective July 5, 2005]

LOT AREA means the total horizontal area within the lot lines, as defined, of a lot. For lots fronting or lying adjacent to private streets, lot area shall be that area within lot lines separating the lot from the private street and not measuring from the centerline of the private street.

LOT DEPTH means the mean horizontal distance from the front street line to the rear lot line.

LOT LINES means the lot lines are the property lines bounding the lot.

- A. "Front lot line" in the case of a lot abutting upon one public or one private street means the line separating such lot from such street right-of-way. In the case of any other lot, the owner shall, for the purpose of this ordinance, have the privilege of electing any street lot line as the front lot line, providing that such choice, in the opinion of the Administrator, will not be injurious to the existing or the desirable future development of adjacent properties.
- B. In the case of water frontage (riparian) lots, the lake "front lot line" shall be the water's edge, the ordinary high water mark (defined as a contour line 580.5 feet above sea level) or the lake ward face of a permanent seawall, whichever is the closer to the uplands. In the case of a lot that is contiguous to a riparian road right-of-way, the lake "front lot line" shall be the line separating the lot from the road right-of-way. (For the purposes of this ordinance, a permanent seawall is a seawall constructed from wood, metal or concrete, not loose laid riprap.)

[Annotation: Modified by amendment effective September 12, 2000]

- C. A "rear lot line" is ordinarily that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular or gore-shaped lot for the purpose of determining depth of rear yard, a rear lot line shall be considered to be a line ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot. Where none of these cases apply, the Administrator shall designate the rear lot line.
- D. A "side lot line" is any lot line not a front lot line or a rear lot line.

LOT OF RECORD means a lot which is part of a subdivision and is shown on a plat or map thereof which has been recorded in the office of the Register of Deeds of Manistee County prior to the effective date of this ordinance, or amendment thereto, or a parcel of land described by survey or metes and bounds, the deed or land contract of which has been recorded in said office prior to said date.

LOT WIDTH: means the mean horizontal distance between the side lot lines, measured at right angles to those lines. Where side lot lines are not parallel, the lot width shall be considered as the average of the width throughout the lot between such lot lines. The minimum lot width, at any point in the lot, shall not be less than the required road frontage of the respective Land Use District.

[Annotation: Modified by amendment, effective, July 18, 2008]

MARINA means a use which is a facility which is owned or operated by an individual, partnership, corporation, association or other legal entity, extends into or over, or abuts, an inland lake or stream and offers service to the public or members of the marina for docking, loading, or other servicing of recreational water craft. One boat dock maintained for private non-commercial use on lakefront lots shall not be included within the definition of "marina". Further, boat dockage established, maintained and used as an accessory use to a hotel, as defined in Section 503 of this ordinance shall not be included within the definition of "marina".

MASSAGE PARLOR means any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the hands, feet, scalp, face, neck or shoulder. This definition shall not be construed to include the practices of massage therapists who meet one or more of the following criteria:

- A. Proof of graduation from a school of massage licensed by the State of Michigan;
- B. Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
- C. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or,
- D. A current occupational license from another state;

[Annotation: Added by amendment effective August 10, 1997]

MOBILE HOME means a dwelling, transportable in one or more sections which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan Public Act 419 of 1976 and administrative rules promulgated there under.

MOBILE HOME PARK means a use which is a site, lot, field or tract of land upon which two (2) or more occupied mobile homes are harbored, or which is offered to the public for that purpose, regardless of whether a charge is made thereof, together with any building, structure, enclosure, street, equipment or facility used or intended for use incidental to the harboring or occupancy of mobile homes. Mobile home parks shall be constructed, operated, and maintained in accordance with the Mobile Home Commission Act, Public Act 419 of 1976, as amended, and the rules and regulations promulgated there under.

MOVEABLE STRUCTURE means a building certified for the purpose of this ordinance to be moveable by a registered engineer or architect or a structure which is of such design in size that facilitates moving. The structure must be of sufficient structural design to withstand the stress associated with moving and no structure shall be considered moveable if the lot on which it is placed is not accessible to moving equipment.

NONCONFORMING BUILDING OR STRUCTURE means a building or structure or portion thereof lawfully existing at the effective date of this Ordinance, or any amendments thereto, and which does not conform to the provisions of this Ordinance in the district in which it is located.

NONCONFORMING LOT means a lot of record or a lot described in a deed or land contract executed and delivered prior to the effective date of this ordinance, or an amendment thereto, which does not meet the minimum requirements of the land use district in which it is located, and also means lots which become substandard due to natural processes provided each lot was created with sufficient depth to accommodate a principal structure and meet ordinance setback requirements after this ordinance or amendment became effective.

NONCONFORMING USE means a use which lawfully occupies a building or land at the effective date of this ordinance, or any amendments thereto, and which does not conform to the use regulations of the zoning district in which it is located.

NUDITY for purposes of this Ordinance means exposure in a public place of male or female genitalia, female breasts, or attire meant to call attention to such anatomy.

[Annotation: Added by amendment, effective, January 12, 1997.]

OPEN DANCE HALL means an establishment where open public dancing by patrons is available during at least four days per week with partners furnished by the establishment.

[Annotation: Added by amendment effective August 10, 1997]

ORDINARY HIGH WATER MARK means the line between upland and bottomland which persists

through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

Consistent with the Great Lakes Submerged Lands Act, Public Act 247 of 1955, as amended, the ordinary high water mark for Lake Michigan shall be deemed to be 580.5 feet above sea level.

PARCEL OF LAND means any tract or contiguous tracts of land in the same ownership, whether one or more platted lots or parts of lots, identified by a single property number in the Township assessment role.

[Annotation: Added by amendment effective February 9, 1999]

PARK means a use which is any non-commercial recreation area.

PASSIVE RECREATION: means recreational activities that involve the use of existing natural resources and have a minimal impact. Examples include, but are not limited to picnicking, hiking, walking and jogging and other non-motorized uses

[Annotation: Added by amendment, effective, July 18th, 2008]

PATIO/COURT YARD means a paved recreation area near or adjoining a dwelling.

[Annotation: Added by amendment, effective, January 12, 1997.]

PHASING means when a project is proposed for development in phases or stages, planning and design shall be such that upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of the natural resources and the residents of the surrounding area.

[Annotation: Added by amendment, effective, January 12, 1997.]

PLANNED UNIT DEVELOPMENT or P.U.D means a land area which contains individual building sites or multiple land use types together with common property, such as a park, and which is designed and developed under one (1) owner or organized group as a separate cohesive neighborhood or community unit.

[Annotation: Added by amendment effective February 9, 1999]

PLANNING COMMISSION means the Onekama Township Planning Commission created under authority of P.A. 168 of 1959, as amended, being MCL 125.321 et seq., and which has vested in it all powers and duties of a zoning board pursuant to P.A. 184 of 1943, as amended, being MCL 125.271 Et seq.

PRINCIPAL STRUCTURE means the main building or permanent structure on a lot which may include but is not limited to a residential, commercial, industrial, institutional, or mobile home building, and garages, permanent accessory structures and attached buildings, including a septic system, tile field or other water handling facility. A nonpermanent structure or easily removable structure such as a tent, travel trailers, recreational vehicle or similar structure shall be considered as accessory structures for the purposes of this ordinance even if no other permanent principal structure is on the lot.

PRIVATE ROAD means a road or street, serving two or more parcels, which has been constructed and will be maintained, by the owners of the parcels being served by such road or street.

[Annotation: Added by amendment effective July 5, 2005]

RECREATION VEHICLE OR TRAILER means a boat, small utility trailer, trailer, travel trailer, motor home, removable truck camper, and / or ATV, ORV, snow machines, golf cars, & similar motor driven vehicles.

[Annotation: Modified by amendment effective November 22, 2013]

RIDING STABLE means a stable used or to be used by an individual for the housing of horses for hire and to be located not less than one hundred (100) feet from any adjoining property.

ROADSIDE STAND means a use which is a temporary or permanent building operated for the purpose of selling only products raised or produced mainly on the same premises by the proprietor of the stand or his family. A roadside stand shall not be deemed a commercial activity.

RUBBISH or JUNK means the miscellaneous waste materials resulting from housekeeping, mercantile establishments, trades, manufacturing, and offices, including other waste matter such as metal, rubber, paper, rags, chemicals, auto parts, junked cars, or any similar or related combination thereof.

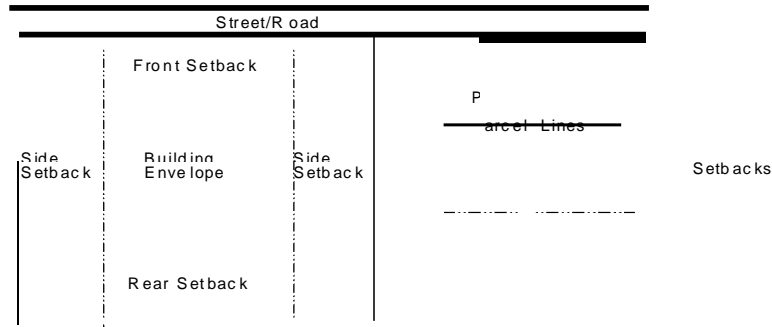
SEASONAL USE means a use requiring occupancy of less than six (6) consecutive months.

SECTION means a part of this Ordinance, being the next division under an Article. A Section is

cited by article number and section number, "XXXX", with the last two digits being the section number, and the remaining digits to the left being the article number. Sections may be further divided into subsections "A.", divisions "1.", paragraphs "a.", and subparagraphs "(1)", for example.

SETBACK means the minimum horizontal distance, measured toward the center of a parcel from the property lines, waterfront line, road right-of-way or road easement in which no portion of a building, including any steps, eaves, decks or unenclosed porches may be erected or permanently maintained. Side, rear front and waterfront setbacks correspond to the requirements of the particular land use district. (See also the definition of "Yards" in this Section.)

[Annotation: Modified by amendment effective September 12, 2000 and again on July 5, 2005]



SETBACK LINE means lines established adjacent to streets or highways for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained. "Within a setback line" means between the setback line and the nearest lot line.

SHORELAND means the land which borders or is adjacent to Lake Michigan which may extend up to 1,000 feet landward of the ordinary high water mark.

SHORELINE means that area of the shore land where the land and waters of Lake Michigan or Portage Lake meet.

SHOW CAUSE HEARING means a hearing conducted by the Planning Commission and requested by the Zoning Administrator after a person has been notified on at least two occasions of the same violation(s) of the Ordinance. The purpose of the hearing shall be to give the person the opportunity to explain any extenuating circumstances that should be known that might delay or otherwise affect the Township's decision to commence further legal action.

[Annotation: Added by amendment, effective, January 12, 1997.]

SIDEWALK means a paved walk at or near the side of a road or street.

[Annotation: Added by amendment, effective, January 12, 1997.]

SITE PLAN means the documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

SMALL STORAGE BUILDING / GARDEN SHED is a small storage building of 144 square feet or less in floor area and not exceeding a height of eight (8) feet at the eave line.

[Annotation: Modified by amendment effective November 22, 2013]

SPECIFIED ANATOMICAL AREAS means human genitals less than completely or opaquely covered including the pubic region, buttocks, or anus, or female breasts below a point immediately above the top of the areola; or human male genitals in a discernible state of tumescence, even if opaquely covered.

[Annotation: Added by amendment effective August 10, 1997]

SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

- A. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated;
- D. The display of human genitals in a state of sexual stimulation, arousal

or tumescence;

E. Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection.

[Annotation: Added by amendment effective August 10, 1997]

STATE LICENSED RESIDENTIAL FACILITY means a structure constructed for residential purpose that is licensed by the state under the adult foster care facility licensing act, 1979 P.A. 21, MCL 400.701 to 400.737, or 1973 P.A. 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer persons under 24 hour care.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

STREET OR ROAD means a private or public thoroughfare which affords the principal means of access to abutting property. The right-of-way line is assumed to be thirty-three (33) feet from each side of centerline unless otherwise designated or unless limited to less than thirty-three (33) feet by actual usage.

STRUCTURE means anything constructed or erected which requires permanent location on the ground or any attachment to something having such location; any construction artificially built up or composed of parts joined together in some definite manner.

SUBSTANTIAL OR SIGNIFICANT PORTION means a business or establishment which has:

- A. Thirty-five percent or more of its stock, materials, or services provided relating to or describing "specified sexual activities", and/or specified anatomical areas"; and/or
- B. Thirty-five percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both; and/or
- C. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business or establishment, describes or relates to "specified sexual activities" and/or "specified anatomical areas".

[Annotation: Added by amendment effective August 10, 1997]

SWEETENING PLANT means a use which is a facility or plant which is designed for the removal of sulfur compounds from natural gas from gas wells.

TEMPORARY BUILDING or USE means a structure or use permitted by the Administrator to exist during periods of construction of the main use or for special events. The Zoning Administrator shall review and extend or revoke a temporary building or use permit at the end of each one year period.

TRAILER means any house car, house trailer, trailer home, travel trailer, utility trailer, trailer coach or similar vehicle used or so constructed as to permit its use as a conveyance upon the public streets or highways, and duly licensed as such, including any self-propelled vehicles so designed, constructed, or added to by means of accessories in such manner as will permit the occupancy thereof as dwelling or sleeping place by one or more persons.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS means and includes any of the following:

- A. The sale, lease or sublease of the business or establishment;
- B. The transfer of securities which constitute a controlling interest in the business or establishment, whether by sale, exchange or similar means;
- C. The establishment of a trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

[Annotation: Added by amendment effective August 10, 1997]

UNDEVELOPED STATE: means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

[Annotation: Added by amendment, effective, July 18, 2008]

UNIMPROVED LOT OF RECORD is a lot of record which has never been improved or the improvements have been destroyed by fire, act of God or other causes, including razing or teardown, to the extent the destruction is total(i.e. insurance coverage, if it existed, would pay the limits of the policy for the damaged structure).

USE means the purpose for which land or premises or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.

WATERBODY means any lake or pond.

[Annotation: Added by amendment effective July 5, 2005]

WATERCOURSE means any natural stream or creak, with continuous running water.

[Annotation: Added by amendment effective July 5, 2005]

WATERCRAFT means any form of floating device that can carry a person for transportation including but not limited to speedboats, jet skis, canoes, kayaks, pontoons, sailboats, row boats, rowing skulls, and paddleboats.

[Annotation: Added by amendment effective July 5, 2005]

WATERFRONT RESORT COMPLEX means a series of attached, semi-detached, or detached Hotel rental units and/or Condominiums having the following characteristics:

- A. Minimum Area. The minimum area required to qualify for a Waterfront Resort Complex shall not be less than ten (10) contiguous acres of land. For purposes hereof, parcels of land separated by private, semi-private, or public roadways are treated as being contiguous.
- B. Minimum shoreline. A Waterfront Resort Complex shall have a minimum of 900 lineal feet of shoreline along Portage Lake and/or Lake Michigan.
- C. Design. A Waterfront Resort Complex shall be designed and constructed in such a manner as to maintain the character of the immediately surrounding areas.
- D. Recreational Facilities. A Waterfront Resort Complex shall contain recreational facilities for the use of its owners, residents and guests, such as, for illustration purposes only, ball fields, tennis courts, swimming beaches and game rooms.
- E. Food and Beverage Service. A Waterfront Resort Complex shall have facilities where food and beverages are prepared and made available to the general public for consumption on the premises.
- F. Ownership. The land containing a Waterfront Resort Complex shall be owned by a single individual, partnership, limited liability company, corporation, or other legal entity; provided, however, that if the Waterfront Resort Complex will consist of other than a single Hotel or Condominium project, then, at the time each Condominium project is created, the land therein shall be owned by an individual or other legal entity which is controlled by, or is under the common control of, the person or entity which originally commenced development of the Waterfront Resort Complex or such person or entity as may be the successor or assignee of such original developer.

For purposes of this Ordinance, a Marina shall be an accessory use of a Waterfront Resort Complex when operated in compliance with all applicable laws and in accordance with the provisions of la Special Use Permit obtained pursuant to this Ordinance, provided, however, that the sale of fuel, storage of fuel, fuel docks, repairs, storage and launching of water craft and the sale of marine stores shall not be considered accessory uses.

[Annotation: Waterfront Resort Complex definition added by amendment effective January 8, 1995. This amendment was challenged by petition. The electors of Onekama Township at a referendum approved this amendment at a special election June 6, 1995.]

WIND ENERGY CONVERSION SYSTEM (“WECS”)

- A.
- B. A surface area, either variable or fixed, for utilizing the wind for electrical power; and a form suitable for driving a generator, alternator, or other electricity-producing device; and
- C. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
- D. The tower pylon, or other structure upon which any, all, or some combination of the above are mounted.

A Private WECS produces energy for private consumption, not commercial sale.

A Commercial WECS produces energy for commercial use, including public utilities, a business provider or municipality.

Tower Height

- A. Horizontal Axis Wind Turbine Rotors: The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which

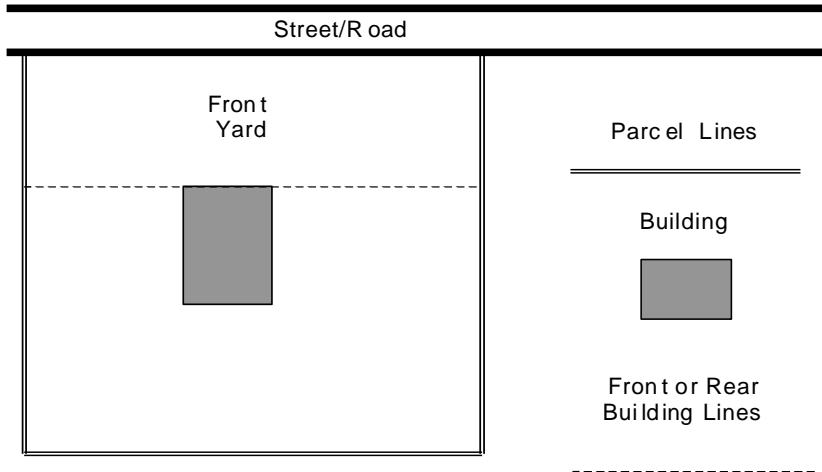
the rotor blade on a horizontally mounted WECS exceeds the structure which supports the rotor and blades;

- B. Vertical Axis Wind Turbine: The distance between the ground and the highest point of the WECS. Survival Wind Speed. The maximum wind speed, as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
- Interconnected WECS: A WECS which is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.

[Annotation: Added by amendment effective December 2004]

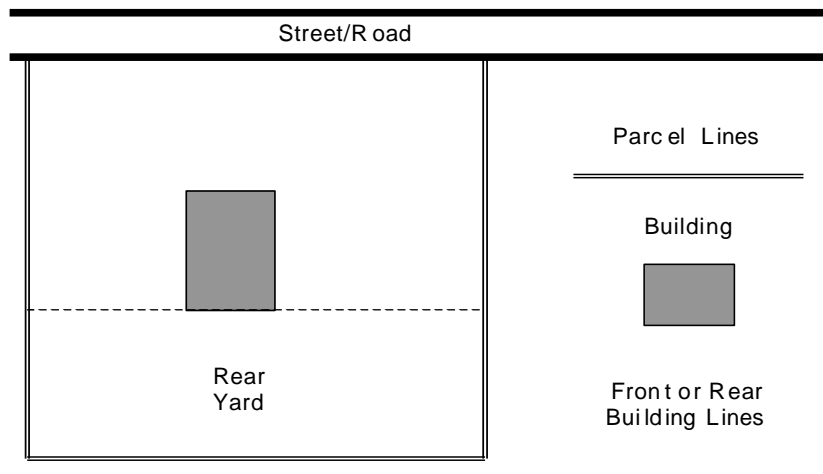
YARD means the space open to the sky between a building and the lot line of the premises on which it is located, unoccupied and unobstructed by any encroachment or structure except as otherwise provided by this ordinance. In measuring a yard as hereinafter provided, the lines of a building shall be deemed to mean a line parallel to the nearest lot line drawn through the point of the building nearest to such lot line.

YARD, FRONT means a yard extending across the full width of the lot and lying between the front lot line and the nearest part of the principal building.



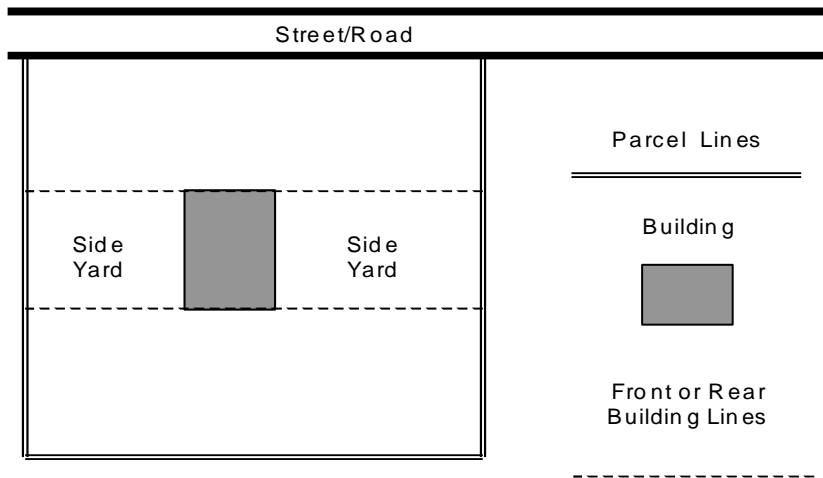
[Annotation: Modified by amendment effective September 12, 2000]

YARD, REAR means a yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building. In the case where there is a lot with a lakefront lot line, the rear yard shall be the yard extending across the full width of the lot lying between the lot line separating the road from the lot and the nearest part of the principal building.



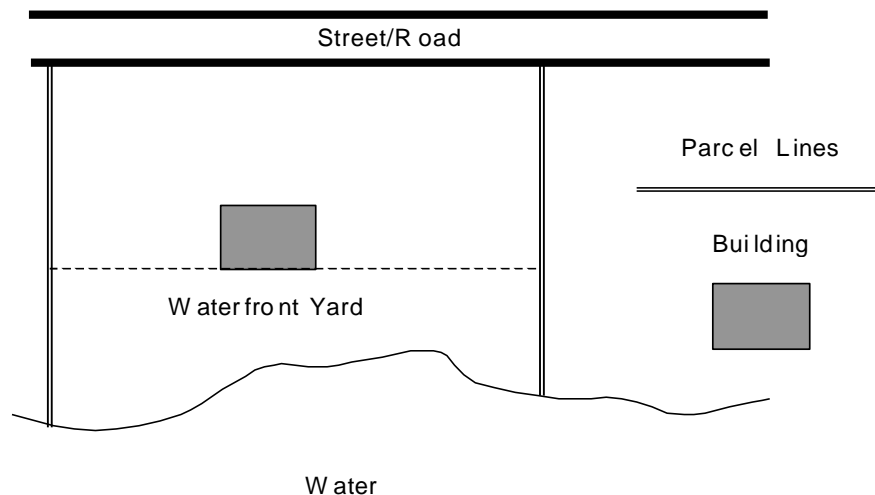
[Annotation: Modified by amendment effective September 12, 2000]

YARD, SIDE means a yard between the side lot line and the nearest line of the principal building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot line, as the case may be, except that on a corner lot the side yard adjacent to a street shall extend the full depth of the lot.



[Annotation: Modified by amendment effective September 12, 2000]

YARD, WATERFRONT means a yard extending across the full width of the lot lying between the nearest line of the principal building and waterfront lot line. All regulations dealing with front yards shall also apply to waterfront yards.



ZONING JURISDICTION means the area encompassed by the legal boundaries of Onkama Township, Manistee County, Michigan.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

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ARTICLE 10 - GENERAL REGULATIONS

1001. Purpose

It is the purpose of this Article of the Ordinance to provide regulations for miscellaneous and other requirements that apply in all zoning districts to all permitted uses and special uses.

1002. Scope

Zoning applies to all lots of land and to every building, structure or use. No lot of land, no building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, altered, occupied or used except in conformity with this Ordinance.

1003. General Provisions

No lot, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided that any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements:

- A. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved as is required by applicable provisions of the State Construction Code and rules promulgated thereunder and/or the State Fire Marshal.
- B. No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.
- C. No vibration shall be permitted which is discernable without instruments on any adjoining lot or property.
- D. No malodorous gas or matter shall be permitted which is offensive or as to produce a public nuisance or hazard on any adjoining lot or property.
- E. No pollution of air by fly-ash, dust, vapors, or other substances shall be permitted in excess of the applicable state or federal air pollution statutes or regulations promulgated by rule thereunder.
- F. No direct or reflected glare shall be permitted which is visible from any property or from any public street, road or highway.
- G. Pollution of water shall be subject to such requirements and regulations as are established by state, county or federal water pollution statutes or regulations promulgated by rule thereunder.
- H. Audible noise shall be subject to such requirements and regulations as are established by the Manistee County Noise Ordinance, as amended.

1004. Waste Accumulation and Outside Storage

It shall be unlawful for any person to accumulate rubbish or waste materials of any kind on any land in Onekama Township except in a permitted Refuse System establishments [4953], Scrap and Waste Material establishments [5093] or a licensed sanitary landfill. No sewage, waste water or water containing foreign substances shall be deposited or drained into any open ditch, creek, stream, lake, pond, or other body of water unless the same has first been approved by state and county health authorities. The provisions of this Section shall not be deemed to prohibit storing or spreading of manure, fertilizers, or other soil conditioners as part of a permitted farm, forestry or home garden or lawn operation.

1005. Removal of Soil, Sand and Other Material

The use of land for the removal of topsoil, sand, gravel or other material to be sold from the land is not permitted in any district except District AG-1 and then only under special use permit issued by the Township Planning Commission pursuant to the provisions of Section 8601 *et seq.* The application shall be accompanied by the filing of a suitable agreement or bond that such removal will not cause stagnant water to collect or leave the surface of the land in an unstable condition or unfit for growing of turf or other land uses permitted in the district in which such removal occurs.

1006. Water Supply and Sewage Facilities

In the interests of protecting the public health and welfare, every building or structure hereafter erected, altered or moved upon any premise and used in whole or in part for dwelling, recreational, business, commercial, or industrial purposes shall be provided with

- A. safe and sanitary water supply;
- B. collection and disposal of human excreta and domestic, commercial and industrial waste, by means of public sewage disposal system; or
- C. individual disposal system which meets the requirements of the Manistee County Sanitary Code, as amended.

1007. Water Protection

Notwithstanding anything to the contrary contained in this Ordinance, the following provisions shall apply:

- A. No dwelling or other structure shall be built, located or constructed closer than forty (40) feet on a horizontal plane to the edge of bodies of water in any land use district, except:
 1. Boat Dock
 2. Stairs
 3. Patios and/or decks which are built so the surface of the floor is the same level as the ground, below ground, or not more than one (1) foot above ground. If the deck includes a railing, it shall be an open railing design.
- B. On riparian or littoral lots, or lots contiguous to that part of a road that is riparian or littoral, no structure shall be more than five (5) feet in height between the waters' edge and a line which is the average setback line of all principle structures one hundred (100) feet to either side.
- C. Nothing in this Ordinance is intended to protect the view shed of any back lot structure.

[Annotation: Added by Amendment, effective November 22, 2013]

1008. Height

No dwelling, or part thereof, shall be erected or altered to a height exceed two and one-half stories or 35 feet, whichever is less. Non-dwelling buildings or structures, other than accessory buildings or structures, may be erected or altered to a height not exceeding 50 feet if approved by the Zoning Board of Appeals pursuant to its power to grant variances, or the Township Planning Commission in connection with a Special Use Permit pursuant to Section 8601, *et seq.*

[Annotation: Modified by Amendment, effective, January 12, 1997.]

1009. Bulk Regulations

- A. The maintenance of setback, height, floor area ratio, coverage, open space, greenbelt, mobile home site, transition strip, lot area per dwelling unit required for one (1) use, lot, building or structure, shall be a continuing obligation of the owner of such building or structure or of the lot on which such use, building, or structure shall be located or is in existence. Furthermore, no setback, height, floor area ratio, coverage, open space, mobile

home site, transition strip, greenbelt, lot area per dwelling unit allocated to or required about or in connection with one lot, use, building or structure may be allocated to any other lot, use, building or structure.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- B. No one (1) lot, once designated and improved with a building or structure, shall be reduced in area or divided into two (2) or more lots, and no portion of one (1) lot, once designated and improved with a building or structure, shall be sold unless each lot resulting from each such reduction, division or sale, and designated and improved with a building or structure, shall conform with all of the bulk and yard regulations of the zoning district in which it is located and does not result in a violation of any other applicable statutes or ordinances, including, but not limited to, the Subdivision Control Act.

1010. Lot, Yard and Area Measurements

Buildings per lot. No more than one (1) main building with accessory buildings and structures shall be erected on any lot of land unless such lot of land is held in single ownership and is used for multiple family dwellings, mobile home parks, or for agricultural, commercial, or manufacturing purposes.

1011. Access to Roads

- A. In any district every use, building or structure established after the effective date of this Ordinance shall be on a lot has the minimum frontage on a public or private road as specified in each respective district.
- B. If the lot exists prior to the effective date of this Ordinance (November 10, 1987) and it does not meet the above standards, then that lot shall be allowed even if it does not meet the terms of this section.
- C. If the lot has the required frontage on a public road right-of-way in an existing subdivision, that shall be considered to be a lot which has meet the required access to a public road, even if the road has not been constructed, and can be made passable without substantial earth movement or trespass off the road right-of-way.

[Annotation: Modified by amendment effective July 5, 2005]

1012. Private Roads

[Annotation: Section modified by amendment, effective, July 5, 2005]

- A. All Private Roads are subject to Article 84. Permits and shall require a Land Use Permit before any earth moving.

[Annotation: Added by amendment, effective, July 18, 2008]

- B. Private roads are divided into three classifications. Those classifications are as follows:
 - 1. Residential – those roads which provide access to and within a subdivision or condominium development. All such roads must be designed and constructed in accordance with the requirements of the Specifications for Public Roads as established by the Manistee County Road Commission, and must be paved.
 - 2. Local – those roads which provide access to four (4) or more principal buildings or parcels on which principal buildings may be built, but are not within a subdivision or condominium development. All such roads shall be constructed within the boundaries of an easement, which is established by a duly recorded conveyance and which is not less than sixty-six (66) feet in width throughout and has a roadbed of not less than twenty-two (22) feet in width, designed and constructed, at a minimum, in accordance with the Specifications for Gravel Roads as established by the Manistee County Road Commission. The easement shall provide for storm water control and

the installation of all public utilities including, but not limited to, municipal water and sewer lines, electrical service, telephone, cable television and natural gas.

Local roads may be allowed in a reduced easement width of fifty (50) feet, providing all of the following conditions are met:

- a. The width is determined adequate for the necessary roadbed, drainage control and utility easements.
 - b. The reduced width is necessary to preserve natural features that would otherwise be affected by the wider easement.
 - c. The reduced width does not create “line of sight” restrictions.
 - d. The private road does not provide access to more than ten (10) principal buildings or parcels on which principal buildings may be built.
 - e. There is no reasonable expectation that the road could become a public street, potentially be extended in the future or serve as a through street to an adjacent development.
3. Minor – those roads which provide access to no more than three (3) principal buildings or parcels on which principal buildings may be built. All such roads shall be constructed within the boundaries of an easement, which is established by duly recorded conveyance and which is not less than thirty-three (33) feet in width and has a road bed not less than sixteen (16) feet wide, consisting of a minimum of twelve (12) inches of compacted sand topped with not less than six (6) inches of processed road gravel. The easement shall provide for storm water control and the installation of all public utilities including, but not limited to, municipal water and sewer lines, electrical service, telephone, cable television and natural gas.

Minor roads may not be extended to provide access to additional parcels unless the entire road is improved to meet the requirements of “local roads”.

C. The following are common standards, which apply to all Private Roads, except as noted:

1. No private road or network of private roads, shall provide access to more than thirty (30) principal buildings, or parcels upon which principal buildings can be built, without having at least two connections to a public road or roads.
2. Be constructed so as to effectively control storm water runoff in a manner approved by the Manistee County Road Commission.
3. Provide for a continuous circuit of travel. Dead ends shall be provided with a turnaround area (cul-de-sac) with a minimum roadbed radius of fifty-two (52) feet and a minimum easement radius of sixty (60) feet to permit turning in a continuous circuit.
4. Provide adequate access to all properties for emergency vehicles.
5. If paved, the Manistee County Road Specifications shall apply.
6. Be provided with appropriate signage indicating street name(s) at all intersections. Street names and signage must be approved by the Manistee County Planning Commission and/or the Manistee County Road Commission.
7. Extensions of existing Private Roads will be allowed: however, the construction requirements for any extension shall be based on the classification of the road as a whole, including the existing portion and the extension.
8. Private roads existing prior to the effective date of this ordinance may be extended at its present easement width, providing the classification of the road does not change and the entire road is improved, if necessary, to meet the requirements of this ordinance.
9. Continued maintenance of private roads shall be the responsibility of the property owner(s) served by the private road. Prior to the issuance of any Land Use Permit,

said property owner(s) shall enter into a legally binding Private Road Maintenance Agreement. That agreement shall include, but not be limited to the following:

- a. Maintenance costs
 - b. Maintenance needs.
 - c. Continuing obligation.
 - d. A “hold harmless” clause to protect the Township from legal actions resulting from any accidents or other incidents along the private road.
 - e. The right of the Township to intercede if the road is not maintained adequately to allow adequate access for emergency vehicles.
 - f. A designated “contact person” to serve as the owner(s) representative to the Township.
10. A private road may not be located in such a manner that would create a non-conformance of any adjacent property.
 11. This section shall not apply to public roads in subdivisions platted before November 10, 1987, which are not developed roads.
 12. This section shall not apply to rights-of-way established by duly recorded easements prior to the effective date of this Ordinance.

1013. Traffic Visibility at Corners

No vehicle shall be parked, nor fence, hedge, planting of shrubs or any similar structures over thirty (30) inches in height above the elevation of the nearest road surface shall be located, erected or maintained, within a distance of forty (40) feet from the point intersection of the front lot line and the side lot line adjacent to the road.

1014. Fences

- A. Erection/construction of fences on any residential or commercial parcel may not commence without first obtaining a Land Use Permit.
- B. IN RESIDENTIAL DISTRICTS (RR-1, RR-2, RR-3, RR-4, SUR): Berms or fences not over 36 inches in height are permitted on the front side of residential parcels. Except as permitted in “D” of this Article, fences on side or rear yards shall not exceed four and one-half (4 ½) feet in height. All height calculations are measured using the existing, normal ground level prior to any excavation or fill.
- C. On parcels with water frontage, berms or fences not over 36 inches in height are permitted on what is defined as the rear of such parcels (which is the non-waterfront yard or road side yard).
- D. Privacy fences not exceeding eight (8) feet in height may be erected in a side or rear yard that lies within the building envelope. Privacy fences may be erected in a waterfront yard – only within the building envelope - providing the required forty (40) foot setback from the water is met.
- E. Fencing materials must be those commonly used as fencing. .
- F. Winter erection of temporary protective or snow fencing or similar fencing used as garden protection is excluded from the requirements of this section, as are similar fencing materials used to protect trees and landscape plants.
- G. Fences are specifically exempted from setback requirements mandated elsewhere by this Ordinance, excepting those that apply to the waterside on waterfront parcels.
- H. IN COMMERCIAL OR AGRICULTURAL DISTRICTS (CR-1, AG-1, and AG-2), fences not exceeding ten (10) feet in height may be erected as required for the purpose intended.
- I. Barbed wire or electrified fences shall be allowed only in Agricultural districts (AG-1 & AG- 2)

[Annotation: Section Modified by amendment effective November 22, 2013]

1015. Signs

- A. Purpose - To avoid a number and size of signs in Onekama Township which are distracting

to motorists and pedestrians, can create a traffic hazard, and in places reduce the effectiveness of signs needed to direct the public if left unregulated; to avoid the appearance of Onekama Township from being marred by the excessive number of signs by applying the minimum amount of regulation necessary to achieve this purpose.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

- B. No signs or any commercial messages, except one which advertises some product, service, activity, event, person, institution or business located on the lot where the sign is located or the sale or rental of such premises, shall be permitted in any land use district established by this Ordinance. Any structure formerly used as a sign, and not in use for any other purpose for more than 30 days after its use for a sign has ceased, shall be removed.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- C. Advertising signs, billboards, advertising displays, outdoor displays and other advertising media may be permitted, by issuance of a land use permit, within a setback area provided that they comply with the following conditions:

1. The advertising sign or display complies with the statutes of the State of Michigan.
2. The advertising sign or display is not erected within two hundred (200) feet of any dwelling existing at the time said sign or display is erected or moved to such location, provided such dwelling is used exclusively for residential purposes.
3. Such advertising sign or display except directional signs within one hundred (100) feet of intersections shall not be erected within two hundred (200) feet of an existing sign or display.
4. Such advertising sign or display shall not be less than the following distances from the highway right-of-way line, such distance to be measured on a line perpendicular to the highway right-of-way line:
 - a. A sign fifty (50) square feet in area to one hundred fifty (150) square feet in area shall not be less than a distance of ten (10) feet from the highway right-of-way line.
 - b. A sign one hundred and fifty-one (151) square feet in area or more shall comply with the same setback requirements as are applicable to buildings or other structures in the district.
Modified by amendment effective February 9, 1999
 - c. The dimensions of the sign or display shall be determined by the overall measurements of the sign, including trim.
 - d. Signs that contain moving messages are prohibited.
 - e. Signs shall be located on the same property of the business.
 - f. Businesses that are operating as a Special Use shall comply with Section 1015, although no land use permit will be required.
5. A temporary sale, lease or rent sign, shall:
 - a. Not have more than two (2) signs displayed.
 - b. Not be illuminated.
 - c. Not to contain an area of more than twelve (12) square feet.
[Annotation: Modified by amendment effective February 9, 1999]
 - d. Be removed following the sale, renting or leasing of the property.
 - e. Be limited to the lease, hire, or sale of the building or premises.

- D. Sign Approval: Advertising signs, billboards, advertising displays, outdoor displays, and other advertising may be erected and maintained within the Township by first obtaining the approval of the Zoning Administrator, who shall, pursuant to Section 8401 *et seq.*, grant approval for any advertising media which conforms to the provisions of this section. Such approval shall be for an initial period of one (1) year and may be extended thereafter upon the approval of the Zoning Administrator. The fee for the permit shall be set by budget resolution approved by the Township Board. Any state or federal regulations to the contrary shall supersede any rules of the Township Zoning Ordinance concerning signs, and any contrary provision of this Ordinance.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

E. Section 1015.A, 1015.B, 1015.C and 1015.D of this ordinance does not apply to any sign which:

1. Advertises real estate
2. Is a specific information panel for the direction of motorists, which may be located, under authority of any statute, on any county road or state and federal highway;
3. Is permitted and regulated with home occupations pursuant to section 1022 of this ordinance; and
4. States a political message directly associated with a campaign on a pending ballot issue or candidate during a period of the political campaign prior to the election. Such sign shall not contain an area of more than thirty two (32) square feet and shall be removed no more than ten (10) days after the election. Failure to remove signs after this period will result in the application of Article 9803 Violations and Penalties.

1016 Vehicular Parking Space, Access and Lighting

A. For each dwelling, commercial, industrial, manufacturing, retail or service business or establishment hereafter erected or altered and located on a public road in any land use district, including buildings and structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is adequate for the parking or loading of motor vehicles in the proportions shown as follows. The parking spaces called for hereunder shall be considered minimum requirements under this Ordinance.

1. Dwellings, Duplexes and Apartment Buildings: Two (2) parking spaces for each family unit occupying the premises.
2. Hotels, Hotels and other Lodging Places [70]: One (1) parking space for every three (3) spaces of legal sleeping capacity.
3. Nursing and Personal Care Facilities [805] Hospitals [806], Outpatient Care Facilities [808]: One (1) parking space for each four (4) beds, plus one (1) space for each doctor.
4. Motion Pictures [78], Amusement and Recreation Services [79], and all other Places of Public Assembly: One (1) parking space for each four (4) persons of legal capacity.
5. All other Health Services [80], Legal Services [81], Miscellaneous Services [89], Public Administration [J; 91-97]; Security, Commodity Brokers & Services [62], Insurance Carriers [63], Insurance Agents, Brokers & Service [64], Real Estate [65], Combined Real Estate, Insurance Etc. [66], Holding and Other Investment Offices [67], Agricultural Services [07], and Forestry Services [085]: One (1) parking space for every two hundred (200) square feet of floor area; provided, however, that doctors' offices and clinics shall be provided with three (3) spaces for each doctor.
6. Eating and Drinking Places [58]: One (1) parking space for each three (3) persons of legal capacity.
7. All other Retail Trade [G; 52-59]; all other Finance, Insurance, and Real Estate [H; 60-67]; and Construction [C; 15-17]: One (1) parking space for each one hundred (100) square feet of floor area.
8. Parks, Riding Stables, and All other Services [I; 70-89]: One (1) parking space for each two hundred (200) square feet of floor area.

[Annotation: Modified by amendment effective September 12, 2000]

9. Boat Liveries and Marinas; 0.75 parking spaces per boat slip.

[Annotation: Added by amendment effective September 12, 2000]

- B. In addition to the above requirements, parking space in the proportion of one (1) space for every two (2) persons employed at the establishment shall be provided. Where no specific requirement is designated for other businesses, parking space which is adequate according to the above standards shall be provided for employees and patrons.
- C. A parking space shall be a minimum area of 10 feet X 20 feet, with center and cross aisles being a minimum of 20 feet wide.

- D. All parking space required in this Section, except that required for a dwelling, shall be provided with adequate artificial lighting between the time from one-half (2) hour after sunset, to one-half (2) hour before sunrise, in all cases in which the non-dwelling establishment is open to the public.
- E. Approval for location of all exits and entrances shall be obtained, prior to zoning approval, from the State Highway Department for all state trunk line highways and from the County Road Commission for all other roads in the Township. Such approval shall also include the design and construction thereof in the interests of safety, adequate drainage and other public requirements.

1017 Dwellings

No person shall use, occupy or permit the use or occupancy of a structure as a dwelling, or duplex, which does not comply with dwelling standards of this ordinance, or standards of the State of Michigan and United States Department of Housing and Urban Development, whichever is applicable, within any district within the township, except in a designated mobile home park, and except as hereinafter provided. All dwellings shall comply with the following minimum standards:

- A. It shall comply with the minimum square footage requirements of this Ordinance for the land use district in which it is located.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- B. It shall be at least 20 feet in length by 20 feet in width in its core living area. Core living area shall be the main or central part of a dwelling, excluding wings, attached garages, enclosed porches, expansions, or any part of a building added after initial completion or added to a mobile home after delivery and setup on site and it is occupiable.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- C. It shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under provisions of 1972, Public Acts 230, as amended, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan Building Code, then and in that event such federal or state standard or regulation shall apply.

1. Foundations: where it shall be firmly attached to a permanent foundation constructed on site in accordance with said State Construction Code and shall have the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the said State Construction Code for dwellings, or, in the case of mobile homes, that dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission or said State Construction Code, whichever is stricter, and with the wheels removed and shall not have any exposed towing mechanism, undercarriage or chassis;
2. Framing, structural, insulation: it shall comply with the said State Construction Code, or, in the case of mobile homes, shall comply with the "mobile home construction and safety standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended, and which bears a HUD seal or certification by a competent inspector signifying inspection and compliance with the same;
3. Final finished: shall comply with the said State Construction Code.

- D. It shall be connected to a public sewer and water supply or to such private facilities in compliance with the Manistee County Sanitary Code, as amended, and approved by the Public Health Department.

- E. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to

- time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- F. It shall be enclosed around the perimeter at the ground level with masonry.
 - G. It shall contain no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure including permanent attachment to the principal structure as long as such attachment does not include a bearing load on a mobile home and construction of a foundation as required herein.
 - H. The dwelling contains 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, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
 - I. 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 this ordinance pertaining to such parks.
 - J. All construction required by this section shall be commenced only after a building permit has been obtained in accordance with the applicable construction code provisions and requirements.

1018. Guest House or Second Dwelling on a Parcel

- A. This Ordinance does not permit a second dwelling or second principal use on a parcel, except as stated in this Section. The purpose of this Section is to provide for the placement of a second dwelling or Guest House on a parcel that would not otherwise be allowed by this Ordinance, under certain circumstances, recognizing the need for others to take residence near their home or family, but in separate living quarters.
- B. A second dwelling or Guest house may be placed on the same parcel where a dwelling or other principal use already exists if all of the following conditions are met:
 - 1. The application for a Land Use Permit shall include a Medium Site Plan pursuant to Section 9405 *et seq.*
 - 2. Dwellings are a permitted use in the land use district.
The second dwelling shall comply with all applicable construction, parcel size, height, yard and set-back regulations of this Ordinance. The Appeals Board shall not grant variances to the construction, minimum size, height, yard and set-back regulations of this Ordinance to the principal and second dwellings when both are located on the same parcel.
 - 3. The distance between the principal dwelling or use and the secondary dwelling shall be equal in twice the said yard set-back in the respective and use district.
 - 4. The dwelling is on a parcel with frontage on a public road with a driveway containing a minimum of three parking places.
 - 5. Neither the second dwelling or Guest House, or the principal dwelling, shall be rented or leased for any consideration.
 - 6. If the second dwelling or Guest House is occupied for more than two months in a calendar year, occupancy shall be limited to adult members of the extended family of the owner of the principal dwelling.

[Annotation: Section added by amendment, effective, January 12, 1997.]

1019. Location of Accessory Buildings and Structures

- A. All accessory buildings and structures shall be located in the side yard or rear yard, except when built as part of the main building or as excepted elsewhere in the Ordinance. When built where the land abuts a body of water, the front yard is the waterfront yard and accessory buildings or structures are not permitted. No accessory building is permitted on any residentially zoned parcel without a primary dwelling. All of the following standards must be met, as applicable.

[Annotation: Modified by Amendment effective, November 22, 2013]

[Annotation: Modified by Amendment, effective, July 13, 2007.]

[Annotation: Modified by amendment effective February 9, 1999]

1. An accessory structure attached to the principal building of a lot shall be made structurally a part thereof, and shall comply in all respects with the requirements applicable to the principal building.
2. An accessory structure, unless attached and made part of the principal structure as provided, shall not be closer than ten (10) feet to the principal structure

[Annotation: Modified by amendment effective November 22, 2013]

[Annotation: Modified by amendment effective February 9, 1999]

3. An accessory structure shall meet all setback requirements of the district in which it is to be erected, moved, altered, or used.

[Annotation: Modified by amendment, effective November 22, 2013]

4. For districts zoned SUR, one (1) detached primary accessory structure is allowed, limited to one thousand and two hundred (1,200) square feet and a maximum side wall height of twelve (12) feet.
5. For districts zoned RR-1, RR-2, RR-3, and RR-4, one (1) detached primary accessory structure is allowed. A primary accessory structure on parcels of less than five (5) acres is limited to one thousand and two hundred feet (1,200) square feet and a maximum side wall height of twelve (12) feet.
6. For districts zoned RR-1, RR-2, RR-3, and RR-4, on parcels of a minimum size of two (2) acres to less than four (4) acres, a second accessory building of nine hundred (900) sq. ft. or less and a maximum sidewall or eave height of ten (10) feet shall be permitted. In these residential zoning districts, on parcels of four acres or more, a second accessory building of twelve hundred (1200) sq. ft. or less and a maximum sidewall or eave height of twelve (12) feet shall be permitted.
7. For districts zoned agricultural or commercial, the same limitations apply, except on such parcels larger than two (2) acres but less than five (5) acres, the accessory building or structure shall be limited to one thousand and five hundred (1,500) square feet and a maximum side wall height of fifteen (15) feet. On such parcels of five (5) acres or more, accessory structures may be sized as suitable for the purpose of the intended use.
8. All accessory buildings and structures on parcels of less than three (3) acres shall meet the appearance of the principal structure on the parcel and adjacent neighborhoods in order to maintain the residential appearance of the neighborhood.
9. Except for waterfront properties, accessory buildings or structures may be located in a front yard in all Zoning Districts except SUR if all the following are met:
 - a. The property shall contain at least one (1) acre of land;
 - b. The accessory structure is located to one side of the property and not in front of the principal dwelling;
 - c. Side yard setbacks shall be met.
 - d. The accessory building shall not be more than half the distance between the primary dwelling and the road Right-Of-Way, but not less than fifty (50) feet from the road Right-of-Way.

[Annotation: Section modified by amendment, effective, November 22, 2013]

- B. No storage building shall be allowed in a residential district (RR-1, RR-2, RR-3 or RR-4 and SUR) unless the main dwelling is located on the same parcel of land.

1. The number of accessory buildings is limited by the requirements of Section 1019, Subsection A.

[Annotation: Modified by amendment, effective November 22, 2013]

2. The lot for which the storage building is proposed would, if the road between them did not exist, be contiguous to the lot on which a dwelling owned by the same person is located, if the road between the two lots did not exist.
3. The storage building will not be on a riparian, littoral or lakefront lot.
4. The lot is large enough for the size of the building proposed, while still complying with all setbacks.
5. The size of the storage building shall be limited by the requirements of Section 1019, Subsection A.
6. The eaves are boxed (enclosed), and the exterior surface is painted or coated to maintain the residential appearance of the neighborhood.

[Annotation: Sub-sub-section added by amendment, effective, January 12, 1997.]

1020. Temporary Dwellings

No person shall use or per permit the use of any temporary dwelling or "trailer" as defined in this ordinance as a principal or seasonal dwelling on any site, lot, field, lot or tract of land, except:

- A. As temporary quarters during the construction and installation of a dwelling conforming to Section 1017 of this Ordinance when the following conditions are met:
 - 1. The location of the temporary dwelling or trailer shall comply with all setback requirements of this ordinance.
 - 2. The use of the temporary dwelling or trailer shall not be contrary to the public health, safety or welfare.
 - 3. The use of the temporary dwelling or trailer shall be limited to twelve (12) months beginning with the issuance of a permit. The permit may be renewed for not more than one additional year upon approval of the zoning administrator for good cause shown.
- B. As part of a campground licensed by the Michigan Department of Public Health.
- C. As temporary recreation on a non-commercial/no rental basis by tourists, campers and sportsmen on
 - 1. Public land where such activity is allowed, or by state or federal regulations
 - 2. On one's own land if:
 - a. In the Agricultural-Residential (AG-1) or Agricultural-Residential (AG-2) land use district, and
 - b. So the temporary dwelling does not remain on the site for a total period of more than 3 weeks in a calendar year beginning with the issuance of a camping permit by the Zoning Administrator.

[Annotation: Modified by Amendment, effective, February 5, 2000.]

- D. As temporary "overflow" sleeping capacity for guests for a total period of not more than three (3) weeks.

[Annotation: Modified by amendment effective November 22, 2013]

[Annotation: Added by amendment effective February 9, 1999]

1021. Incomplete Structure

No basement, cellar, garage or any incompletely constructed structure may be occupied as a dwelling for a period of more than two (2) years without completing the exterior in a watertight manner, including, but not limited to finished siding, windows and roofing.

1022. Home Occupations

Home occupations shall not be allowed in any zoning district in Onekama Township except as hereinafter provided:

- A. The home occupation(s) takes place at a dwelling owned by the resident and where the resident engaging in the home occupation lives on a full time basis.
 - B. There are not more than two home occupations pursued within a dwelling.
- [Annotation: Modified by Amendment, effective, January 12, 1997.]
- C. The home occupation(s) shall be accessory to the principal use (residential) of the property.
 - D. The activities and carrying on of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be aware of the existence of the home occupation.
 - E. The home occupation(s) shall be conducted entirely within the enclosed dwelling or auto garage accessory to the house with no external evidence of the activity.
 - F. The home occupation(s) does not result in the employment and/or self-employment of more than two individuals.
 - G. The home occupation(s) shall not involve the use of any toxic or dangerous materials or hazardous equipment.
 - H. If the home occupation is a bed and breakfast, it shall not be closer than five hundred (500) feet of another existing bed and breakfast home occupation.

- I. If the home occupation is a bed and breakfast it shall have one (1) parking space for every three (3) spaces of legal sleeping capacity, off street, in addition to required parking for the dwelling and in compliance with sections 1016.B to 1016.E of this ordinance.

1023. Sexually Oriented Businesses

[Annotation: Section added by amendment effective August 10th, 1997]

- A. Purpose. It is recognized that sexually oriented businesses have a deleterious effect upon adjacent areas, causing blight, an increase in crime, a decrease in property values, a chilling effect upon other businesses and residents, and a downgrading of the quality of life in adjacent areas, especially when such uses are concentrated in the same general area, it is considered necessary and in the best interest of the orderly and better development of the community to prohibit the overcrowding of such uses into a particular location and require their dispersal throughout the commercial and industrial zones of the Township to thereby minimize their adverse impact to the best extent possible on any other permitted use.
- B. Conditions. In order to obtain and retain a special use permit for operation of a sexually oriented business regulated use as defined by this Zoning Ordinance, the following conditions must be met, in addition to all other standards set forth herein for special use permits:
 - 1. A special use permit must be acquired through the special use procedures as described in Article 86;
 - 2. In order to prevent the undesirable concentration of sexually oriented businesses, the regulated uses as defined by this Section shall not be located within 1,000 feet of any other such regulated uses as defined by this Section, nor within 500 feet of any residentially zoned district or preexisting residential use prior to enactment of the zoning districts, school, daycare center, church or other religious institution, or public park or other public facility, as measured along a line forming the shortest distance between any portion of the respective properties;
 - 3. The regulated uses, as defined by this Section, shall only operate between the hours of 8 a.m. and 10 p.m.;
 - 4. There shall be a manager on the premises at all times;
 - 5. No one under the age of 18 shall be allowed onto the premises by the onsite manager of the regulated use;
 - 6. If a transfer of ownership or control occurs, the existing special use permit shall be considered void. A new permit shall be applied for in advance of the proposed transfer;
 - 7. No product or service for sale or gift, or any picture or other representation thereof, which relates in any way to "specified sexual activities" or "specified anatomical areas", shall be displayed so as to be visible from the street or exterior of the building of the regulated use;
 - 8. Once a special use permit has been issued, the regulated use shall not be expanded in any manner without first applying for and receiving approval of the Planning Commission as provided in this Ordinance.
 - 9. If a regulated use is discontinued, the use may not be re-established without first applying for and receiving the approval of the Planning Commission as provided in this Ordinance.
 - 10. The designated parking area for the sexually oriented business shall be lighted during all hours of operation and one hour after closing in the evening and/or nighttime with overhead lamps providing a minimum of five (5) foot candles as measured five (5) feet above the parking area surface.
 - 11. A secure and well-lighted entrance, separate from that provided for patrons, will be provided for all employees, regardless of their job descriptions.
- C. Exceptions to Conditions. The Planning Commission may waive the foregoing spacing requirements if it finds all of the following conditions exist:
 - 1. The proposed use will not be contrary to the public interest or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the

- spacing regulations will still be observed;
- 2. The proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a chilling effect upon other business and residents or a disruption in neighborhood development;
- 3. The establishment of the proposed regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal;
- 4. Where all other applicable regulations within the Township Zoning Ordinance or other pertinent Township ordinances will be observed.

1024. Communication Towers

The following site and developmental requirements shall apply to the construction of any communication tower:

- A. Minimum site shall be point seven-five (0.75) acres.
- B. The tower must be of a monopole design and shall blend into the surroundings by paint or camouflage. No guyed or lattice tower will be allowed.
- C. The minimum distance from the base of the tower to any adjoining property line or road right of way shall be equal to the height of the tower.
- D. The maximum height of any tower shall be 200 feet and shall not require FAA lighting or special painting.
- E. The tower must be located no closer than 1500 feet from the crest of the highest ridge line surrounding Portage Lake, or 1500 feet in any direction from the centerline of Michigan Highway M-22. The tower shall not be closer than 300 feet from a school or other public building.

[Annotation: Modified by amendment effective February 9, 1999]

- F. The minimum tower spacing between tower locations shall be two miles in order to prevent a concentration of towers in one area.
- G. All towers shall be equipped with an acceptable anti-climbing device to prevent unauthorized access.
- H. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than 30 feet or in compliance with minimum setback for that zoning district, whichever is greater. Accessory structures shall not exceed 600 square feet of gross building area.
- I. The tower and any accessory building shall be enclosed with a minimum 5 foot high fence with locked accesses.
- J. All buffer yard requirements of the Ordinance shall be met.
- K. All towers shall meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
- L. Prior to construction or erection of any tower, the applicant shall provide the township with copies of all building permits required by the state of federal agencies.
- M. Metal towers shall be constructed of, or treated with, corrosive-resistant material.
- N. Co-location shall be required when technologically feasible. The burden of proof with respect to technology and feasibility shall be on the applicant for the tower.
- O. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least twenty (20) feet above the ground at all points. As an alternative, the conductors may be buried.
- P. Towers shall be located so as to avoid any interference with normal television and radio reception in nearby residential areas.
- Q. Towers shall be located so as to allow sufficient maneuvering room for maintenance and emergency vehicles on the property owned and/or leased by the applicant.
- R. Existing on-site vegetation shall be preserved to the maximum extent possible.
- S. There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency or safety purposes.
- T. The antenna shall be painted to match the exterior treatment of the tower. The chosen paint

- scheme shall be designed to minimize the off-site visibility of the tower.
- U. Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by the new standard or the Special Use Permit will be subject to revocation by the Township. Costs for testing and verification of compliance shall be borne by the operator of the antenna.
 - V. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
 - W. Abandoned towers shall be removed by the property owner or lessee within six (6) months after being abandoned. The owner or lessee of the tower shall post a bond in a dollar amount sufficient to cover the cost of removal in the event the tower is abandoned or no longer in use.

[Annotation: Added by amendment effective July 16, 1998]

1025. Docks

Waterfront properties in residential zoned districts are allowed one dock for private, non-commercial use as an accessory to the dwelling and shall meet the following standards:

- A. Permanent docks are considered a structure and therefore require a separate land use permit in addition to any permit which may be required by the Corp of Engineers and/or the DEQ.
- B. Seasonal docks do not need a separate land use permit but may require a permit from the Corp of Engineers and/or the DEQ.
- C. The maximum width for any dock is six (6) feet.
- D. Docks shall be located along the shore so that no element of the dock is located within ten (10) feet of an artificial line extending into the lake in line with the side yard property line and shall not interfere with the riparian rights of any neighbor. (Exception: a single dock may be placed on or near a side yard property line providing there is a mutual agreement between the adjoining property owners to share the dock.

[Annotation: Added by amendment effective February 9, 1999]

1026. Wind Energy Conversion Systems

1026.1.1 Purpose and Findings

- A. To promote the effective and efficient use of the township’s wind energy resources through wind energy conversion systems (“WECS”) and to regulate the placement of such commercial WECS so that the public health, safety and welfare are not jeopardized
- B. This ordinance is designed to properly regulate and site wind energy facilities and thus deal with potential problems they can create including: aesthetic impacts, drainage problems, harm to farmlands, a risk to bird and bat population, risks to the property values of adjoining properties, significant noise, traffic problems during construction, and electromagnetic interference with various types of communication.

1026.1.2 Applicability

- A. The requirements of this section shall apply to all wind energy facilities proposed, operated, modified or constructed after the effective date of this article.
- B. Wind energy facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this article shall not be required to meet the requirements of this section.
- C. No modification or alteration, excluding regular maintenance and repair, to an existing wind energy facility shall be allowed without full compliance with this section.

- A. No wind energy facility shall be constructed, reconstructed, or modified in the Township of Onekama except in compliance with this article.
- B. No wind energy facility but for those outlined in below, shall be constructed, reconstructed, or modified in the Township of Onekama except pursuant to site plan approval from the Onekama Community Planning Commission and a special use permit from the Onekama Community Planning Commission issued in accordance with this article.
- C. Residential WECS are allowed as accessory uses in all zoning districts and may be constructed, reconstructed, or modified without being issued a special use permit, providing that applicants submit all documentation described in 1026.1.4, 1-5; and 16, b., c., f. at the time of the site plan review and comply with 1026.1.8.
- D. No wind energy facility shall be constructed, reconstructed, or modified in the Township of Onekama except pursuant to a land use permit from the Zoning Administrator.
- E. Large wind energy facilities are only allowed as a Special Use in the Wind Overlay district.
- F. Small wind energy facilities are only allowed as a Special Use in the Agricultural (AG-O) district.

1026.1.4 Applications for Wind Energy Facilities.

- A. An application for a special use permit for wind energy facilities shall include the following:
 - 1. Name, address, and telephone number of the applicant and land owner and affidavit of agreement between landowner and facility owner, if any.
 - 2. Address or other property identification of each proposed facility including tax map number, existing use and acreage of parcel, and zoning designation.
 - 3. A description of the facility and project including the number of WECS, data pertaining to each tower's safety and stability, including safety results from test facilities and certification from the turbine manufacturer that the turbine can withstand excessive wind speeds, and for each WECS the make, model, a picture, and manufacturing specifications including noise decibel data and maximum rated capacity.
 - 4. Vertical drawing of all WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between the ground and the lowest point of any blade, and the location of climbing pegs and access doors. One drawing may be submitted for each WECS of the same type and total height.
 - 5. A site plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly show the following
 - a. Property lines, physical dimensions of the site, and the location, dimensions and types of existing structures and uses on the site.
 - b. Public roads and access road.
 - c. Adjoining properties within 500 feet of the site including zoning designations, residences, schools, churches, hospitals, and libraries within 1,000 feet of each tower.
 - d. The location, elevation, and total height of each WECS.
 - e. Above and below ground utility lines within a radius of 1.5 times the total height of the WECS.
 - f. Setback lines.
 - g. All other proposed facilities on the site including transformers, electrical lines, substations, storage or maintenance units, ancillary equipment or structures, transmission lines, and fencing.
 - 6. A full Environmental Assessment Form ("EAF") and visual EAF addendum.
 - 7. Wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MVL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.)

8. A copy of written notice of the application to the Federal Aviation Administration (“FAA”), microwave communications link operators, and utilities, including utility interconnection data and a lighting plan to be reviewed by the FAA showing FAA required lighting, if applicable and other proposed lighting.
9. A detailed construction and installation plan including: a construction schedule, hours of operation, routes to be used by vehicles, gross weights and heights of vehicles, traffic impacts, drawings of access roads, adverse sound impacts, a detailed plan for disposal of debris, and the name and phone number of a contact person in the field.
10. An operation and maintenance plan providing for regular periodic maintenance schedules and any special maintenance requirements.
11. A detailed fire control and prevention and emergency response plan to coordinate with local emergency response providers.
12. A transportation plan describing ingress and egress to the proposed project site to deliver equipment and provide access during and after construction. Such plan shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, as well as measures which will be taken to restore damaged or disturbed access routes following construction.
13. A decommissioning and site restoration plan as detailed in 12.1.7.
14. A survey map showing federal, state, county or local parks, recognized historic or heritage sites, state-identified wetlands, or important bird areas as identified in federal, state, county, or local GIS data bases or other generally available documentation.
15. A list of property owners, with their mailing address, within 2,500 feet of the outer boundaries of the proposed site.
16. Studies or reports on:
 - a. Visual impact. This shall include a computerized photographic simulation showing the site fully developed and demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed site from at least two locations accurately depicting the existing conditions shall be included. The study shall also indicate the color treatment of the facility’s components and any visual screening incorporated into the project that is intended to lessen visual prominence.
 - b. Noise. This shall include a description and map of the project’s noise-producing features and the noise-sensitive environment, including the range of noise levels and the tonal and frequency characteristics expected. The report shall include noise levels at property lines, off-site residences, and any other sensitive noise-receptors, i.e. schools, and places of worship, with identification of potential problem areas. The report shall cover low frequency, A-weighted, infrasound, pure tone, and repetitive/impulsive noise. It shall also include a report prepared by a qualified professional that analyzes the preexisting ambient noise. The report shall describe the project’s proposed noise control features, including specific measures proposed to protect construction workers and mitigate noise impacts for sensitive receptors, consistent with levels in this article.
 - c. Electromagnetic interference. This shall include an analysis of the potential for electromagnetic interference with microwave, radio, television, personal communication systems, 911, and other wireless communication.
 - d. Avian impact. This shall include an analysis of bird and bat migration, nesting, and habitat that will be affected by the proposal. The applicant shall solicit input from the Michigan

Department of Natural Resources on such studies and shall follow any required protocols established, adopted, or promulgated by the Department.

- e. Geotechnical impact. This shall at a minimum include an analysis of soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing, foundation design criteria for all proposed structures, slope stability analysis, grading criteria for ground preparation, cut, and fills, and soil compaction.
- f. Engineer's report. This shall be prepared by a professional engineer licensed in Michigan and provide information regarding:
 - i. Ice throw. The report shall calculate the maximum distance that ice from the turbine blades could be thrown.
 - ii. Blade throw. The report shall calculate the maximum distance that pieces of the turbine blades could be thrown.
 - iii. Catastrophic tower failure. The report shall include a statement from the turbine manufacturer detailing the wind speed and conditions that the turbine is designed to withstand.
 - iv. Certification by a registered Michigan professional engineer that the tower's design is sufficient to withstand wind-loading requirements for structures as established by the Michigan Construction Code.
 - v. Shadow flicker. This shall identify locations where shadow flicker may interfere with off-site residences and roadways and the expected duration of the flicker. The study shall identify measures that shall be taken to eliminate or mitigate the problem.
 - vi. Fiscal and economic impact. This shall include a property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact on the value of properties adjoining the project site.
 - vii. Land use and water impacts. This shall detail potentially impacted wetlands, surface water, and groundwater resources, and the geology and use of the site.

1026.1.5 Application Review Process

- A. Application. Applicants for a special use permit for a wind energy facility must submit 15 copies of the application to the Onekama Township Clerk. Onekama Township staff or consultants shall within 30 days determine if all required information is included in the application. If the application is incomplete, the applicant will be provided with a written statement detailing the missing information. If the application is complete, the Onekama Township clerk will forward the application to the Onekama Community Planning Commission.
- B. Hearing. The Onekama Community Planning Commission shall conduct at least one public hearing on the application with notice given to the public in the manner customary for the municipality. All the adjoining property owners within 1,000 feet of the outer boundary of the project must be given written notice of the hearing via certified mail.
- C. Approval. The Onekama Community Planning Commission may grant the special use permit, grant the special use permit with conditions, or deny the special use permit in writing.
- D. Findings. To grant the special use permit the Onekama Community Planning Commission must find that the wind energy facility will not unreasonably interfere with the township's orderly land use and development plans, the benefits to the applicant and the public exceed the burdens, the project is not

detrimental to the public health, safety, or general welfare of the community, and the project complies with all of the relevant provisions of the zoning ordinance or will comply with those requirements based on conditions that may be attached to the approval unless variances have been granted.

- E. The Onekama Community Planning Commission reserves the right to hire any consultants and/or experts reasonably necessary to assist the Onekama Community Planning Commission reviewing and evaluating permit applications. All fees for such consultants shall be borne by the applicant.

1026.1.6 Criteria for Approval of WECS

A. Safety Standards

1. The total height of each WECS shall not be more than 500 feet.
2. The minimum distance from the ground to the rotor blade tips shall not be less than 20 feet.
3. WECS shall not be climbable up to 15 feet about the ground. This can be achieved through anti-climbing devices or a fence around the tower with locking portals at least 6 feet high.
4. All access doors on towers or to electrical equipment shall be locked or fenced.
5. There shall be clearly visible signs on all WECS, electrical equipment, and wind energy facility entrances warning of electrical shock or high voltage and harm from revolving machinery.
6. WECS shall comply with all applicable FAA requirements for air traffic warning lights.
7. No artificial lighting shall be allowed on WECS except to the extent required by the FAA or other air safety authority. Minimal ground level security light shall be permitted.
8. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No WECS shall be permitted which lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, excessive pressure on the tower structure, rotor blades, and turbine components.
9. The Onekama Community Planning Commission shall determine an acceptable range for ice throw that minimizes danger to persons or property based upon the location and land use of adjacent structures and properties.

B. Siting and Installation

1. Road access to project site. Entrances to access roads must be gated and kept locked. The applicant must only use designated traffic routes established in the application review process. Routes should be chosen to minimize traffic impacts taking into consideration wind energy facility related traffic during school bus times, wear and tear on local roads, and impacts on local businesses. Existing roads should be used to the extent possible or if new roads are needed they should minimize the amount of land used and the adverse environmental impacts. The applicant is responsible for remediation of any damaged roads due to siting and installation of the wind energy facility.
2. Connection of transmission lines from the wind energy facility to local distribution lines.
 - a. No construction of any WECS shall be started until evidence is given of a signed interconnection agreement or letter of intent with an interconnecting utility company.
 - b. The wind energy facility shall meet the requirements for the

interconnection and operation as set forth in the electric utility's then current service regulations applicable to wind power generation facilities.

C. Setbacks

1. Each WECS shall be set back 2.0 times tower height from all existing residences on a nonparticipating landowner's property.
2. Each WECS shall be set back 2.0 times tower height from the nearest school or church.
3. Each WECS shall be set back 1.5 times tower height from all property lines, other towers, electrical substations, meteorological towers, and public roads.
4. Setbacks may be altered by the Zoning Board of Appeals. A filing for variance with the ZBA must be made prior to commencement of construction on any proposed WECS project that may be in violation of the setbacks mandated for WECS projects by this ordinance.

D. Nuisance

1. Noise. The noise level generated by a WECS shall not exceed a 45 A-weighted decibels ("dBA") measured at the site property line. Independent certification shall be required before and after construction demonstrating compliance with this requirement. If the ambient noise level measured at the site property line exceeds the standard, the standard shall be no greater than the ambient noise level. The noise level generated by a WECS must also not increase ambient sound levels by more than 3kBA at any sensitive noise receptors, including residences, hospitals, libraries, schools, and places of worship, within 2,500 feet of the site property line.
2. Interference with electromagnetic communications, radio signals, microwave, and television signals. No wind energy facility shall be installed in any location where its proximity with microwave communications, fixed broadcast, retransmission or reception antenna for radio, television, or wireless phone, or other personal communication systems would produce significant electromagnetic interference with signal transmission or reception.

E. Environmental and Visual Effects

1. Advertising. No advertising shall be allowed on any part of the wind energy facility including the fencing and support structures. No lettering, company insignia, brand names, logo, or graphics shall be allowed on the tower, hug, or blades. Reasonable identification of the turbine manufacturer, facility owner, and facility operator is permitted.
2. Colors and surfaces of WECS. Colors and surface treatment of all WEC shall minimize visual disruption by using white, beige, off-white, gray, or other non-reflective, unobtrusive color. WECS shall also use materials, textures, screening, and landscaping that blend the facility into the natural setting and existing environment.
3. Landscaping. The landscaping of the wind energy facility should be appropriate to screen accessory structures from roads and adjacent residences. It should be designed to minimize the impacts of land clearing and loss of open space.
4. Ecosystems and animals. Wind energy facilities shall have no significant adverse impact on endangered or threatened species, particularly birds and bats, or critical habitats.
5. Visual setbacks. WECS should be set back from the tops of visually prominent ridgelines and designed and located to minimize adverse visual impacts to neighboring residential areas. WECS shall not be installed in any location that would substantially detract from or block the view of all or a

portion of a recognized scenic vista as viewed from any public viewing areas such as public parks, road, trails, or open space.

6. Shadow flicker. WECS shall be located in a manner that makes reasonable efforts to minimize shadow flicker to any occupied building/residences/roadway on a non-participating landowner's property. Mitigation measures including landscaping shall be incorporated into any special use permit approval.

F. Operation

1. Maintenance. An annual report of operations and maintenance shall be submitted to the Onekama Township Zoning Administrator.
2. All WECS must be maintained in operational condition meeting all of the requirements of this article and other permit conditions at all times, subject to reasonable maintenance and repair outages. If the WECS becomes inoperative, damaged, unsafe, or violates a permit condition or standard, the owner/operator shall remedy the situation within 90 days after written notice from the zoning administrator.
3. If the WECS is not repaired or brought into permit compliance within the timeframe stated above, the Onekama Community Planning Commission may, after a public hearing, order remedial action or revoke the special use permit and order removal of the WECS within 90 days.
4. Inspections. All wind energy facilities shall be inspected annually for structural and operational integrity by a Michigan licensed professional engineer, who has been approved by the Onekama Township. The Onekama Township Zoning Administrator and a licensed engineer have the right to enter the premises of the wind energy facility at any reasonable time to inspect the WECS as long as 24 hour advance notice is given to the operator.

1026.1.7 Abatement, Decommissioning, Site Restoration Plan and Bond

A. Abatement and Decommissioning

1. If the wind energy facility is not operated for a continuous period of 12 months, the Onekama Township Zoning Administrator will contact the applicant by registered mail and provide 45 days for a response. The applicant is required to respond and set forth reasons for the stoppage and a timetable for action. If the applicant does not respond or the Onekama Township Board deems the timetable unreasonable, it must notify the applicant and the applicant must remove the WECS at its own expense according to the decommissioning plan within 90 days. If the applicant does not remove the WECS within the above stated time frame, the Onekama Township Board can contract for removal and restoration using the money in the decommissioning bond and charge the applicant any difference in cost.

B. Decommissioning and Site Restoration Plan

1. The plan shall include:
 - a) The anticipated life of the WECS
 - b) Triggering events for decommissioning and removal
 - c) The estimated decommissioning costs in current dollars
 - d) How the estimate was determined
 - e) The method by which such decommissioning costs will be kept current
 - f) The manner in which the WECS will be decommissioned and the site restored including removal of all structures, turbines, cabling, electrical components, debris, and foundations to a depth of 6 feet, restoration of

the soil and vegetation, and restoration of roads and driveways, less any fencing and residual minor improvements requested by the landowner.

C. Bond

1. A decommissioning bond payable to the Onekama Township in an amount to be determined by the Onekama Township Board for removal of nonfunctional WECS and restoration of the wind energy facility site shall be maintained by the applicant.
2. The bond must be confirmed to be sufficient to cover decommissioning and site restoration costs over 5 years.

1026.1.8 Liability Insurance

- A. Prior to issuance of a land use permit, a WECS of any type, the applicant shall provide the Onekama Community Planning Commission with proof of a general liability insurance policy to cover damage or injury that may result from failure of any part of the wind energy facility. The minimum amount of the mandated liability coverage shall be: LARGE WECS = Two (2) Million dollars per tower; SMALL WECS = One (1) million dollars per tower; RESIDENTIAL WECS = Two hundred fifty thousand dollars (\$250,000) per tower. These amounts may be adjusted by at any time by the appropriate governing bodies.

1026.1.9 Transfer and Replacements

- A. If ownership of a WECS changes, the new owner must present proof to the Onekama Township clerk that all required bonds and insurance policies remain in full force 30 prior to the transfer of ownership.
- B. Any replacement of or modification or alteration to a WECS, excluding regular maintenance and repair, requires an amendment to the special use permit.
- C. Replacement of a WECS may occur without Onekama Community Planning Commission approval when there will be :
 1. No increase in the total height of the WECS,
 2. No change in the location of the WECS,
 3. No additional lighting on the WECS, and
 4. No increase in noise produced by the WECS

1026.1.10 Requirements for Wind Measurement Towers

- A. The Township of Onekama acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular sites. Installation of wind measurement towers, also known as anemometer towers, shall be permitted as a special use in Wind Overlay District.
- B. Anyone seeking to a build a wind measurement tower must submit an application for a special use permit is valid for up to 1 year and may be renewed for one additional year.
 1. An application for wind measurement tower shall include:
 - a) Name, address, and telephone number of the applicant
 - b) Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the application.
 - c) Address of each proposed tower site, including tax map section, bloc, and lot number.
 - d) Site plan

- e) Decommissioning plan, based on the criteria in this article for WECS, including a security bond or cash for removal.
- C. Wind measurement towers must be set back from property lines at least 1.25 times the total height of the tower.
- D. Removal
 - 1. Wind measurement towers shall be removed no later than date applicable special use permit expires.
 - 2. Subsequent to removal of wind measurement towers, installation sites shall be restored to a condition substantially similar to the site’s condition upon installation of wind measurement tower.

1026.1.11 Solar Panels

Solar panels shall be permitted in all districts as a special use subject to the following:

- A. Solar panels shall be for residential use only.
- B. Placement of ground mounted solar energy equipment is not permitted within the required front yard setback or the area between the front property line and the front of the principal structure.
- C. Ground mounted solar panels shall only be located in a side or rear yard and shall meet or exceed required yard setbacks and shall be located to minimize any glare to adjacent properties. The surface area of the arrays of a ground mounted solar panels, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the lot coverage of the lot on which the system is located. Ground mounted solar panels shall not exceed fifteen (15) feet in height above the ground elevation surrounding the systems.
- D. Roof mounted solar energy equipment shall be located so as not to increase the total height of the structure above the maximum allowable height of the structure on which it is located, in accordance with the applicable zoning regulation. Roof mounted solar panels shall be located only on rear or siding facing roofs as viewed from any adjacent street unless the applicant demonstrates that, due to solar access limitation, no location exists other than the street-facing roof where the solar energy system can perform effectively.
- E. All solar panels and installations will not inflict glare, heat, or other nuisances which may be harmful to adjacent properties.

1026.1.12 Enforcement and Violations

- A. During construction, the Onekama Township Zoning Administrator may issue a stop work order at any time for violations of the ordinance, the special use permit, building permit, or site plan approval.
- B. Any person owning, controlling, or managing any building, structure, or land who undertakes a wind energy facility in violation of this article or in noncompliance with the terms and conditions of any permit issued pursuant to this article, or any order of the zoning administrator, and any person who assists in so doing, shall be guilty of an offense and subject to the fines and penalties pursuant to Article 98.
- C. In case of any violation or threatened violation of any of the provisions of this article, including any permits issued pursuant to this article, the Onekama Township Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation to prevent the illegal act.

Definitions

Wind Energy Conversion Systems (“WECS”): a machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”). A WECS

can be commercial or non-commercial. A WECS may include one or more wind turbines, towers, associated control or conversion electronics, transformers, and/or maintenance and control facilities or other components used in the system. The turbine or windmill may be on a horizontal or vertical axis, rotor or propeller.

- A. Large Wind Energy Conversion System: A Wind Energy Conversion System (“WECS”) consisting of one wind turbine, one tower and associated control or conversion electronics which has a rated capacity greater than 150 kilowatts, not exceeding the allowed maximum height of 500 feet, and is intended to supply some portion of its produced electrical power for sale to a power grid. Such a WECS may also be call a “Commercial Wind Energy Conversion System”.
- B. Small Wind Energy Conversion System: A Wind Energy Conversion System (“WECS”) consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity of not more than 150 kilowatts and a total height less than 125 feet, and is intended to primarily reduce consumption of utility power at that location (on-site)
- C. Residential Wind Energy Conversion System: A Wind Energy Conversion System (“WECS”) consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity of not more than 10 kilowatts and a total height less than 50 feet, and is intended to primarily reduce consumption of utility power at that location (on-site).

[Annotation: Section added by amendment effective December 2004]

1027. State Licensed Facilities

- A. Except as otherwise provided below, a state licensed residential facility or a family day-care facility shall be considered a residential use of the property and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from that required for dwellings of similar density in the same zone.
- B. Subsection A. does not apply to adult foster care facilities licensed by a state agency for the care and treatment of persons released from or assigned to adult correctional institutions. A special use or conditional use permit shall be required.
- C. Group day-care homes shall be issued a special use permit, conditional use permit or other similar permit providing the facility meets all of the following standards:
 - 1. Is located not closer than 1500 feet to any of the following:
 - a. Another licensed day-care home.
 - b. Another adult foster care home.
 - c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
 - d. A community correction center, resident home, halfway house, or other similar facility, which houses an inmate population under the jurisdiction of the department of corrections.
 - 2. A licensed or registered day-care home that operated before March 30, 1989 is not required to comply with the requirements of this section.

[Annotation: Section 1027 added by amendment, effective, July 13, 2007.]

1028 Impervious Surface Coverage:

For any parcel that is one (1) acre or less, or any parcel that is partially or wholly within five-hundred (500) feet of Portage Lake or any tributary of Portage Lake, the following standards shall apply:

- A. The impervious surfaces of the development of the property shall not cover more than 35% of the total parcel.
- B. For non-conforming “lots of record” that are less than 15,000 square feet in area, the impervious surfaces shall not exceed 35% of the total property area or the area of the building envelope, whichever is less.
- C. For the purposes of this ordinance "impervious surfaces" means surfaces that are impenetrable by water, including, but not limited to, building roofs, sidewalks, driveways, parking lots, concrete or stone patios.

[Annotation: Section 1028 added by amendment, effective, July 18, 2008]

1029 Small Storage Buildings and Garden Sheds

Small storage buildings and garden sheds of 144 square feet or less in area are not classified as structures. The following requirements shall apply:

- A. Erection/construction of a small storage building/garden shed, defined as a small storage building of 144 square feet or less in floor area and not exceeding a height of eight (8) feet at the eave line, may not commence without first obtaining a Land Use Permit. The application must specify construction details – materials, height, location, sketch/property lines, etc.
- B. Small storage building/garden sheds must be located in the side or rear yards on residential parcels. On waterfront parcels, such structures may be located on the (by definition) waterfront, side, or rear yard of the parcel, providing that all mandated setbacks and any other requirements are complied with. In all cases, rear, side, and front yard setbacks required by any other section of this Ordinance must be complied with.
- C. Freeze/frost footing and foundations required for other structures are not required for small storage buildings/garden sheds (as defined by this Ordinance). However, all such structures must be secured to the ground using screw-in soil anchors or a minimum of 4X4 inch treated posts 18 inches deep at each corner and well secured to the structure.
- D. On parcels of less than one (1) acre, one (1) such structure is permitted.
- E. In no case shall a small storage building / garden shed be erected on any parcel lacking a primary dwelling, unless said parcel is contiguous to a parcel owned by the same owner. In the event of a property sale or transfer resulting in different owners of a contiguous parcel and parcel with a primary dwelling, any/all small storage building / garden sheds must be removed from the parcel lacking a primary dwelling within fourteen (14) days.

[Annotation: Section added by amendment, effective November 22, 2013]

1030 Hunting Blinds, Temporary Stands, Fishing Shanties, and Playhouses

- A. Hunting blinds, temporary stands, fishing shanties, tree houses for children, and small playhouses for children, are not considered structures or accessory buildings and are exempt from Permit requirements if sixty-four (64) square feet or less in floor area and used for the sole purpose of hunting, fishing, or children’s play activities, but must meet setback requirements.
- B. Temporary stands erected on an owner or tenant’s parcel for the purpose of children selling or providing beverages, products similar to Girl Scout Cookies, etc. are also exempt, but may be in place only during hours of daylight and removed at dusk of each day.
- C. Hunting blinds may be located on a privately owned parcel wherever hunting is legally allowed.
- D. Fishing shanties may be placed or stored in rear or side yards providing mandated setbacks are adhered to. Fishing shanties on waterfront parcels may be placed or stored in waterfront yard area November 1st – April 15th, but must be placed in side or rear yard areas at all other times, and mandated setbacks must be adhered to.

[Annotation: Section added by amendment, effective November 22, 2013]

1031 Sidewalks, Patios, Driveways

- A. Sidewalks, patios, driveways and similar items constructed at grade are not considered accessory structures. This section does not exempt any parcel owner, tenant, or agent from any Permit requirement other agencies or authorities may mandate.
- B. Sidewalks, patios, and driveways are specifically excluded from Ordinance requirements for freeze/frost walls, except where these may physically tie into a structure that requires such construction to prevent freeze/frost damage to the primary structure.
- C. Sidewalks, patios, and driveways constructed at grade are exempt from setback requirements, excepting that placement of impervious surfaces is prohibited within a setback distance of fifty (50) feet from the high water mark of wetlands, streams, and water bodies.

[Annotation: Section added by amendment, effective November 22, 2013]

1032 Parking or Storage of Recreational Vehicles and Trailers.

- A. The parking or storage of any recreational vehicle or trailer in any residential district shall be subject to the following:
 - 1. Parking of licensed and registered recreational vehicles and trailers by parcel owners or immediate family members, lessees of the entire parcel or property, and temporary guests and visitors not residing on said property or parcel for over three weeks in any calendar year, is permitted subject to the following restrictions.
 - 2. All stored recreation vehicles and trailers must be the property of and registered to the parcel owner or immediate family members, or lessees of entire parcel or property, and must have current registration or license, unless a removable truck camper.
 - 3. On parcels of less than one acre, the number of recreation vehicles and trailers parked or stored outside an enclosed structure shall not exceed two (2) of any type.
 - 4. On parcels of one acre or larger, the number of recreation vehicles and trailers stored outside an enclosed structure shall not exceed two (2) of any type and may not exceed six (6) in combination.
 - 5. Parking or storage of recreational vehicles and trailers is restricted to primary driveway areas, rear yards, and side yards, except on parcels with water frontage.
 - 6. On parcels with water frontage, boats may be placed or stored in any yard. Excepting on primary driveway areas, a setback of five (5) feet from any property line is required for any parked or stored recreational vehicles.

[Annotation: Section added by amendment, effective November 22, 2013]

ARTICLE 18 - LAND USE DISTRICTS

1801. Establishment of Districts

The unincorporated portion of Onekama Township is divided into the following land use districts:

- A. Rural, agriculture and forestry districts:
 - 1. District AG-1, Agricultural-Residential
 - 2. District AG-2, Agricultural-Residential
 - 3. District SUR, Special and Unique Residential
- B. Residential Districts:
 - 1. District RR-1, Resort-Residential
 - 2. District RR-2, Resort-Residential
 - 3. District RR-3, Resort-Residential
 - 4. District RR-4, Resort-Residential
- C. Commercial Districts:
 - 1. District CR-1, Commercial-Residential.

[Annotation: Added by amendment effective February 5, 2000]

[Annotation: Modified by Amendment, effective, January 12, 1997.]

1802. Provision for Official Zoning Map

These districts are bounded on a map entitled "Zoning Map of Onekama Township, Manistee County, Michigan" which zoning map and the contents thereof are incorporated herein by reference.

1803. Identification of Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Onekama Township", together with the effective date of this Ordinance, as amended.

1804. Changes to Official Zoning Map

If, in accordance with the procedures of this Ordinance and of the Michigan Zoning Enabling Act of 2006, change is made in a zoning district boundary, such change shall be made by the Township Board promptly after the amendment authorizing such change has been adopted and published.

[Annotation: The Ordinance is amended by changing the official Zoning Map to delete the depiction of all [high risk erosion setbacks [and DNR Critical Sand Dunes overlay] from the Zoning Map, effective January 12, 1997.]

[Annotation: Modified by Amendment, effective, July 13, 2007.]

1805. Authority of Zoning Map

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Onekama Township Offices shall be the final authority as to the current zoning status of any land, lot, district, use, building or structure in the township.

1806. Replacement of Official Zoning Map

In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may by resolution authorize the transcribing and drawing of a duplicate official zoning map which shall

supersede the prior Official Zoning Map, but no such correction shall have the effect of amending the Zoning Ordinance or the prior Official Zoning Map. The duplicate Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Onekama Township duplicated on _____ which replaces and supersedes the Official Zoning Map which was adopted on _____, 1986."

1807. Rules of Interpretation

- A. A boundary indicated as approximately following along section lines or customary division lines of sections, such as quarter or eighth section lines, shall be construed as following such lines.
- B. A boundary indicated as approximately following the centerline of a highway, road, alley or easement shall be construed as following such line.
- C. A boundary indicated as approximately following a recorded lot line or a property line shall be construed as following such line.
- D. A boundary indicated as approximately following the corporate boundary line of a village, or township, shall be construed as following such line.
- E. A boundary indicated as following a railroad line shall be construed as being midway between the main tracks.
- F. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
- G. A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following such centerline.
- H. A boundary indicated as parallel to, or an extension of, a feature indicated in Paragraphs A through G above shall be so construed.
- I. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- J. Where a physical or cultural feature existing on the ground is at variance with that shown on the Official Zoning Map, or in any other circumstance not covered by Paragraphs A through I above, or question in interpreting paragraphs A through I above, the Board of Appeals shall interpret the zoning district boundary.

ARTICLE 37 - AGRICULTURAL RESIDENTIAL - AG-1

[Modified by amendment effective February 5, 2000]

3701. Purpose

The regulations of this district are intended to conserve, enhance and develop farming and related natural resource-utilization activities, to minimize land fractionalization, to minimize conflicting uses of parcels, lots, buildings and structures detrimental to or incompatible with these activities; while, at the same time, provide for certain commercial and industrial uses compatible with the adjacent parcels, where resource- utilization activities are not practical.

[Annotation: Added by amendment effective September 12, 2000]

3702. Permitted Uses

Permitted uses by permit authorized pursuant to Section 8401 of this ordinance:

- A. Dwelling.
 - 1. Home Occupation.
 - 2. Parking for currently licensed automobiles.
 - 3. Storage of recreational vehicles, boats, boat trailers or trailers, owned by the property owner.

[Annotation: Modified by amendment effective September 12, 2000]

[Annotation: Modified by amendment effective November 22, 2013]

- 4. On lakefront lots, one boat dock for private use.
- B. Parks and Playgrounds.
- C. Riding Stable.
- D. Agriculture, Forestry and Fishing [A; 01-09], including but not limited to the following accessory uses:
 - 1. Roadside stands, within fifty (50) feet of the road right-of-way of Northwood Highway (M-22).
 - 2. Dwellings, Duplexes, and Apartment Buildings for owners, operators and employees of a farm.
 - 3. Farm Product Warehousing and Storage [4221].
 - 4. Refrigerated Warehousing and Storage [4222].
 - 5. Wholesale Fresh Fruits and Vegetables [5148].
 - 6. Fruit and Vegetable Markets [543].
- E. Health Services [80].
- F. Educational Services [82].
- G. Membership Organizations [86].
- H. Signs as permitted in Section 1015.
- I. Membership Sports and Recreation Clubs [7997].
- J. Private Wind Energy Conversion System Subject to Section 1026
- K. Accessory uses to the above.

[Annotation: The following uses were deleted by amendment: Farm Product Warehousing and Storage [4221]; Refrigerated Warehousing and Storage [4222]; and Public Golf Courses [7992]; effective January 12, 1997.]

3703. Special Uses

Special uses by permit authorized pursuant to Section 8601 *et seq.* of this ordinance. Medium Site Plans are required for all special uses unless otherwise specifically stated.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- A. Apartment Buildings.
- B. Mobile Home Parks.
- C. Sweetening Plants.

- D. Mining [B; 10-14].
- E. Construction [C; 15-17].
- F. Food and Kindred Products [20].
- G. Floor Covering Mills [227].
- H. Apparel and other Textile Products manufacturing [23].
- I. Furniture and Fixtures manufacturing [25].
- J. Printing and Publishing manufacturing [27].
- K. Soap, Cleaners, and Toilet Goods manufacturing [284].
- L. Plastic Materials and Synthetics manufacturing [282].
- M. Pharmaceutical Preparations manufacturing [2834].
- N. Pottery and Related Products manufacturing [326], using only previously pulverized clay and kilns fired only by electricity or gas.
- O. Concrete Block and Brick manufacturing [3271].
- P. Cut Stone and Stone Products manufacturing [328].
- Q. Canvas and Related Products manufacturing [2394].
- R. Fabricated Metal Products manufacturing [34], except screw machine products, bolts, etc. manufacturing [345], metal forgings and stampings manufacturing [346], and any other manufacturing process which may create vibrations or noise disturbing to adjacent property occupants.
- S. Metalworking Machinery manufacturing [354].
- T. Household Appliances manufacturing [363].
- U. Radio and Television Receiving Equipment manufacturing [365].
- V. Communication Equipment manufacturing [366].
- W. Electronic Components and Accessories manufacturing [367].
- X. Medical Instruments and Supplies manufacturing [384].
- Y. Brooms and Brushes manufacturing [3991].
- Z. Taxicabs [412].
- AA. Local Trucking and Storage [4214].
- BB. Public Warehousing [422] except those listed in Section 3701.
- CC. Airports and flying fields [4582].
- DD. Communications [48].
- EE. Refuse Systems [4953].
- FF. Wholesale Trade [F; 50-51], except that flammable liquids shall be in a tank(s) not larger than fifty thousand (50,000) gallons, and the tank's location and its protective measures are approved by respective regulatory agencies.
- GG. Retail Trade [G; 52-59].
- HH. Finance, Insurance and Real Estate [H; 60-67].
- II. Services [I; 70-89].
- JJ. Communication Towers.

[Annotation: Modified by Amendment effective July 18, 1998]

- KK. Accessory uses to the above with "Commercial Wind Energy Conversion System" and "Private Wind Energy Conversion System with Tower Height over 50 Feet" Subject to Section 1026.

[Added by amendment effective December 2004]

- LL. State Licensed Facilities described in Section 1027. B. C.

[Annotation: Added by amendment, effective, July 13, 2007.]

- MM. Accessory uses to the above.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

[Annotation: Added by amendment effective July 18, 1998]

3704. Special Use Standards

Special uses in this district are subject to the following specific standards in addition to the general standards listed in Sections 8602.B and 8607 of this Ordinance.

- A. For a Sweetening Plant:

1. A sweetening plant shall be isolated from existing residents, commercial, manufacturing establishments; wetlands, surface water, of a minimum of one thousand three hundred (1,300) feet.
2. Placement of a sweetening plant shall be so that no subdivisions, apartment buildings, residential developments, mobile home parks, or other land uses that result in a dense population; and no residential uses whose occupants are relatively immobile and which are hard to quickly and efficiently evacuate, such as hospitals, nursing homes, residential care facilities, are within two thousand six hundred (2,600) feet.
3. The sweetening plant shall be located northeast of a straight line connecting the following two points: the northeast corner of Section 25, T23N- R16W, Manistee County, and the intersection point where the section line between sections 9 and 16 meets Lake Michigan's ordinary high water mark.
4. The maximum density of sweetening plants shall not be more than one per square mile section of land. A sweetening plant shall not be within four miles of another sweetening plant and shall be designed to service all oil and gas wells anticipated that are expected to need such service within a two mile radius. If upon documentation by the application that
 - a. an existing sweetening plant located within the same section of land or within two miles is being operated at capacity and cannot be feasibly expanded,
 - b. and cannot be expanded or modified to accept oil or gas from the applicant's wells,
 - c. and that the owners of the existing sweetening plant refuse, after reasonable offers and negotiations of terms have been made, to share a sweetening plant to service the applicant's wells, then the Planning Commission may act to waive the density standard given here.
5. The applicant for a sweetening plant shall hold an interest ownership in the lot of land, or life-time lease for use of the lot of land, on which the sweetening plant is to be situated.
6. The sweetening plant shall be screened from view from nearby roads, residents and commercial establishments by vegetation or berm or a combination of both, placed near the property boundary of the lot of land the sweetening plant is located on so the perimeter road and equipment are within the vegetation/berm and adequate air circulation through the sweetening plant site is provided for. Lights installed to illuminate the site shall be shaded and/or screened by the vegetation berm and/or by apparatus on the light fixture so direct glare of the light is not visible beyond the lot boundary. The sweetening plant shall comply with all applicable setbacks in this Ordinance. The sweetening plant shall be made secure so pedestrians and unauthorized persons cannot gain access to the site.
7. Emissions and/or effluent from the sweetening plant shall meet or exceed all applicable state and federal air pollution, surface and groundwater quality standards. A sweetening plant shall be fitted with a warning siren audible for one mile in all directions on a calm (no wind) day which is triggered to sound when concentrations of hydrogen sulfide exceeds two hundred (200) parts per million within the plant site. The siren shall be periodically tested on a regular basis during the life of the plant. Sulfur, once separated from natural gas, shall not be incinerated. Technology which chemically changes the sulfur to its elemental form (or some form for resale), or more advanced technology approved by the Planning Commission shall be used. All solid wastes from the site shall be transported by a Michigan-licensed hauler to a licensed Type I or Type II landfill. No brine pits, or other earthen pits shall be allowed as part of the plant, except for in-ground pits utilized for backup emergency purposes. Steel tanks shall be used instead.

8. Odor from the sweetening plant shall not be detectable by normal human senses under normal operational circumstances at a distance of one thousand three hundred (1,300) feet from a sweetening plant.
9. Noise shall not be over 50 decibels at a distance of one thousand three hundred (1,300) feet from a sweetening plant.
10. A Pollution Incident Prevention Plan is filed with the Planning Commission as part of the special use permit application and is approved by
 - a. the Onekama Township Fire Chief and
 - b. is approved by the Manistee County Emergency Services Coordinator and
 - c. Michigan State Police Fire marshal and
 - d. DNR Geological Survey Division and
 - e. DNR Air Quality Division and
 - f. DNR Ground Water Quality Division.
 in as much as it deals with fire, evacuation of the community, communications and warnings of incidents, and a mechanism whereby the owner/operator works with the Onekama Township Fire Department and the Manistee County Emergency Services Coordinator for periodic updating of the plan. Costs of an evacuation, fire, etc. shall be the responsibility of the owner/operator of the establishment.
11. The application for a special use permit for the proposed sweetening plant shall include letters showing
 - a. approval,
 - b. tentative approval,
 - c. or letters of understanding for concurrent approval
 by the Planning Commission and the Michigan Department of Natural Resources, Soil Erosion and Sedimentation Control Agency, and any other applicable agencies where approval is required. Receiving Department of Natural Resources' approval, or other agency approval, in no way obligates the Planning Commission to grant approval unless all standards in this Section and all general standards in Section 8602.B and 8607 of this ordinance are found by the Planning Commission to be complied with. Site plans, design plans and other documents submitted as part of the special use permit application shall show any changes or modifications required for any applicable regulatory agencies' approvals. Site plan or design plan changes required after the Planning Commission issues a special use permit shall also be changed in accordance with procedures established in this ordinance for minor adjustments or amendments to special use permits and/or site plans.
12. Upon review of the special use permit application, the Planning Commission may require an environmental assessment, environmental impact statement and/or fiscal impact study to obtain additional information needed to make a determination of compliance with the standards, requirements and purposes of this ordinance.
13. Upon review of the special use permit application, the Planning Commission may require upgrading of roads from the sweetening plant to the closest road already constructed to adequately service anticipated traffic. Upon mutual agreement between the Planning Commission and applicant, upgrading of roads to a more distant road already constructed to adequately service anticipated traffic may be required. The cost of upgrading of roads shall be the responsibility of the applicant unless a cost sharing agreement is mutually agreed to between the applicant, Onekama Township and Manistee County Road Commission.
14. The application for a sweetening plant shall include information as to the
 - a. maximum expected life of the operation of the establishment, if such an estimate is possible; and

- b. a reclamation plan that includes disassembling the sweetening plant and returning the condition of the land to its original state, or other condition acceptable for future use, when the establishment's useful life has ended; and
 - c. costs for the reclamation in the year it is anticipated the reclamation would take place.
 - 15. Prior to issuing a sweetening plant special use permit, a surety, pursuant to Section 8606.F of this Ordinance, is presented to the township clerk for any required improvements, including but not limited to roads, buffers, screening, shading of lights, evacuation costs and reclamation.
 - B. A junkyard shall be constructed, designed and operated according to the following standards:
 - 1. Shall meet the following conditions:
 - a. Have a Michigan Sales Tax license;
 - b. Have records of sales and other transactions which are required by, and whose business falls under, the jurisdiction of P.A. 350 of 1917, as amended, (the Second Hand Junk Dealers Act, being MCL 445.401 et seq.).
 - 2. Shall be designed to comply with one of the following:
 - a. Shall be set back from lot boundaries at least 300 feet. Shall be set back 300 feet from a road right-of-way or 333 feet from the centerline of a road, whichever is greater.
 - b. Shall be screened from view of a road and from adjacent lots by means of an opaque fence, vegetation, earth berm, or another form of screening, or a combination of the above; or
 - c. Shall not be visible from a road or from adjacent lots.
 - 3. Shall be set back from lot boundaries at least 100 feet. Shall be set back 100 feet from a road right-of-way or 133 feet from the centerline of a road, whichever is greater.
 - 4. Shall be designed and operated so that noise, under normal operational circumstances, shall not be over 60 decibels at the boundary of the lot and at the nearest road.
 - 5. Shall not be operated so that burning or incineration of junk or any other material results in smoke; other emissions and effluent shall meet or exceed all applicable state and federal air pollution, surface and groundwater quality standards.
 - 6. Shall comply with Public Act 219 of 1966, as amended, (the Control of Junkyards Adjacent to Highways Act, being MCL 252.201 et. seq.); Public Act 350 of 1917, as amended, (the Second Hand Junk Dealers Act, being MCL 445.401 et. seq.); the Solid Waste Management Act; and, if applicable, Public Act 12 of 1929, as amended, (township licensing of junkyards, being MCL 445.451 et seq.).
 - 7. Shall not operate a landfill, as defined in the Solid Waste Management Act, as an accessory function to a junkyard.
 - 8. Shall be more than 1,000 feet from a school, campground, or park.
 - 9. Shall not be adverse to the health, safety, morals and welfare of Onekama Township.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

3705. Regulations

Minimums:

- A. Minimum lot size: One (1) acre.
- B. Minimum lot width: Two hundred (200) feet.
- C. Minimum frontage on a street or road: Two hundred (200) feet.
- D. Minimum setback from street or road: Fifty (50) feet for all uses.

[Annotation: Modified by amendment effective February 9, 1999]

E. Minimum setback for side yards: Twenty (20) feet for all uses.

[Annotation: Modified by amendment effective February 9, 1999]

F. Minimum setback for rear yards: 25 feet for all uses.

[Annotation: Modified by Amendment, effective, January 12, 1997]

G. Minimum floor area: Eight hundred (800) square feet, except for housing for transitory workers, which shall have a minimum floor area consistent with applicable state and federal regulations.

ARTICLE 38 - AGRICULTURAL RESIDENTIAL - AG-2

[Annotation: New land use district added by amendment effective February 5, 2000]

3801. Purpose

The regulations of this district are intended to conserve, enhance and develop farming and related natural resource-utilization activities, to minimize land fractionalization, to minimize conflicting uses of parcels, lots, buildings and structures detrimental to or incompatible with these activities; while, at the same time, limiting commercial uses to those which are compatible with the adjacent parcels, therefore creating a transition or buffer district between the adjoining residential districts and the AG-1 district.

[Annotation: Added by amendment effective September 12, 2000]

3802. Permitted Uses

Permitted uses by permit authorized pursuant to Section 8401 of this ordinance:

- A. Dwelling.
 - 1. Home Occupation.
 - 2. Parking for currently licensed automobiles.
 - 3. Storage of recreational vehicles, boats, boat trailers or trailers, owned by the property owner.

[Annotation: Modified by amendment effective September 12, 2000]

[Annotation: Modified by amendment effective November 22, 2013]

- B. Parks and Playgrounds.
- C. Agricultural Production – Crops [01], General Farms, Primarily Livestock and Animal Specialties – [0291], Forestry – [08].
- D. Health Services [80].
- E. Educational Services [82].
- F. Membership Organizations [86].
- G. Signs as permitted in Section 1015.
- H. Private Wind Energy Conversion System Subject to Section 1026.

[Annotation: Added by amendment effective December 2004]

- I. Accessory uses to the above."

3803. Special Uses

Special uses by permit authorized pursuant to Section 8601 *et seq.* of this ordinance. Medium Site Plans are required for all special uses unless otherwise specifically stated.

- A. Veterinary Services [0742].
- B. Communications [48].
- C. Finance, Insurance and Real Estate [H; 60-67].
- D. Sporting and Recreational Camps [7032].
- E. Public Golf Courses [7992].
- F. Membership Sports and Recreational Clubs [7997].
- G. "Commercial Wind Energy Conversion System" and "Private Wind Energy Conversion System with Tower Height over 50 Feet" Subject to Section 1026.

[Annotation: Added by amendment, effective, December 2004.]

[Annotation: Added by amendment, effective, July 13, 2007.]

- H. State Licensed Facilities described in Section 1027. B. C.
- I. Accessory uses to the above.

3804. Regulations

Minimums:

- A. Minimum lot size: One (1) acre.
- B. Minimum lot width: Two hundred (200) feet.
- C. Minimum frontage on a street or road: Two hundred (200) feet.
- D. Minimum setback from street or road: Fifty (50) feet.
- E. Minimum setback for side yards: Twenty (20) feet.
- F. Minimum setback for rear yards: 25 feet for all uses.
- G. Minimum floor area: Eight hundred (800) square feet.

ARTICLE 39 - SPECIAL AND UNIQUE RESIDENTIAL - SUR

3901. Purpose

The intent of the regulations for this district is to preserve the unique character of the area by limiting residential units to one (1) per every two (2) acres, requiring a minimum dwelling size and by allowing no special uses.

3902. Permitted Uses

Permitted uses by permit authorized pursuant to Section 8401 of this ordinance:

- A. Dwelling
 - 1. Home Occupation
 - 2. Parking for currently licensed automobiles
 - 3. Storage of recreational vehicles, boats, boat trailers or trailers, owned by the property owner.

[Annotation: Modified by amendment effective September 12, 2000]

[Annotation: Modified by amendment effective November 22, 2013]

- 4. On lake front lots, one boat dock for private use,
- 5. Signs as permitted in Section 1015.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- 6. Beach access structures.

[Annotation: Modified by Amendment, effective, July 5, 2005.]

- B. Accessory uses to the above.

3903. Regulations

Minimums:

- A. Minimum lot depth for all lots: three hundred (300) feet.
- B. Minimum depth of lot from bluff line: three hundred (300) feet.
- C. Minimum lot width: Three hundred (300) feet.
- D. Minimum frontage on a street or road: three hundred (300) feet.
- E. Minimum setback from street or road: twenty five (25) feet.
- F. Minimum setback from bluff line: sixty (60) feet. No structures of any kind shall be lakeward of the bluff line except for beach access structures.

[Annotation: Modified by Amendment, effective, .July 5, 2005]

- G. Minimum setback for side yards: Fifty (50) feet for each side yard.
- H. Minimum setback for rear yards: twenty five (25) feet for all uses.
- I. Minimum floor area: eight hundred (800) square feet.
- J. Medium Site Plans are required.

[Annotation: Added by amendment, effective, January 12, 1997.]

- K. Beach access structures lakeward of the bluffline are subject to standards listed in 3904.

[Annotation: Modified by Amendment, effective, July 5, 2005.]

3904. Standards for Construction of Beach Access Structures

- A. Structures shall be dominantly constructed of wood, insofar as possible.
- B. Structures shall follow the natural contours of the bluff in so far as possible.
- C. Structures shall be designed and constructed so as not to weaken the bluff.
- D. Structures on slopes greater than 33% shall be designed by a registered architect or certified engineer.
- E. Deck landings that are part of stairways shall be uncovered and shall have a maximum square footage of 225 feet.
- F. All structures shall be easily removable.
- G. All disturbed soil shall be stabilized with native vegetation.

[Annotation: Added by amendment, effective, July 5, 2005.]

ARTICLE 40 - RESORT RESIDENTIAL - RR 1

4001. Purpose

The intent of the regulations for this district is to preserve the rural and scenic character and lakeshore environment of those residential areas which border Lake Michigan and the southwest portion of Portage Lake by maintaining a low density residential area limiting residential units to one (1) per acre, requiring a minimum dwelling size and allowing no special uses

[Annotation: Added by amendment effective September 12, 2000]

4002. Permitted Uses

Permitted uses by permit authorized pursuant to Section 8401 of this ordinance:

- A. Dwelling.
 - 1. Home Occupation.
 - 2. Parking for currently licensed automobiles.
 - 3. Storage of recreational vehicles, boats, boat trailers or trailers, owned by the property owner.

[Annotation: Modified by amendment effective September 12, 2000]

[Annotation: Modified by amendment effective November 22, 2013]

- 4. On lake front lots, one boat dock for private use.
- 5. Signs as permitted in Section 1015.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- B. Accessory uses to the above.

4003. Regulations

Minimums:

- A. Minimum lot: One (1) acre.
- B. Minimum lot width: One hundred (100) feet.
- C. Minimum frontage on a street or road: one hundred (100) feet.

[Annotation: Added by amendment, effective, July 5, 2005.]

- D. Minimum setbacks, including all accessory buildings:
 - 1. Front: 25 feet
 - 2. Rear: 25 feet
 - 3. Side: 10 feet

[Annotation: Modified by Amendment, effective, January 12, 1997]

- E. Minimum floor area: One thousand (1,000) square feet.
- F. Minimum dwelling width across any front, side length, or rear measurement: 20 feet.
- G. No commercial vehicle or equipment more than 20 feet long, or equivalent of a one ton truck, shall be stored in this district.
- H. Basic Site Plans are required with Land Use Permit applications.

[Annotation: Added by amendment, effective, January 12, 1997]

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ARTICLE 41 - RESORT RESIDENTIAL - RR 2

4101. Purpose

The intent of the regulations for this district is to preserve the residential character and waterfront environment of properties near or along the south shore of Portage Lake by limiting residential units to three (3) per acre and requiring a minimum dwelling size, while at the same time, allowing certain special uses which are compatible with, and augment lakeshore living.

[Annotation: Added by amendment effective September 12, 2000]

4102. Permitted Uses

Permitted uses by permit authorized pursuant to Section 8401 of this ordinance:

- A. Dwelling.
 - 1. Home Occupation.
 - 2. Parking for currently licensed automobiles.
 - 3. Storage of recreational vehicles, boats, boat trailers or trailers, owned by the property owner.

[Annotation: Modified by amendment effective September 12, 2000]

[Annotation: Modified by amendment effective November 22, 2013]

- 4. On lake front lots, one boat dock for private use.
- 5. Signs as permitted in Section 1015.

[Annotation: Added by amendment, effective, January 12, 1997.]

- B. Parks and Play grounds.
- C. Accessory uses to the above.

4103. Special Uses

Special uses by permit authorized pursuant to Section 8601 *et seq.* of this ordinance. Medium Site Plans are required for all special uses unless otherwise specifically stated:

[Annotation: Modified by Amendment, effective, January 12, 1997]

- A. Marinas and Launching ramps.
- B. Boat Livery.
- C. Eating and Drinking Places [58].
- D. Sporting and Recreational Camps [7032].
- E. Public Golf Courses [7992].
- F. Membership Sports and Recreation Clubs [7997].
- G. Accessory uses to the above.

4104. Regulations

Minimums:

- A. Minimum lot: Fifteen thousand (15,000) square feet.
- B. Minimum lot width: one hundred (100) feet.
- C. Minimum frontage on a street or road: one hundred (100) feet.

[Annotation: Modified by Amendment, effective, July 5, 2005.]

- D. Minimum setbacks, including all accessory buildings
 - 1. Front: 25 feet
 - 2. Rear: 25 feet
 - 3. Side: 10 feet

[Annotation: Modified by Amendment, effective, January 12, 1997]

- E. Minimum floor area: Eight hundred (800) square feet.
- F. Minimum dwelling width across any front, side length, or rear measurement: 20 feet.
- G. No commercial vehicle or equipment more than 20 feet long, or equivalent of a one ton truck, shall be stored in this district.

H. No more than one recreational vehicle, boat, boat trailer, or trailer coach shall be stored outside a building. Outside storage shall be in a side yard or rear yard.
[Annotation: Modified by Amendment, effective, January 12, 1997]

ARTICLE 42 - RESORT RESIDENTIAL - RR 3

4201. Purpose

The intent of the regulations for this district is to preserve the residential character and rural environment of properties near or along the north shore of Portage Lake and Lake Michigan by limiting residential units to three (3) per acre and requiring a minimum dwelling size, while at the same time, allowing certain special uses which are compatible with, and augment lakeshore or rural living.

[Annotation: Added by amendment effective September 12, 2000]

4202. Permitted Uses

Permitted uses by permit authorized pursuant to Section 8401 of this ordinance:

- A. Dwelling.
 - 1. Home Occupation.
 - 2. Parking for currently licensed automobiles.
 - 3. Storage of recreational vehicles, boats, boat trailers or trailers, owned by the property owner.

[Annotation: Modified by amendment effective September 12, 2000]

[Annotation: Modified by amendment effective November 22, 2013]

- 4. On lake front lots, one boat dock for private use.

- B. Parks and playgrounds.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- C. Agricultural Production - Crops [01]

- 1. Roadside stands, within fifty (50) feet of the right-of-way of Northwood Highway (M-22).

- D. Educational Services [82].

- E. Membership Organizations [86].

- F. Accessory uses to the above.

4203. Special Uses

Special uses by permit authorized pursuant to Section 8601 *et seq.* of this ordinance. Medium Site Plans are required for all special uses unless otherwise specifically stated.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- A. Hotels.
- B. Sporting and Recreational camps [7032].
- C. Public Golf Courses [7992].
- D. Membership Sports and Recreation Clubs [7997].
- E. Waterfront resort complexes.

[Annotation: Added by amendment effective January 8, 1995. This amendment was challenged by petition. The electors of Onekama Township at a referendum approved this amendment at a special election June 6, 1995.]

- F. State Licensed Facilities described in Section 1027. B. C.

[Annotation: Added by amendment, effective, July 13, 2007.]

- G. Accessory uses to the above.

4204. Regulations

Minimums:

- A. Minimum Lot: Fifteen thousand (15,000) square feet.
- B. Minimum lot width: One hundred (100) feet running along road frontage.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- C. Minimum setback, including all accessory buildings:

- 1. Front: Twenty-five (25) feet.
- 2. Rear: Twenty-five (25) feet.
- 3. Side: Ten (10) feet.

- D. Minimum floor area: Eight hundred (800) square feet.
- E. Minimum dwelling width across any front, side length, or rear measurement: 20 feet.
- F. No commercial vehicle or equipment more than 20 feet long, or equivalent of a one ton truck, shall be stored in this district.

ARTICLE 43 - RESORT RESIDENTIAL - RR 4

4301. Purpose

The intent of the regulations for this district is to preserve the rural and lakeshore character of the district by limiting residential units to three (3) per acre, requiring a minimum dwelling size and by limiting special uses to those which are compatible with the character of the area.

[Annotation: Added by amendment effective September 12, 2000]

4302. Permitted Uses

Permitted uses by permit authorized pursuant to Section 8401 of this ordinance:

- A. Dwelling.
 - 1. Home Occupation.
 - 2. Parking for currently licensed automobiles.
 - 3. Storage of recreational vehicles, boats, boat trailers or trailers, owned by the property owner.

[Annotation: Modified by amendment effective September 12, 2000]

[Annotation: Modified by amendment effective November 22, 2013]

- 4. On lake front lots, one boat dock for private use.

- B. Parks and playgrounds.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- C. Agricultural Production - Crops [01].
- D. Educational Services [82].
- E. Membership Organizations [86].
- F. Accessory uses to the above.

4303. Special Uses

Special uses by permit authorized pursuant to Section 8601 *et seq.* of this ordinance. Medium Site Plans are required for all special uses unless otherwise specifically stated.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- A. Sporting and Recreational camps [7032].
- B. Public Golf Courses [7992].
- C. Membership Sports and Recreation Clubs [7997].
- D. State Licensed Facilities described in Section 1027. B. C.

[Annotation: Added by amendment, effective, July 13, 2007.]

- E. Accessory uses to the above.

4304. Regulations

Minimums:

- A. Minimum lot: Fifteen thousand (15,000) square feet.
- B. Minimum lot width: One hundred (100) feet.
- C. Minimum frontage on a street or road: one hundred (100) feet.
- D. Minimum setbacks, including all accessory buildings:
 - 1. Front: 25 feet
 - 2. Rear: 25 feet
 - 3. Side: 10 feet
- E. Minimum floor area: Eight hundred (800) square feet.
- F. Minimum dwelling width across any front, side length, or rear measurement: 20 feet.
- G. No commercial vehicle or equipment more than 20 feet long, or equivalent of a one ton truck, shall be stored in this district.

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ARTICLE 50 - COMMERCIAL RESIDENTIAL CR-1

5001. Purpose

The intent of the regulations for this district is to provide for certain commercial development and to promote a compatible arrangement of land uses for businesses and homes, and to keep commercial areas free from detrimental uses.

[Annotation: Added by amendment effective September 12, 2000]

5002. Permitted Uses

Permitted uses by permit authorized pursuant to Section 8401 of this ordinance:

- A. Dwelling.
 - 1. Home Occupation.
 - 2. Parking for currently licensed automobiles.
 - 3. Storage of recreational vehicles, boats, boat trailers or trailers, owned by the property owner.

[Annotation: Modified by Amendment, effective November 22, 2013]

[Annotation: Modified by amendment effective November 22, 2013]

- 4. On lake front lots, one boat dock for private use.

- B. Apartment Buildings.
- C. Parks and playgrounds

[Annotation: Modified by Amendment, effective, January 12, 1997]

- D. Private Wind Energy Conversion System Subject to Section 1026.

[Annotation: Modified by Amendment, effective, December 2004.]

- E. Accessory uses to the above.

5003. Other Permitted Uses

Permitted uses which are more than 300 feet from an existing dwelling, duplex, and apartment building are authorized pursuant to section 8401 of this ordinance:

- A. Motels.
- B. Retail Trade [G; 52-59].
- C. Health Services [80].
- D. Educational Services [82].
- E. Membership Organizations [86].
- F. Accessory uses to the above.

5004. Special Uses

Special uses by permit authorized pursuant to Section 8601 *et seq.* of this ordinance:

- A. Any permitted uses listed in section 5002 of this ordinance which are closer than 300 feet to an existing dwelling, duplex and apartment building.
- B. Any of the following, not listed in Section 5001 of this ordinance:
 - 1. Public Utility.
 - 2. Construction [C; 15-17].
 - 3. Manufacturing [D; 20-39], except Central Production Facilities and Sweetening Plants.
 - 4. part of Transportation and Public Utilities [E; 40-48]
 - 5. Wholesale Trade [F; 50-51], except that flammable liquids shall be in a tank(s) not larger than fifty thousand (50,000) gallons, and the tank's location and its' protective measures are approved by respective regulatory agencies.
 - 6. Finance, Insurance and Real Estate [H; 60-67].
 - 7. Services [I; 70-89].
 - 8. Public Administration [J; 91-97].

9. Sexually Oriented Businesses. Sexually oriented businesses include any of the following or any combination of the following:
- a. adult book and/or video store;
 - b. adult motion picture theater
 - c. adult mini motion picture theater
 - d. adult paraphernalia/novelty store
 - e. massage parlor
 - f. host or hostess establishments
 - g. open dance hall
 - h. adult live entertainment establishments regardless of whether alcoholic beverages may or may not be served
 - i. adult panorams

[Annotation: Added by amendment effective August 10, 1977]

10. Commercial Wind Energy Conversion System and “Private Wind Energy Conversion System with Tower Height Over 50 Feet” Subject to Section 1026.

[Annotation: Modified by Amendment, effective, December 2004.]

11. State Licensed Facilities described in Section 1027. B. C.

[Annotation: Added by amendment, effective, July 13, 2007.]

- C. Accessory uses to the above.

5005. Regulations

Minimums:

- A. Minimum lot size: Fifteen thousand (15,000) square feet.
- B. Minimum lot width: one hundred (100) feet.
- C. Minimum frontage on a street or road: one hundred (100) feet.
- D. Minimum setbacks, including all accessory structures:
 - 1. Front: 25 feet
 - 2. Rear: 25 feet
 - 3. Side: 10 feet

[Annotation: Modified by Amendment, effective, January 12, 1997]

- E. Minimum floor area: Eight hundred (800) square feet.
- F. Minimum dwelling width across any front, side length, or rear measurement: 20 feet.

ARTICLE 80 - NONCONFORMITIES

8001. Purpose

Within the districts established by this Ordinance or by amendments thereto, there exist lots, buildings, structures, uses of lots, and combinations of the foregoing which were lawful before this Ordinance was adopted or amended and which would be prohibited, regulated or restricted under this Ordinance. These uses, (known as non-conformities and hereinafter referred to as "non-conforming uses") may continue until they are discontinued, damaged or removed, but are not encouraged to survive. These non-conforming uses are declared, by this Ordinance, to be incompatible with the lots, buildings, structures, uses of lots and combinations of the foregoing permitted by this Ordinance in certain districts. It is further the intent of this Ordinance that such non-conforming uses shall not be enlarged, expanded or extended, except as provided herein, nor will they be used as grounds for extending or modifying non-conforming uses in a manner prohibited elsewhere in the same district.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

8002. Regulations

No such nonconforming uses of land shall be moved in whole or in part to any other portion of such land, or to a different lot, not occupied on the effective date or adoption or amendment of this Ordinance, except as provided in Section 8003.

8003. Extensions

A nonconforming use structure and use, may not be added to, extended, reconstructed or structurally altered, expanded during its life; and a lot may not be used or built upon; except for any one or combination of the following and subject to the respective one or combination of the following restrictions:

- A. If the nonconforming use is a use which is not otherwise allowed in the zoning district; then the use and structures upon which the use is associated shall not be expanded more than fifty (50) percent in size, hours of operation or level of service, or any other extension than what exists at the time of adoption of this ordinance. Under no condition shall the lot be expanded and the use be expanded to a contiguous lot.
- B. If the nonconforming use is the lot is too small and already has existing uses and structures; then the structures shall not be expanded more than:
 - 1. Fifty (50) percent of the ground area occupied by the structure at the time of adoption of this ordinance, or
 - 2. Spatially possible while such expansion shall comply with all applicable setback regulations in this ordinance, whichever is less. Any expansion of the structure shall comply with all other provisions of this ordinance. Nothing here is intended to prevent the acquisition of adjacent land to bring the lot into compliance, or to lessen the nonconforming use if the use is permitted in the respective zoning district.
- C. If the non-conforming use of the structure is too small, then the use shall not be expanded more than fifty (50) percent in hours of operation or levels of service, or other similar extension beyond that which exists at the time of adoption of this Ordinance. Nothing herein is intended to prevent any amount of addition to the size of the structure, if:
 - 1. The size of the structure is the only non-conforming use, and
 - 2. The addition results in the structure being in full compliance, or as a second choice, closer to compliance with the requirements of this Ordinance.

[Annotation: Modified by Amendment, effective, January 12, 1997]

- D. If the pre-existing use is the structure is too small; then the use shall not be expanded more than fifty (50) percent in hours of operation or level of service, or other similar extension than what exists at the time of adoption of this ordinance. Nothing here is intended to prevent any amount of addition to the size of the structure, if:
 - 3. The size of the structure is the only nonconforming use, and
 - 4. The addition results in the structure being in full compliance, or as a second choice, closer to compliance.
- E. If the nonconformance of the lot is an unimproved “*lot of record*” which is too small, a land use permit may be issued providing the following conditions are met:
 - 1. The proposed use is a permitted use in the land use district;
 - 2. All required prerequisite permits, i.e. Health Department, DEQ and/or County Road Commission, have been obtained; and
 - 3. All setback requirements for the land use district can be met.
 - 4. If not, a variance must be applied for from the Zoning Board of Appeals.

[Annotation: Subsection E added by amendment, effective, July 5, 2005.]

8004. Repairs and Maintenance

Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming use buildings, structures, or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the Building Code of Michigan, relative to the maintenance of buildings or structures; provided, however, that the cost of such repair, reinforcement, improvement, rehabilitation or compliance shall not exceed sixty (60) percent of the reproduction value of such building at the time such work is done; and provided, further, there shall be no change of use which would expand the nonconforming use of such building at the time such work is done; and provided, further, there shall be no change of use of said building or part thereof.

8005. Building Damage

- A. No building damaged by fire, razing or teardown, act of God or other causes to the extent that the damage is total (i.e. the insurance coverage, if it existed, would pay the limits of the policy for the damaged building) shall be repaired or rebuilt, except

[Annotation: Modified by amendment effective November 22, 2013]

- 1. in conformity with the non-use provisions of this ordinance (section 8003); and in conformity with the permitted and/or special use provisions of the respective district of this ordinance, or
- 2. Reconstruction, repair or restoration of the original use shall be completed within two (2) years following the damage and resumption of use takes place within ninety (90) days of completion. The two (2) years may be extended by the Appeals Board if it finds one of the following conditions to exist:
 - a. The delay was not avoidable due to weather;
 - b. The delay was a result of a criminal investigation;
 - c. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance; or
 - d. The property is held in probate.

[Annotation: Modified by Amendment, effective, January 12, 1997. The delay was one year.]

8006. Completion

Nothing in this ordinance shall require any change in the construction or intended use of a building or structure, the construction of which shall have been diligently prosecuted prior to the

passage of this ordinance or any amendment thereto, and the construction of which shall have been completed within twelve (12) months after said date of adoption or amendment.

8007. Non-Use

Any building, structure or land that has been used for nonconforming use purposes but which has not been occupied by such nonconforming use for one (1) year or more shall not thereafter be used unless it conforms to the provisions of this ordinance. An extension may be granted by the Appeals Board for the following reasons:

- A. Property held in Probate;
- B. Insurance settlement in dispute; or
- C. Criminal investigation.

8008. Substitution

- A. For the purpose of this section, the permitted uses in the land use districts listed in Section 1801 shall be considered in ascending order, as higher uses with District RR-1 containing the highest uses and District CR-1 containing the least highest uses.
- B. With the approval of the Zoning Administrator, a nonconforming use, building or structure may be replaced by or substituted with a higher use even though such replacement or substitution does not change the nonconforming use status of such use, building or structure in the land use district in which it is located.

8009. Change of Tenancy or Ownership

There may be change of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure.

8010. Notification

Within thirty (30) days after the effective date of the adoption of this Ordinance or any amendment thereto, any non-conforming user shall file with the Zoning Administrator a written statement of the nature and extent of his, her or its non-conforming use.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

8011. Nonconforming use Special Uses

- A. There are uses which were permitted by right under this ordinance in effect immediately prior to this ordinance which are not permitted uses under this ordinance. Of those uses, there are some which are listed as potential special uses in this ordinance. Those existing uses which were permitted uses, and are listed as special uses in this ordinance, shall not be considered nonconforming or nonconforming uses.
- B. Those uses, or parts of uses, which exist as a permitted use immediately prior to this ordinance, and are listed as special uses in this ordinance shall be considered to be an approved existing special use with the configuration shown on a site plan drawn to reflect how the use exists at the time of adoption of this ordinance. Parts of uses which are nonconforming use immediately prior to the adoption of this ordinance shall continue to be nonconforming uses under this ordinance. A permit in existence pursuant to this subsection shall be known as an unwritten special use permit.
- C. An owner of an unwritten special use permit may, at no charge to the owner, obtain from the Commission a certification of a site plan reflecting how the use exists at the time of adoption of this ordinance with identification of nonconforming use parts, if any. In the case of a dispute over facts on what existed at the time of adoption of this ordinance, aerial

photographs flown in spring 1985 by Manistee County or other aerial photographs, flown to the same or greater standards for mapping as the county's photos, taken after the County photos but before the adoption of this ordinance, shall be given the greatest weight as evidence to establish a certified site plan. For purposes of this section, the above mentioned photo(s) may be accepted as the site plan for the unwritten special use permit.

- D. When a special use owner applies to amend the unwritten special use permit for expansion or change, a written special use permit shall be prepared for the entire use and lot. In review of the special use permit amendment application for expansion or change, the Commission shall only review and act on the expansion or change portion of the special use permit. If the application for amendment of the special use permit is approved, approved with conditions, denied or denied in part, the action shall not change or alter those parts of the special use that are shown on the unwritten special use permit.

ARTICLE 82 - ADMINISTRATION OF THE ORDINANCE

8201. Purpose

It is the purpose of this Article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violators and enforcement of the provisions of this Ordinance and amendments thereto.

8202. Onekama Township Zoning Administrator

- A. The provisions of this Ordinance shall be administered by the Onekama Township Zoning Administrator. Applicants for the office of Township Zoning Administrator shall be interviewed by the Onekama Township Planning Commission. The Onekama Township Planning Commission shall make its recommendations to the Onekama Township Board regarding the qualifications of the applicants. The Onekama Township Board shall appoint, from a list of applicants recommended by the Township Planning Commission, a Zoning Administrator who shall serve for such term, subject to such conditions, and at such rate of compensation as the Board shall determine, and the duty of the enforcement of this Ordinance shall rest with the Zoning Administrator as shall be authorized by law. The Zoning Administrator shall, for the purpose of this Ordinance, have the power of an enforcement officer.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- B. Eligibility. Elected officials of Onekama Township and/or members of the Onekama Planning Commission and Zoning Board of Appeals shall be ineligible for appointment to the office of Township Zoning Administrator, except as otherwise provided in Section 8202.C.
- C. Interim Zoning Administrator. In the event of the resignation, death, disability, vacation or disqualification of the Zoning Administrator, the Secretary of the Onekama Township Planning Commission shall serve as interim zoning administrator until a new zoning administrator shall be appointed by the Onekama Township Board.
- D. In issuing an order, requirement, decision or determination on any discretionary matter referred to him or upon which he is required to pass under this Ordinance, it shall be sufficient for the Zoning Administrator to reasonably conclude that in addition to the standards set forth in Section 8401.C, the proposed order, requirement, decision or determination is compatible with the present uses of adjacent land, is consistent with and promotes the intent and purposes of this Ordinance, is compatible with the natural environment, is consistent with the capabilities of public services and facilities affected by such order, requirement, decision or determination and protects the public health, safety and welfare.

8203. Zoning Administrator Duties

The Zoning Administrator shall submit to the Planning Commission annual reports fully explaining the type and nature of uses permitted by right; the nature and extent of violations of this Ordinance; and the type and nature of nonconforming uses, buildings, and structures.

[Annotation: Section 8204 deleted by amendment effective February 9, 1999]

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ARTICLE 84 - PERMITS

8401. Land Use Permits

- A. No land shall be occupied or used and no improvements, buildings or structures shall hereafter be erected, altered or relocated under the provisions of this section until a Land Use Permit authorizing the same shall be issued by the Zoning Administrator. Proceeding without a proper permit shall be subject to a fine in an amount established from time to time by the Onekama Township Board.

[Annotation: Modified by amendment effective September 12, 2000]

[Annotation: Modified by amendment, effective, July 18, 2008]

- B. The Zoning Administrator shall require that copies of plans, specifications and such other information as he may deem necessary shall be filed with the application for permit, which shall be signed by the owner. Such other information shall include, but not be limited to:
 - 1. Plans, specifications and drawings showing the location, design and size of the proposed land use and the buildings and structures to be located thereon.
 - 2. The legal seating and/or sleeping capacity of all buildings and structures, if applicable.
 - 3. A concise statement of all operations and uses which will be conducted on the land and buildings.
 - 4. A concise statement of the services, if any, to be offered to the public, if applicable.
 - 5. A survey of the lot prepared by a Michigan registered land surveyor showing property lines in relation to existing buildings, monuments or other land marks shall be required for all parcels located in the RR-1, RR-2, RR-3, RR-4 and SUR Zoning Districts, and in other Zoning Districts if required by the Zoning Administrator. The determination of the location of property lines for purposes of construction and compliance with this Ordinance shall be the sole responsibility of the respective property owners. This requirement may be waived at the discretion of the Zoning Administrator in cases where lot size is not a factor in determining setbacks.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

- 6. A survey of the lot prepared by a Michigan registered land surveyor showing property lines in relation to existing buildings, monuments or other land marks is required. The determination of the location of property lines for purposes of construction and compliance with this Ordinance shall be the sole responsibility of the respective property owners.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

- 7. A copy of the health code permit for an on-site sewage disposal system shall be required prior to issuing the zoning permit.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

- 8. If a wetland permit is not needed from the Michigan Department of Environmental Quality, a letter from the MDEQ indicating that a permit is not needed shall be required.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

- C. No permit shall be issued under this section for any use which
 - 1. Fails to conform to any relevant provision of Section 1001 *et seq.*,
 - 2. Fails to conform to any provision and to minimum requirements established for the land use district in which the proposed use is to be located, or
 - 3. Fails to conform to any standard set forth in the definition of the proposed use, as defined in this ordinance.
- D. No new use shall be established or excavation or construction begun before such permit is issued, and a copy posted in a prominent position on the building site.
- E. No permit or fee is needed under this section:
 - 1. Exterior or interior repair and improvement which does not structurally alter the premises or change the exterior shape or form of any building in any manner.
 - 2. Relocation or replacement of machinery or equipment within a building located in a

commercial zone, conforming to the provisions of this Ordinance and used for commercial or industrial purposes, nor for any modification to such building in connection with said relocation or replacement, unless said modification changes the exterior shape or form of such building in any manner.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

3. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of overhead or underground gas, electrical, or water distribution or transmission systems, collection, communication, supply, disposal or sewer systems, including mains, drains, sewers, wires, cables, traffic signals, hydrants, towers, pools, electrical substations, gas regulation stations, and similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service by such public health or safety or general welfare, shall be permitted as authorized or regulated by law or other ordinances of the Township, in any land use district, it being the intention hereof to exempt such erection, construction, alteration and maintenance from the application of this Ordinance; provided, however, that the erection or construction of any or all new above-grade construction is designed and erected to conform harmoniously with the general architecture and plan of such district in which it is to be located, and complies with all provisions of Section 1001 *et seq.* of this Ordinance.
4. For the purposes of this section, "public utilities" shall not include radio, television, cellular telephone, telephone, telephone relay, or other communications towers as defined in Article 5, Section 503.

[Annotation: Added by amendment effective July 18, 1998]

- F. A permit issued under this Section is void if the use is not commenced within one (1) year. A renewal may be granted by the Zoning Administrator after a restudy of the permit, for a fee established from time to time by the Onekama Township Board.

[Annotation: Modified by amendment, effective, July 18, 2008]

- G. A permit issued under this Section may be amended by presenting the proper documentation to the Zoning Administrator, together with the proper fee. The fee may vary depending on the extent and nature of the changes requested.
- H. A violation of any condition or specification in a permit issued under this section shall void the permit.
- I. Any improper information contained in the application for permit issued under this section shall void the permit until properly corrected upon the permit application.
- J. A non-refundable fee shall accompany each application for a permit under this section. The fee shall be as established from time to time by the Onekama Township Board.

ARTICLE 86 - SPECIAL USE PERMITS

8601. Purpose

The information and enactment of this zoning ordinance is based upon the division of the unincorporated portions of the Township into districts in each of which are permitted specified uses which are mutually compatible. In addition to such permitted uses, however, it is recognized there are certain other and additional land and/or building uses which it may be necessary or desirable, because of their particular nature and due to certain circumstances, to allow in certain locations in certain districts but which on account of their actual or potential impact on neighboring uses or public facilities need to be carefully regulated with respect to their location for the protection of the Township. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

8602. Authority to Grant Special Use Permits

- A. The Planning Commission shall have the authority to approve special use permits in accordance with required standards subject to such conditions of design and operation, safeguards and time limitations as it may determine for all special uses specified in the various district provisions of this Ordinance. The Zoning Administrator shall issue these permits.
- B. A special use permit may be granted when the Planning Commission finds from the evidence produced at the time of consideration of the application, or at the hearing that:
 - 1. The proposed use does not affect adversely the Land Use Plan for physical development of Onokama Township;
 - 2. The proposed use will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood;
 - 3. Any standards, as may be set forth for a particular use for which a special exception may be granted, can and will be met by the applicant.

[Annotation: Added by amendment, effective, July 13, 2007.]

- C. The decision by the Planning Commission to grant a Special Use Permit shall contain a written statement of findings and conclusions relative to the special land use, which specifies the basis for the decision and any “conditions imposed”.

8603. Application and Fee

- A. No land shall be occupied or used and no improvements, buildings or structures shall hereafter be erected, altered or relocated under the provisions of this section until a Special Use Permit authorizing the same shall be issued by the Township Planning Commission following application submitted for review and approval pursuant to the requirements of this Section. Proceeding without a proper permit shall be subject to a fine in an amount established from time to time by the Onokama Township Board.

[Annotation: Modified by amendment, effective, July 18, 2008]

- B. A special use permit application shall include:
 - 1. A Special Use Permit Application properly filled out and signed by the applicant, together with all required documentation. Five (5) copies shall be provided.
 - 2. The fee, as established by the Township Board from time to time.
 - 3. Approval, or letters on intent to approve, or letters of understanding for concurrent approval by other State agencies, Manistee-Mason District Health Department and Soil Erosion Inspection Department.
 - 4. Provide eleven (11) copies of the Detailed Site Plan pursuant to Section 9406.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

[Annotation: Modified by amendment, effective, July 18, 2008]

5. A project narrative that explains the proposal in detail. Also, any other information deemed necessary by the Planning Commission shall be provided by the applicant.

[Annotation: Added by amendment, effective, January 12, 1997.]

[Annotation: Modified by amendment, effective, July 18, 2008]

6. A statement or other proof by evidence by the applicant of present or future compliance with standards contained elsewhere in this Ordinance.

[Annotation: Added by amendment, effective, January 12, 1997.]

7. The applicant's name and address in full and the principal offices and resident agent of the business if other than a sole proprietor; a statement that the applicant is the owner of the land involved in the application or is acting on the owner's behalf; and the address and legal description of the land involved in the application.

[Annotation: Added by amendment, effective, January 12, 1997.]

8. Other narrative statements necessary which specifically address special use permit standards in Section 8602.B and 8607 of this Ordinance and specific standards for special use permits contained in the respective land use districts.
9. For Communication Towers; engineering and design drawings, copies of any state and/or federal permits and a written copy of the applicant's long range tower plan for the area.

[Annotation: Added by amendment effective July 18, 1998]

8604. Modification to Site Plans

- A. Any requirement and changes required by any regulatory agencies shall be clearly shown on the site plan or included in material submitted with application for special use permit under this ordinance.
- B. Receiving Michigan Department of Natural Resources' approval, or other agency approval, in no way obligates the Planning Commission to grant approval unless all standards in Section 8607 and specific standards for special uses contained in the respective land use district of this ordinance are found by the Planning Commission to be complied with.
- C. Site plan or design plan changes required after the Planning Commission issues a special use permit shall also be changed in accordance with procedures established in this ordinance for minor adjustments or amendments to special use permits and/or site plans.

8605. Application Review for Completeness

Upon receipt of a special use permit application, the zoning administrator shall review the application to insure it is complete, and includes all the elements specified in Section 8603 of this Ordinance.

- A. If the application is not complete, the zoning administrator shall return the application with a letter that specifies the additional material required.
- B. If the application is complete, the zoning administrator shall confer with the chairman of the Planning Commission to establish a date to hold a meeting and/or hearing on the special use permit application.
- C. The Planning Commission shall have concurrent authority to find an application for a special use permit to be complete and to waive any requirement of Section 8603.B provided its reasons therefor are placed on the record.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

8606. Notice of Consideration or Public Hearing

- A. The zoning administrator or designee shall, upon establishment of a date for a meeting and/or hearing, schedule a meeting upon the request, and shall proceed to notify:
 - 1. The Applicant;
 - 2. The owners of the property for which approval is being considered;
 - 3. The owners and occupants of all properties within 300 feet of the boundary of the property for which the approval is being considered, as shown on the latest assessment role, regardless of whether the property is located within the zoning jurisdiction.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

- 4. All occupants of structures within 300 feet of the property in question. If the name of an occupant is not known, the term "occupant" may be used in the notice. Notification need not be given to more than one (1) occupant of a structure, except that, if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
- 5. The notice shall be published in a newspaper which circulates in the township and shall be mailed or personally delivered to the appropriate property owners and occupants not less than fifteen (15) days prior to the date the application will be considered.

All notices shall:

- a. describe the nature of the special land use request,
- b. indicate the property which is the subject of the special land use request,
- c. state when and where the special land use request will be considered,
- d. indicate when and where written comments will be received concerning the request, and
- e. indicate the person or persons who may request a public hearing on the special land use request. If a public hearing is requested, notification as required for notice of a request for special land use approval shall be given, and said public hearing shall be held before a decision is made on the special land use request which is based on discretionary grounds.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

- B. The Planning Commission shall hold a meeting(s) and/or hearing for purposes of detailed review of the special use permit application and accompanying site plan.
- C. Following such meeting, or public hearing, as the case may be, said Planning Commission shall either grant or deny a permit for such special land use and shall state its reasons for its decision in the matter within ninety (90) days from the date the zoning administrator finds the special permit application as submitted is complete as provided in Section 8605.B of this Ordinance. The applicant and Planning Commission may mutually agree to extend the ninety (90) day time period. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by said Planning Commission in its decision and shall be filed with the zoning administrator of the township. Any conditions, limitations or requirements upon which approval is based shall:
 - 1. be reasonable and designed to protect natural resources, the health, safety and welfare,
 - 2. include the social and economic well-being of the owners and occupants of the land in question,
 - 3. take into account the area adjacent thereto and of the community as a whole,

4. constitute a valid exercise of the police power,
 5. be related to the purposes which are affected by the proposed use or activity,
 6. be consistent with the intent and purpose of the zoning ordinance, generally and specifically, for the respective land use district,
 7. be designed to insure compatibility with adjacent uses of land and the natural environment, and
 8. be designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- D. The Planning Commission shall have the right to limit the duration of a Special Land Use where the same is for a mining [B; 10-14] and Sweetening Plant operation and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such conditions and limitations may be terminated by action of said Planning Commission after a hearing upon application of any aggrieved party.
- E. The site plan and specifications and all conditions, limitations, and requirements imposed by the Planning Commission shall be recorded with the township and shall be incorporated as a part of the Special Land Use permit. Violations of any of these at any time shall cause revocation of said permit and said special land use shall cease to be a lawful use.
- F. To insure compliance with the zoning ordinance and any conditions, limitations or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the township and future users or inhabitants of the proposed project or project area, the Planning Commission may require
1. a cash deposit,
 2. certified check,
 3. irrevocable bank letter of credit or
 4. surety bond or requirement.

Such security shall be conditioned upon the faithful completion of the project. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

8607. Required Standards and Findings for Making Determinations

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence showing that such a use on the proposed side, lot will:

- A. Be harmonious and compatible with and in accordance with the general objectives, intent and purposes of this Ordinance, both generally and for the particular district.
- B. Conform to any applicable provisions of Section 1001 *et seq.*, Section 8602.B, Section 8607, and specific special use standards in the respective district.
- C. Conform to any minimum requirements established for the land use district in which the proposed special land use is to be located.
- D. Conform to any standard set forth in the definition of proposed special land use as defined in this ordinance.
- E. Be designed, constructed, operated, maintained and managed to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and be compatible with adjacent uses of land.
- F. Be served adequately by essential public facilities and services such as streets and roads, police and fire protection, drainage structures, refuse disposal, or the persons or agencies

responsible for the establishment of the proposed use shall be able to provide adequately any such service.

- G. Not be hazardous or disturbing to existing or future neighboring uses.
- H. Not create excessive additional requirements at public cost for facilities and services.
- I. Be consistent with the general public health, safety and welfare of the Township.
- J. Conform to the Land Use Plan for physical development of the Township as embodied in this Ordinance and in any master plan or portion thereof adopted by Onekama Township.
- K. Conform to any specific standards given with special (or) temporary uses listed elsewhere in this Ordinance.
- L. Conform, in design, to all applicable general regulations and specific district regulations listed elsewhere in this Ordinance.

The burden of proof of facts which might establish a right to a Special Land Use under standards herein set forth shall be upon the applicant.

8608. Amendment of Special Use Permit

An application may be considered to amend an existing special land use permit, and shall be handled in the same manner for the initial special use permit application prescribed by Section 8601 *et seq.* of this Ordinance. By mutual agreement between the township and applicant minor non-substantive changes may be made to an existing special use permit if such change is sought prior to the issuance of an occupancy permit for work authorized by the special use permit.

8609. Transfer of Special Use Permit

In order to insure continued compliance with the terms of this Ordinance and a special use permit issued under it, in cases where a cash deposit, irrevocable bank letter of credit, certified check, or surety bond is required, a special use permit shall specify reasonable terms for transfer of a valid special use permit from the present landowner or operator to a subsequent owner or operator. The responsibility for said transfer in accord with the terms of the special use permit shall be that of the permit holder of record with the Onekama Township Zoning Administrator. Failure of a special use permit holder to properly transfer a special use permit shall not release the permit holder of record from ordinance penalties for any subsequent action undertaken on the land in violation of the terms of the special use permit. Proper completion of the transfer shall require documentation of assumption by the new owner of an interest in the land/operator in question and a written agreement that the new owner/operator will assume the obligations for the deposit of a bond or other performance guarantee when so required by the special use permit. When such bond or other performance guarantee is deposited properly with the Township by the new permit holder, any bond or performance guarantee on deposit with the township by the previous permit holder shall be returned in accord with the terms of this Ordinance. A transfer of a special use permit to a new owner shall not be required where there is no bond or other performance guarantee requirement.

8610. Expiration of Special Use Permit

- A. A special use permit shall be valid for as long as the permitted use continues in accordance with the terms stated therein, unless otherwise stated in the special use permit.
- B. The special use permit shall expire, and be of no effect, three hundred and sixty-five (365) days after the date of issuance thereof, unless within such time work authorized under the said permit has started. The Planning Commission may extend the expiration date of the Special Use Permit for cause shown.

- C. If there is not compliance with the terms of the special use permit within six (6) months from the date of occupancy, then the Special Use Permit may be revoked by the Planning Commission.
- D. Approval of a special use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by subsequent owner.
- E. The Zoning Administrator shall notify the applicant, in writing, mailed to the address listed on the application that such special use permit has expired.

ARTICLE 87 - OPEN SPACE PRESERVATION RESIDENTIAL (CLUSTER) DEVELOPMENTS

[Annotation: Article 87 added by amendment, effective, July 18, 2008]

8701. Statement of Intent

The purpose of this Section is to allow and encourage alternative designs for residential developments, site condominiums or subdivisions, which preserve open and natural space and protect Onekama Township's rural residential character, agricultural lands and environmentally sensitive and unique features, including the bluffs that overlook Lake Michigan. The Township specifically finds that the Lake Michigan bluff features are a unique resource deserving of special protection from erosion and de-stabilization caused by over-development and loss of scenic value as viewed from the lake and lakeshores. The standards for permitted uses in each lakefront district are designed to protect these Lake Michigan coastal features and other features along Portage Lake. Any development plan proceeding under the flexibility provided in this Article shall be designed to protect and to enhance these features to an equal or greater degree than if the development were to proceed under the standard guidelines for permitted uses in each underlying land use district.

8702. Eligibility

- A. Residential Developments utilizing Open Space Preservation (OSPRD) are allowed in all areas of the Township that are zoned for residential development, pursuant to the Michigan Zoning Enabling Act, Act 110 of 2006, provided all the following apply:
 - 1. The parcel to be developed contains a minimum of 20 contiguous acres.
 - 2. The land is zoned at a density equivalent to 2 or fewer dwelling units per acre; or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.
 - 3. Not less than 50% of the land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other means that runs with the land.
 - 4. The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the Open Space Preservation option provided by this provision would also depend upon such an extension.
 - 5. The development option provided pursuant to this section has not previously been exercised with respect to the subject property.
- B. Developments utilizing OSPRD may be located in the following land use districts:
 - Agricultural Residential 1 (AG-1)
 - Agricultural Residential 2 (AG-2)
 - Special and Unique Residential (SUR)
 - Resort Residential 1 (RR-1)

8703. General Provisions

- A. Open Space Preservation Residential Developments (OSPRD) may be proposed in lieu of conventional design for Site Condominiums (Article 89), Subdivisions (Township Subdivision Ordinance) or Land Division (Township Land Division Ordinance) providing eligibility requirements are met.
- B. Only single family dwellings are allowed in OSPRD, unless the land use district allows duplexes, in which case the Planning Commission **may** allow them in the Development.
- C. The Planning Commission may waive or modify provisions of the Zoning Ordinance regarding minimum road frontage, minimum lot sizes and dimensions, and setbacks, **except waterfront and bluff setbacks, or as otherwise limited by the terms of this Article.** Waivers must be documented and may only be granted if it is determined by the Planning

Commission that the resulting open space design will be a benefit to the integrity of the Township to help achieve the goals and objectives set forth in the Onekama Township Master Plan and Zoning Ordinance.

8704. Application and Review Procedure

- A. Yield Plan.
1. A "yield plan" shall be prepared by the developer showing a feasible development under the requirements of the specific land use district in which the property is located and the requirements of any and all applicable Federal, State, and local regulations. The yield plan shall serve to determine the maximum number of single-family units that can be fit within the underlying acreage for purposes of a benchmark before applying the Open Space provisions. All lots, roads and other improvements shall be designed so that they do not adversely impact wetlands, floodplains, shoreline, steep slopes, or drainage ways, or other environmentally sensitive areas; as may also be regulated by any and all Federal, State or local agencies.
 2. It must be determined by the Planning Commission that this yield plan is able to be physically constructed and meet all regulations. If there is a question regarding water supply, sewage disposal, wetlands, floodplains, shoreline, high risk erosion, critical dunes, steep slopes, road access, or any other regulation or requirement, the Planning Commission may request validation from the proper regulatory authority. If it is determined, through these responses, that the number of lots proposed is not feasible, the yield plan shall be revised and resubmitted, minus that number of lots. Detailed Engineering is not required at this stage.
 3. The Planning Commission may also waive, in its sole discretion, the submission of a yield plan if it is determined that the number of lots proposed for open space development is, without question, well below what would be feasible for the site. Such waivers must be detailed in writing and recorded as part of the motion in the minutes of the Planning Commission.
- B. Site Analysis Plan (Natural Features inventory)
1. A Site Analysis Plan shall be submitted, showing the following site features:
 - a. Wetlands, whether regulated or not, as determined by the Michigan Department of Environmental Quality standards
 - b. Regulated areas (critical dune, high risk erosion, floodplains, etc.)
 - c. Water areas, such as streams, lakes, and ponds.
 - d. Woodlands
 - e. Specimen Trees (trees with a diameter of 24" or more 4' above grade)
 - f. Agricultural lands
 - g. Soils
 - h. Topography
 - i. Drainage patterns and County drains
 - j. Historic and cultural features
 - k. Wildlife habitat corridors
 - l. View sheds and view corridors
 - m. Existing easements of record
 - n. Existing roads, two-tracks and trails
 - o. Existing and proposed rights-of-way
 - p. Existing infrastructure
 - q. Adjacent development within three hundred (300) feet.
 - r. Other site specific information as may be deemed necessary by the Planning Commission
 2. It must be determined by the Planning Commission that this Site Analysis Plan adequately delineates the above site features. If there is a question regarding the accuracy of the plan, the Planning Commission may request validation from outside

- consultants or agencies. If it is determined, through these responses, that the Site Analysis Plan is materially incorrect or lacking sufficient detail, the Site Analysis Plan shall be revised and resubmitted, incorporating the required elements.
3. The combination of the site analysis elements shall be used to outline the primary and secondary conservation areas, and the buildable areas. The primary conservation areas are areas where no development is to occur. The secondary conservation areas are areas where development may occur, but special care must be taken to minimize adverse impacts.
 - a. Primary Conservation Areas: These are areas of significant natural or environmental value, including but not limited to, streambeds, springs, floodplains, wetlands, bluffs, dunes, drainage ways, or other exceptional elements.
 - b. Secondary Conservation Areas: These are areas, including but not limited to, steep slopes, woodlands, specimen trees, agricultural lands, marginal wetlands, tree lines, ridge tops, soils sensitive to development, soils prone to flooding, aesthetic views, or other significant elements.
 - c. Buildable Areas: Areas that are not dedicated to primary conservation areas may be treated as buildable areas. Housing sites outside of primary and secondary conservation areas should be located so as to complement the conservation areas. Housing sites located within secondary conservation areas must be located to minimize disruption and impact to the area.
- C. Open Space Development Plan
1. A "Detailed Site Plan" (Section 94) shall be provided, indicating the proposed OSPRD including lot layout, proposed open space(s), and the proposed infrastructure layout, superimposed upon the Site Analysis Plan.
 2. The Open Space Plan must clearly indicate the dimensions and total area of the parcel, the area dedicated to open space and the area dedicated to lots and infrastructure.

8705. Development Options

Under the Open Space Residential Developments provision, the final density shall be no greater than that normally permitted within that land use district, unless specifically authorized in this Section. The maximum "density" shall be the maximum number of single-family lots, parcels or site condominium units ("SF Units") permitted by the approved Yield Plan. Density does not guarantee any specific number of SF Units from any individual parcel or group of parcels. Rather, density refers to the number of SF Units, which can be placed on the subject parcel.

8706. Open Space Criteria

- A. Open Space are all areas within the development not individually owned nor part of a limited common area, which are designed and intended to preserve desirable environmental features of the property for the common use of the residents of the entire development (or for the general public if desired by the developer), subject to limitations in this section.
- B. Open Space shall specifically exclude the following: road and utility right of ways, easements of record, noncontiguous land less than an acre between a road and a property boundary.
- C. Open Space shall consist only of the primary and secondary conservation areas, unless it is used for Recreational Open Space, in which case it can be sited in buildable areas, as outlined in the Site Analysis plan.
- D. Open Space shall be classified as one of the following:
 1. Natural Open Space: This is Open Space that is intended to be left in its natural state as a nature preserve and/or for passive recreation (trails, walking and similar). It may be up to 100% of all the Open Space in the development. Natural Open Space shall be subject to a management plan as outlined in 8707(C) (1).

- 2. Agricultural Open Space: This is Open Space set aside for current or future agricultural uses. It may be up to 100% of all the Open Space in the development. Access to Agricultural Open Space may be limited. It shall be subject to the provisions outlined in 8707(C) (2).
- 3. Recreational Open Space: This is Open Space set aside for active recreation, such as sports fields (i.e., football, soccer, baseball) playgrounds and similar facilities. It may be up to 20% of all the Open Space in the development. It shall be subject to the provisions outlined in 8707(C) (3).
- E. Open Space shall not be met by land uses such as golf courses or other exclusionary commercial recreational uses, lot area within setbacks for each specific lot, or land area dedicated as limited commons.
- F. A minimum of 50% of the total Open Space shall be contiguous.
- G. The maximum amount of unbuildable land that can be classified as Open Space is fifty (50%) percent of the total Open Space. Unbuildable land is considered to be submerged land or wetlands, or land that is regulated by Michigan Department of Environmental Quality, Environmental Protection Agency, Army Corps of Engineers, or any other regulatory body which has jurisdiction over land and which cannot be used for the construction of housing.

8707. Dedication of Open Space

- A. The dedicated open space shall be set aside in an irrevocable conveyance that is acceptable to Planning Commission and Township Attorney, approved by the Township Board, and duly recorded; in order of preference:
 - 1. Conservation Easement
 - 2. Master Deed or Plat dedication
 - 3. Restrictive Covenant
 - 4. Other Conveyance, as deemed acceptable to the Township.
- B. The conveyance shall indicate all proposed uses of the dedicated Open Space, which shall also be shown on the approved Open Space Plan. The Township Attorney shall review the conveyance and assure the Township in a written opinion that such lands shall remain as open space for perpetuity.
- C. The conveyance shall detail the following:
 - 1. For Natural Open Space, a management plan that ensures the long-term health of the natural ecosystem, including sustainable forestry principles, and has a mechanism for being periodically reviewed and updated.
 - 2. For Agricultural Open Space, a statement that the agricultural land shall be managed in accordance with Generally Accepted Agricultural Management Practices, including sustainable forestry.
 - 3. For Recreational Open Space, a plan that specifies a maintenance schedule and provides funding for operation, maintenance and insurance for these areas in the Open Space Community. The plan shall include method(s) of assessment, payment and collection.

8708. Design Requirements & Criteria

- A. Unless otherwise provided for in this Ordinance, all other applicable Township Ordinances and Zoning Ordinance provisions shall apply.
- B. Minimum Lot Size: Minimum lot sizes shall be determined by the State and/or County Health Departments' regulations or standards and the Planning Commission.
- C. Minimum Yard Setbacks: As outlined in respective land use district, unless waived or modified by the Planning Commission. Waterfront and bluff setbacks may not be waived.
- D. Minimum Road Frontage: As outlined in respective land use district, unless waived or modified by the Planning Commission.

- E. **Septic Areas:** Primary or secondary or common septic areas may be located on Open Space if it is deemed by the Planning Commission to be beneficial to the Open Space Community and the Township, and is acceptable to the State and/or County Health Department. The septic area cannot be greater than 10% of the Open Space.
- F. **Agricultural Buffer:** For developments that are adjacent to agricultural lands, particularly those that are being actively farmed, there must be maintained and/or created a highly vegetated buffer at least fifty (50) feet wide to minimize interactions between residential and agricultural uses.
- G. **Lake Michigan Access:** If a development offers access to Lake Michigan, then the development must provide one and only one common access point, including an access structure constructed in accordance with applicable standards. In land use district SUR, the minimum lot width/road frontage along the bluff may be reduced to not less than 200 feet if a minimum 50 foot wide corridor is provided for access to Lake Michigan.
- H. **Development Layout:** The developer should site roads and lots where the least disruption to natural grade and vegetation occurs and in a manner that minimizes the length of road necessary to service the development.
- I. **Minimum Exterior Road Buffer:** The developer shall preserve a minimum of a 20 foot, highly vegetated buffer from the proposed right-of-way along any County Road, Private Road or State Highway adjacent to the open space development.
- J. **Other requirements** as the Planning Commission may deem appropriate to carry out the intent of this Ordinance.

8709. The Review Process

- A. The Planning Commission shall review the application for a proposed Open Space Preservation Residential Development in accordance with all applicable State or Local laws, regulations and Ordinances.
- B. The Application Fee shall be as established from time-to-time by the Township Board.
- C. Except as to the costs covered by the Application Fee, all of the reasonable, necessary and actual costs incurred by the Township in the processing and review of an application, and all actual costs incurred by the Township in conducting necessary studies or inspections pertaining to the application shall be charged to the party requesting the approval of the Township. If deemed necessary, an escrow deposit will be required in accordance with Township regulations.

8710. Completion of Public Improvements

Completion Required: Alternate Performance Guarantee Agreement. The construction of all public improvements shall be completed by the applicant and approved by the Township Board prior to final approval. In the alternative, certain Site Plan improvements may be completed, subsequent to the issuance of a Land Use Permit for the project, at the Township Board’s discretion, provided the applicant guarantees completion of such required improvements as provided in this Section. In such instances the Township and the applicant shall enter into a written agreement specifying in detail the nature of the required improvements, the time in which these improvements are to be completed, provisions for verifying and inspecting the construction of such improvements to determine their conformity to the approved plans and specifications, and the nature of the financial guarantee of performance which is to be provided for each improvement.

Acceptable Types of Performance Guarantees. Where the Township Board agrees to accept performance guarantees for the completion of public improvements subsequent to final plat approval, the Township Board may require one or more of the following types of guarantees:

- 1. Performance or surety bond

2. Cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit.

Remuneration from Performance Guarantee Instrument. The performance guarantee agreement may provide for progressive remuneration from the applicable financial instruments upon certification by the Township Engineer that the specific required public improvement has been satisfactorily completed/installed.

Penalty for Failure to Complete Improvements. If the applicant fails to complete a required public improvement within a period of time specified in the performance guarantee agreement the Township Board may, at its option, proceed to have the public improvement completed. In such event the Township shall be reimbursed for all costs associated with the completion of the improvement from the performance guarantee instrument provided for that improvement. The applicant shall be liable to the Township for any amount of such costs exceeding the funds available from the pertinent instrument.

[Annotation: Article 87 added by amendment, effective, July 18, 2008]

ARTICLE 88 - PLANNED UNIT DEVELOPMENT

8801. Purpose

This Section recognizes that it may be desirable to modify certain restrictions of this Ordinance in the context of an innovative, efficient, planned unit development. The rationale for this departure from normal policy is virtually the entire Ordinance is drafted in contemplation of regulating discrete, individually proposed uses. Whenever it can be demonstrated the needs of the community will be better served by a private plan which combines multiple structures or uses on a single area, it may be possible to modify some of the regulations which inhibit such a plan without formal amendment of this Ordinance.

8802. Eligibility

No use shall be eligible for special treatment under this Section unless all of the following are determined:

- A. the application proposes a planned unit development as defined by this Ordinance; and
- B. planned unit development of the type contemplated is authorized by Special Use Permit in the relevant Land Use District; and
- C. every use contemplated in the planned unit development in the respective Land Use Districts are
 - 1. legal uses and special uses in the respective Land Use District in which it is located;
 - 2. duplexes; and/or
 - 3. apartment buildings with not more than four housing units; and/or
 - 4. a Waterfront Resort Complex; and

[Annotation: Added by amendment effective January 8, 1995. This amendment was challenged by petition. The electors of Onekama Township at a referendum approved this amendment at a special election June 6, 1995.]

- D. The application is otherwise consistent with the legislative policy expressed in Section 8801.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

8803. Procedure

Applications for planned unit development are essentially Special Use Permit applications which request a waiver of basic dimensional restrictions. Accordingly, they shall be processed by the Commission under Section 8601 *et seq.*, except that: any basic restriction relating to minimum lot size, minimum usable floor area, maximum height or setbacks may be modified in accordance with Section 8804, and

8804. Basic restrictions and Modification Procedure

- A. The Commission shall
 - calculate the gross acreage of the site proposed for the planned unit development;
 - calculate the net land area as follows:

Given Total Land Area in Proposal (in units of land area). +

Subtract Land which is cut off from the main lot by roads, railroads, existing land use, or major water courses wetlands, such that common use is hindered or the land is otherwise unavailable for buildings, and shown on a site plan. -

Subtract Acreage set aside for street right-of-way purposes, regardless of the amount of land actually allocated for street right-of-way. -

Subtract	Area of greenbelt as required in division 3 below, on a site plan.	-
Equals	Net Land Area	=

- B. Planned Unit Developments shall be developed in accordance with the following regulations:
1. Minimum Gross Site Area. No structures shall be permitted unless they are part of a coordinated development with a gross site area of eight (8) acres or more. Gross site area shall be defined for the purposes of this Section as the total land area described in a certified land survey and held in common ownership.
 2. Minimum Net Land Area. No structures shall be permitted unless the minimum net land area shall not be less than one half (2) of the gross area.
 3. Structure Foundation Area Coverage. No development shall be approved with more than thirty-five percent of the net land area covered by structure foundation area.
 4. Greenbelt Requirement. The necessity for, and specifications of, a greenbelt around the perimeter of a development shall be determined by the Commission during site plan review. Any greenbelt so required and specified shall be at least ten (10) feet in width and landscaped and maintained with at least one (1) canopy tree, two (2) understory trees, and three (3) shrubs for each one hundred (100) linear feet of greenbelt. No structures shall be erected within a greenbelt area.
 5. No structures shall be erected within an identified environmentally sensitive area (sand dunes, beach, water bodies, wetlands, flood plain, high risk erosion area, water setback areas, high risk erosion set back, and slopes over 25 percent.) unless specifically identified by the Commission as necessary to protect the environmentally sensitive area or to enhance the environmentally sensitive area for passive recreational value.

C. The greenbelt and environmentally sensitive areas shall be shown spatially, with their boundaries, on the submitted site plan.

D. Following the above calculations;

The Commission then shall divide the gross area by the maximum number of principal structures allowed per given square feet in the respective Land Use District in which the proposed Planned Unit Development is located in to determine density.

- a. When calculating available land area, all the land involved in the proposed Planned Unit Development may be used for gross acreage, regardless if the land is all in one Land Use District or not.
- b. If the gross acreage is located in more than one Land Use District, the Land Use District in which most of the land is located shall be used to determine number of principal structures or dwelling units permitted.

The Land Use District in which most of the land is located shall be used to determine which Land Use District regulations dealing with parking, setbacks, building height, maximum percentage of lot coverage, minimum square feet of building area, and signs apply.

Nothing contained herein shall prevent the clustering of structures if desired by the applicant so long as the minimum densities and other regulations of this Ordinance are met.

The density obtained from the calculations in this Section represents maximum number of total dwellings, housing units and principal structures which may be permitted for development. Following these calculations, the Commission then may:

- a. permit clustering of development and/or allow a reduction in the size of individual lots within the planned unit development below the minimum area required so long as the density for the entire available land area is not exceeded; and/or
- b. waive, wholly or in part, any minimum usable floor area requirement, set back, or maximum height, density, specified by the restrictions of the respective Land

Use District if doing so results in:

- (1) Additional public property in the development and/or public easement on property in the development that is acceptable to the Township, and/or
- (2) Lower costs for installation and/or maintenance of public utilities owned and operated, or to be owned and operated, by the Township, and/or
- (3) Public Park land developed in or near the development, and/or
- (4) Some other public value to the Township.

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ARTICLE 89 SITE CONDOMINIUMS

[Annotation: Entire Article added by Amendment 2006-02 effective January 8, 2007.]

8901. Intent

The intent of this Article is to provide Onekama Township (“Township”) with site plan review of, and to establish standards for Developments that are subdivided under the Condominium Act (Act 59 of 1978, as amended).

The Township review will ensure, among other things that the Development is consistent with the Onekama Township Master Plan, Zoning Ordinance, and is consistent and compatible with conventional platted subdivisions as provided for under the Land Division Act (PA 288 of 1967 as amended) compatible with adjacent uses of land, that it protects the natural environment, and provides for socially and economically desirable benefits to the Township.

8902. General Provisions

- A. All such Developments are subject to the applicable provisions and conditions of this Zoning Ordinance as amended. When developed under Article 87 Open Space Preservation, applicable provisions shall apply.
- B. Any notice regarding the Development which is required to be filed with any Federal, State or Local agency, and any correspondence with such agencies relating to permits issued by them, must be copied to the Township at the same time.
- C. Prior to any earthmoving, excavation or removal of natural vegetation (preliminary to construction of the Development) on the site of the proposed Development, the applicant must have obtained final approval from the Township under the provisions of this Article and any other applicable provision of the Zoning Ordinance.

8903. Site Plan Review Procedure

- A. Conceptual Plan: The applicant is required to prepare a conceptual plan of the proposal for informal review by the Planning Commission and other interested parties, prior to submitting a formal Development Plan.
 - 1. The conceptual plan shall present the functional relationships of various elements of the design, outline specifications, numbers of units, size of development, proposed road access, type of protection for sensitive areas, and other information of this type. The purpose of this informal review is to provide guidance to the applicant, correct possible problems in advance of the expenditure of substantial design funding.
 - 2. The conceptual plan must be presented at least two weeks prior to a regularly scheduled meeting of the Onekama Township Planning Commission (“Planning Commission”), at which time the Chairman shall assign a subcommittee to review the plan.
 - 3. Comment will be made by the subcommittee and submitted to the Planning Commission within 45 days of the date of the submission of the conceptual plan.
 - 4. The Planning Commission shall review the subcommittee report and provide preliminary comment as to whether the conceptual plan can satisfy the requirements of this Article, the Zoning Ordinance and Master Plan. Such comment shall not constitute a final determination of any requirement under this Article or Zoning Ordinance. Such determination must await the submission of all documents and information required under this Article and Zoning Ordinance.

- B. Development Plan: After receiving the Planning Commission comment on the conceptual plan, if the applicant desires to proceed further, the applicant shall submit a Development Plan to the Township Zoning Administrator that contains the following information
1. Name of the proposed condominium with Section number, Town, Range, Township and County.
 2. Name, address and telephone number of the proprietor and the surveyor or firm preparing the Development plan.
 3. Date, North arrow, and scale of not more than two hundred (200) feet to one (1) inch.
 4. A copy of the Notice of Intent Letter, pursuant to Section 71 (MCL 559.171) of the Condominium Act.
 5. Adjacent property showing zoning, recorded plats of subdivisions, condominiums, parcels as shown on the tax records, rights-of-ways, and intersecting roads. If adjacent property is other than recorded plats of subdivisions or condominiums, the owner's names as shown on the tax roll shall be included.
 6. A vicinity sketch showing the location of the proposed condominium in relation to the surrounding area.
 7. Lot lines, lot numbers and lot dimensions.
 8. The coordinates for a minimum of two (2) corners of the proposed development, set in the Michigan State Plane Coordinate System, Central Zone, NAD83, in the units of U.S. feet.
 9. All roads, road names, and widths of existing and proposed road right-of ways and easements.
 10. Topographic information with two (2) foot contour intervals which extend one hundred (100) feet beyond each proposed boundary and indicating the datum used.
 11. Surface water elevations of bodies of water with the date when taken, and existing flood plain and wetland information available from the Michigan Department of Natural Resources.
 12. If on-site sewage disposal is proposed, results of preliminary soil test and the approximate location of the test holes in the sewage disposal area.
 13. If on-site water supply is proposed, data relating to well depth, quality, quantity and protection.
 14. Written statement in a note on the Development Plan as to sanitary sewer, water supply, storm drainage, and public utilities to be provided the development, and specification for road improvements.
 15. Existing utilities, including storm and sanitary sewers and water mains.
 16. Structures intended to be left standing and significant natural and man-made features which could influence the lay-out and design of the development.
 17. Existing zoning classifications within the proposed development for uses exclusive of single-family dwellings.
 18. Areas proposed within the development to be reserved or dedicated for open space, storm water retention or detention, or other public or non-public uses.
 19. Minimum front building setback lines.
 20. Description of the boundary of the condominium development project site as shown on the tax roll or as of record, and an indication of the nearest Section corner, Quarter Section corner, or private claim corner.
 21. Deed restrictions, Master Deed restrictions, covenants, and bylaws as applicable.
 22. The location of significant natural features, such as sand dunes, steep slopes, mature stands of trees, known or suspected endangered or threatened plants or animals and known archeological or historical sites.
 23. A delineation of all wetlands and other wet areas, regulated or otherwise, found on the site.
 24. The specific dimensions of each condominium lot.
 25. The applicant shall submit preliminary engineering plans for streets, water, sewer, storm water control and other required public improvements. The engineering plans

shall contain enough information and detail to enable the Planning Commission to make a determination as to conformance of the proposed improvements to applicable township, county, state, and federal regulations and standards.

26. All other provisions of a Detailed Site Plan as set forth in Section 9406.

- C. Site Plan Review for Completeness: Upon receipt of a properly noticed Development Plan and appropriate fee(s) by the Onekama Township Zoning Administrator, the review process shall begin. The Planning Commission shall have until its next regularly scheduled meeting to review the Application and declare it complete or incomplete. If the application is complete, the Planning Commission shall establish a date for public hearing.
- D. The Development Plan review shall review for adherence with the Zoning Ordinance, conformance with the Master Plan, other applicable local standards and the development standards in Section 5. Within ninety (90) days of the application being declared complete, the Planning Commission shall recommend approval or disapproval to the Township Board.

8904. Application Process & Fees

The applicant shall submit a written application for review of the proposed Development Plan and shall file such application with the Township Zoning Administrator at least fourteen days in advance of the next regularly scheduled meeting of the Planning Commission.

- A. The fee for a subdivision or condominium subdivision application shall be established by the Onekama Township Board. There is no fee for a conceptual plan review.
- B. In the event that plan complexity requires the assistance of paid professional consultants, in the sole discretion of the Township, to assist in review of the proposed Development, the applicant shall bear the full cost of those consultants. The applicant shall provide an escrow deposit equal to the number of units, times \$100 per unit, but in no event less than \$1,000.
- C. The Township will provide the applicant with a monthly statement of the escrow account balance.
- D. If the escrow account becomes depleted, the applicant must replenish the account at 50% of the original escrow amount.
- E. If the escrow account is not restored, the application will not be processed.
- F. A decision to approve or deny the Development Plan will not be rendered until all outstanding bills relating to the review of the application have been covered by the applicant.
- G. Any remaining escrow shall be returned to the applicant at the project's completion.

8905. Development Standards

- A. In a condominium development, each condominium dwelling unit shall be located, individually, within a condominium lot.
- B. Setbacks shall be measured from the designated lot lines. Lot size shall be calculated from the designated lot lines.
- C. Narrow deep lots shall be avoided. In no case shall lot depth exceed 4 times the lot width.
- D. Corner lots shall be of sufficient width and depth to provide the required setback from both roads.
- E. Individual lots shall only be accessed by interior roads.
- F. Lots backing onto County or State trunk lines shall contain a landscaped easement at least 20 feet wide between the primary road and the condominium lot to restrict access to the primary road, to minimize noise, and to buffer outdoor living areas from visual intrusion.
- G. All lots shall front on streets serving the Development. In the event that it is not possible to develop such streets, lots may front on a frontage road, or a service drive adjacent to the primary road.
- H. Streets:
 - 1. All public streets within the Development shall meet the construction, design, and

the condominium project is not completed in a timely manner. If the Township Board imposes such a requirement, it shall become part of the contract between the Township and the petitioner described in SECTION 6C. The potential liability of the Township shall be determined under the assumption that the escrow requirements of any and all applicable laws of the State of Michigan will be met by the petitioner.

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ARTICLE 94 -SITE PLAN

[Annotation: Entire Article added by amendment, effective, January 12, 1997.]

9401. Purpose

It is recognized by this ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this ordinance requires site plan review by the Commission under the provisions of a Special Use Permit and provides for the option of site plan review by the Zoning Administrator.

9402. Site Plan Review

- A. Every application for a zoning permit shall include a site plan, drawn according to the specifications of this article. (A demand for appeal before the Appeals Board shall include a site plan drawn according to the specifications of this article.) The zoning Administrator shall review the site plan prior to issuing a zoning permit, or the Zoning Administrator shall transmit the site plan to the Commission for their review.
- B. There shall be three levels of site plans, for different complexities of proposed land uses:
 1. A Basic Site Plan (Section 9404), for dwellings, additions to dwellings, construction of accessory structures to dwellings. These site plans shall only be subject to review by the Zoning Administrator.
 2. A Medium Site Plan (Section 9405), for any permitted use --which is not a dwelling, addition to a dwelling, construction of accessory structures to dwelling-- and for any matter before the Appeals Board which would not need a Detailed Site Plan. The Commission shall publish policy for when a Medium Site Plan --not drawn for purposes of an Appeal-- shall be required to be reviewed by the Commission and/or a committee of the Commission, or the Zoning Administrator.
 3. A Detailed Site Plan (Section 9406), for any Special Use, Planned Unit Development, or phase in project. These site plans shall only be subject to review by the Commission.
- C. A preliminary site plan review is where the detailed analysis is performed and all inadequacies are identified by a sub-committee of the commission and zoning administrator and reported to the planning commission for concurrence. A final site plan review by the planning insures that all required changes were made and all provisions of 8603.B met. For phased in projects as defined in this ordinance, the two step process can apply.
- D. Whenever possible site plan review by the administrator, hereinafter referred to as the Zoning Administrator, and Commission shall be coordinated and done simultaneously with other reviews by the Zoning Administrator and Commission on the same application.

9403. Optional Sketch Plan Review

Prior to submitting an application, or site plan, for a zoning permit an applicant may choose to submit a sketch plan for review by the Zoning Administrator and/or Commission. The sketch plan shall be superimposed on an air photo of the parcel or shall be a scaled drawing of the parcel showing the location of existing and proposed parcel, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements and drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting any type of permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the Commission's agenda if the sketch plan is to be reviewed by the Commission.

9404. Required Data for a Basic Site Plan

The Basic Site Plan shall be a sketch, drawn to scale, or superimposed on an air photo, or superimposed on a survey, of the parcel. The following shall be shown on the Basic Site Plan:

- A. The property, identified by parcel lines and location and size.
- B. Name and address of the property owner(s), developers), and designers), and their interest in said properties.
- C. The scale, north point
- D. Natural features such as wooded lots, water bodies, wetlands, high risk erosion areas, slopes over 25%, beach, sand dunes, drainage and similar features.
- E. The location of proposed and main and accessory buildings, existing structures, fences on the site, the height of all buildings and square footage of floor space -
- F. The proposed driveway, if any.
- G. Show any changes or modifications required for any applicable regulatory agencies' approvals. (Site plan or design plan changes required after the Commission issues a Special Use Permit shall also be changed in accordance with procedures established in this ordinance for minor adjustments or amendments to Special Use Permits.)

9405. Required Data for a Medium Site Plan

The site plan shall be drawn to scale and shall be on paper which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the Zoning Administrator can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the Zoning Administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use.

- A. All the data required for a Basic Site Plan, spelled out in Section 9404 of this Ordinance.
- B. The parcels legal description.
- C. Boundary dimensions of natural features such as wooded lots, water bodies, wetlands, high risk erosion areas slopes over 25%, beach, sand dunes, drainage and similar features.
- D. Location dimensions of existing and proposed man-made features such as buildings, structures, utility easements, water, storm sewer and sanitary sewer lines, storm water drainage and retention lines,
- E. Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes, service parking and snow storage areas.
- F. Any proposed alterations to the topography and other natural features shall be indicated.
- G. Any proposed location of connections to existing utilities and proposed extensions thereof.
- H. A description of the proposed development.
- I. A vicinity map showing the location of the site in relation to the surrounding street system.

9406. Required Data for a Detailed Site Plan

A site plan which shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the Zoning Administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use. The Commission, upon initial review of the site plan, may act to require any information specifically waived by the Zoning Administrator to be submitted. Such site plan shall be designed and prepared by a registered professional architect,

landscape architect, engineer, land surveyor, community planner, owner or other qualified individual. Unless so waived, all site plans shall include the following information:

- A. All the data required for a Basic Site Plan, set forth in Section 9404 of this ordinance and for a Medium Site Plan, spelled out in Section 9405 of this ordinance.
- B. The proposed location of any open spaces, landscaping and buffering features such as greenbelts, fences, etc.
- C. The location, proposed finished floor and grade line elevations.
- D. Site plans for residential development shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.
- E. Any proposed roads, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site;
- F. Topography information based on USGS datum, or selected on-site elevations. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of topography.
- G. Generalized soil analysis data, which may include data prepared by the Manistee County Soil Conservation District or Manistee County Planning Department regarding the soils and their adaptability to the use. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of soils.
- H. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development, when required including but not limited to location drawings of underground tanks and septic fields.

9407. Required data for a site plan involving special groundwater protection provisions

- A. All businesses and facilities which use or generate hazardous substances (except (1) fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor, (2) materials in a five gallon, or smaller, pre-packaged sealed containers and is for purposes of resale and located inside a retail establishment):
 - 1. In quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety five (95) liters (approximately twenty five (25) gallons) per month, whichever is less, or
 - 2. Stores greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety five (95) liters (approximately twenty five (25) gallons), whichever is less shall be subject to site plan review requirements.
- B. In addition to all the data required for a Basic Site Plan, set forth in Section 9404, Medium Site Plan set forth in Section 9405, or a Detailed Site Plan set forth in Section 9406, whichever is applicable; the following shall also be shown in the site plan:
 - 1. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
 - 2. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water, and all similar uses.
 - 3. Location of exterior and interior drains, on-site sewage systems, dry wells; catch basins; retention/detention areas; sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
 - 4. Location of all water wells on the site and within 150 feet surrounding the parcels property boundaries.
 - 5. Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of site cleanup.
 - 6. Submission of the "Hazardous Substances Reporting Form for Site Plan Review".

7. Submission of the "State/County Environmental Permits Checklist.
8. If the area covered by the site plan includes territory within a Wellhead Protection overlay Zone submit a site plan review report prepared by a Manistee County Groundwater Staff Review Group (c/o Manistee County Planning Department). The site plan review report shall be a written document reporting on a county review of the same site plan prepared for this section. If the area covered by the site plan does not include territory within a Wellhead Protection overlay Zone a site plan review report prepared by the Manistee County Groundwater Staff Review Group may be submitted at the option of the applicant or may be required at the option of the Commission or Zoning Administrator, whichever is applicable.

9408. Submission of a Site Plan

Three (3) copies of a site plan shall be submitted with a zoning permit application to the Zoning Administrator. In the case where a committee of the Commission or the Commission is reviewing the site plan, eight (8) copies of the site plan shall be submitted to the Zoning Administrator. In the case where a site plan is required for review by the Zoning Board of Appeals, four copies of the site plan shall be submitted.

9409. Review for Completeness

The Zoning Administrator shall review the site plan received to insure that it contains all the elements required by this ordinance. Such finding shall be done concurrently with similar required findings that a zoning application is complete.

- A. If the site plan is not bound to be complete, the Zoning Administrator shall return the site plan to the applicant with a written list of items needed to make the site plan complete.
- B. If the site plan is found to be complete, the Zoning Administrator shall:
 1. As applicable, forward copies of the site plan to the Township Engineer, County Road Commission, Township Department of Public Works, County Soil Erosion Inspector, County Drain Commissioner, County Health Department, Michigan Department of Highways, Michigan Department of Natural Resources, Michigan Department of Environmental Quality for their recommendations to be subsequently forwarded with the site plan, and
 2. Determine if the site plan is to be reviewed and acted upon by him, and then do so, or
 3. Determine if the site plan is to be reviewed and acted upon by the Appeals Board, DEFINED IN ARTICLE 96, and then forward the copies of the site plan' to each member of the Appeals Board a week prior to their meeting, or
 4. Determine if the site plan is to be reviewed and acted upon by the Commission or a committee of the Commission, and then set up a site plan review meeting and forward the copies of the site plans to each member of the Commission (or a committee of the Commission) a week or more prior to the Commission's meeting.

9410. Standards for Site Plan Review

The following standards shall be used by the Commission, the Zoning Administrator and the Zoning Board of Appeals to review site plans:

- A. All applicable regulations of this ordinance which apply generally to all districts, and all applicable regulations of this Ordinance which apply to the specific zoning district, to any conditions imposed with the granting of a Special Use Permit or variance, shall be shown on the site plan as being complied with.

- B. All utility easements shall be distributed on site in a manner which is least harmful to surrounding properties. Electric, telephone, coaxial cable and other lines shall be located underground unless this requirement is specifically waived by the Zoning Administrator, Commission or Appeals Board upon review of the site plan.
- C. Water lines, sewer lines, all provisions of surface water drainage shall be approved by the Township and designed in compliance with any applicable federal and state statute, township and county ordinance.

9411. Approval and Compliance

- A. In cases where the Zoning Administrator reviews the site plan pursuant to Section 9409.B.2; within seven (7) days of the site plan being found complete, as specified in Section 9409, the Zoning Administrator shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
- B. In cases where the Commission, or a committee of the Commission, reviews the site plan; within sixty (60) days of the site plan being found complete, as specified in section 9409, the Commission shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
- C. The action shall be recorded in a record of the zoning application and shall be filed with the Zoning Administrator. The Zoning Administrator or Commission shall notify the applicant in writing of its decision. If rejected, the reasons for rejection and, if approval is possible, the requirements for approval, shall be given to the applicant, in writing, attached to the rejection. If the Zoning Administrator or Commission does not act on the site plan, and put its action in writing within the prescribed time, the site plan shall be conclusively presumed to have been approved. If the proprietor and Zoning Administrator or Commission mutually agree, the time limit may be extended.

9412. Conditions of Site Plan Approval

- A. A site plan can be approved with conditions necessary to comply fully with the intent of this Ordinance. All conditions shall be shown on the approved site plan and/or shall be in writing.
- B. Reasonable conditions may include conditions necessary to:
 - 1. Ensure 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, and
 - 4. Promote the use of land in a socially and economically desirable manner.
- C. 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.

9413. Security Requirement

- A. To insure compliance with the site plan and ordinance and any conditions, limitations or requirements imposed by the Zoning Administrator or commission as necessary to protect

natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, the Zoning Administrator or the Commission may require

1. a cash deposit,
 2. certified check,
 3. irrevocable bank letter of credit or
 4. surety bond in an amount and under the conditions permitted by law.
- B. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Zoning Administrator or Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- C. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to insure compliance.

9414. File Copies

At least two (2) copies of the site plan, all accompanying documents, record of approval, list of conditions, security shall be kept by the Township for its records.

9415. Zoning Permits

No zoning permit or Michigan Construction Code building permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 *et seq.*, shall be issued or otherwise authorized until after the site plan has been approved and any required securities have been received.

9416. Amendment of Site Plan

An application may be considered to amend an existing site plan, and shall be handled in the same manner as the initial site plan review prescribed by Section 9401 *et seq.* of this ordinance. By mutual agreement between the Township and applicant, minor non-substantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for work authorized by the Special Use Permit.

ARTICLE 96 - BOARD OF APPEALS

9601. Board of Appeals Established

- A. There is hereby established a Board of Appeals, which shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act of 2006, in such a way that the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

- B. The Board of Appeals shall consist of the following three (3) members:
1. First member shall be one member of the Planning Commission.
 2. Second and third members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. One member may be a member of the legislative body but may not serve as chairman. An employee or contractor of the legislative body shall not serve as a member of the zoning board of appeals.
 3. Two permanent alternate member shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township.

[Annotation: Added by amendment, effective, July 13, 2007.]

4. An alternate member may serve in the place of a regular member if the regular member is unable to attend or abstains because of conflict of interest. The alternate shall serve until a decision is reached on that case.

[Annotation: Added by amendment, effective, July 13, 2007.]

5. The zoning board of appeals shall not conduct business unless a majority of the regular members is present.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

9602. Duties of the Board of Appeals

The Board of Appeals shall hear and decide such matters as the Board of Appeals is specifically authorized to pass on as provided in this Ordinance and such matters as may be provided by statute.

9603. Variance

A variance from the terms of this Ordinance shall not be granted by the Board of Appeals unless and until:

- A. A written application for a variance is submitted, demonstrating:
1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 3. That the special conditions and circumstances do not result from the actions of the applicant.
 4. That granting the variance will not alter the essential character of the area.
 5. That no nonconforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- B. The Board of Appeals shall make findings that the requirements of this Ordinance have been met by the applicant for a variance.

- C. The Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- D. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance and including requirements for buffering between uses by landscaping, fencing, vegetation or other similar methods. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 9803 of this Ordinance.
- F. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

9604. Voiding of and Reapplication for Variance

The following provisions shall apply:

- A. Each variance granted under the provisions of this Ordinance may become null and void unless:
 - 1. The construction authorized by such variance or permit has begun within three hundred sixty-five (365) days after the granting of such variance and pursued diligently to completion; or
 - 2. The occupancy of land or buildings authorized by such variance has taken place within three hundred sixty-five (365) days after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred and sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

9605. Interpretation of Ordinance Text

- A. Interpretation - Pursuant to the requirements of Michigan Zoning Enabling Act, P.A. 110 of 2006, (MCL 125.3101 et seq.). nothing contained herein shall be construed as prohibiting the Zoning Board of Appeals from interpreting the text of this ordinance in such a fashion that will allow in a land use district buildings, uses and structures which are sufficiently similar to the specifically delineated permitted or special uses in that land use district, under the same permitted or special use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the ordinance text.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

- B. Standards - In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted or special use, the Zoning Board of Appeals shall consider the relevant policies for the Land Use District in question, the nature, use and purpose of the proposed building, use or structure and whether or not the proposed building, use or structure is a permitted or special use in any other Land Use District in the Township.
- C. Precedent - An earlier determination under this section shall be considered a precedent for other applications proposing an identical building, use or structure in the same Land Use District, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically delineated permitted use in the Land Use District and not with respect to a specifically delineated special use. An earlier determination with respect to an identical, sufficiently similar special use shall be

considered as a precedent only to the extent that such sufficiently similar special use shall be considered as a candidate for a special use permit in that Land Use District, but shall otherwise be subject to all requirements of this Ordinance.

9606. Appeals to the Board of Appeals

The following provisions shall apply:

A. Appeals, How Taken - Appeal from the ruling of the Zoning Administrator concerning the enforcement, administration, and interpretation of this Ordinance, text and map, may be made to the Board of Appeals. The demand for appeal is filed with the Zoning Administrator specifying the grounds thereof within thirty (30) days of the date of a decision is received by the appellant. Date of receipt shall be presumed to be five (5) days after the date shown on the decision. The demand for appeal shall be on a form prepared by the Township for that purpose and shall also include a site plan. The Zoning Administrator shall forthwith transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.

[Annotation: Modified by Amendment, effective, January 12, 1997.]

- B. Who May Appeal - Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, agency, or bureau of the Township, County, or State.
- C. Fee for Appeal - A fee prescribed by the Township Board shall be paid to the Zoning Administrator at the time of filing the demand for appeal. If the Township Board finds an applicant to be indigent, the fee may be waived by the Township Board.
- D. Effect of Appeal: Restraining Order - An appeal stops all proceedings and construction on the action appealed. The Board of Appeals may allow continuance of certain activities if it is shown such actions are necessary to prevent imminent peril to life or property.
- E. Hearing By the Board of Appeals: Request: Notice: Hearing - When a request for appeal has been filed in proper form with the Board of Appeals, the Zoning Administrator shall immediately place the said request for appeal upon the calendar for hearing, and cause notice to interested parties, stating the time, date, place, and object of the hearing to be served personally or by certified return receipt mail if necessary.
- F. Representation at Hearing - Upon the hearing, any party or parties may appear in person or by agent or by attorney.
- G. Decisions of the Board of Appeals and Appeals to the Circuit Court - The Board of Appeals shall decide upon all matters appealed within sixty (60) days of the receipt of a demand for appeal, unless mutually agreed by both parties to extend the time. The Board of Appeals:
 - 1. may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed;
 - 2. shall make such order, requirement, decision or determination;
 - 3. shall have all the powers of the Zoning Administrator for administration and enforcement of this Ordinance;
 - 4. shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case.
- H. The decision of the board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided in the Michigan Zoning Enabling Act of 2006, MCL 125.3606.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

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ARTICLE 97 – CONDITIONAL REZONING

[Annotation: Article 97 added by amendment, effective, July 13, 2007.]

9701. Intent

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of the Michigan Zoning Enabling Act of 2006 (P.A. 110, MCL 125.3101 *et seq.*) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

9702. Application and Offer of Conditions

- A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- D. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- E. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- F. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced, if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- G. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- H. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

9703. Planning Commission Review

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 9802 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

9704. Township Board Review

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 9802 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

9705. Approval

- A. If the Township Board finds the rezoning request and offer of condition acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
- B. The Statement of Conditions shall:
 1. Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 2. Contain a legal description of the land to which it pertains.
 3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 5. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.
 6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- C. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
- D. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land
- E. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

9706. Compliance with Conditions

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- B. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable statement of conditions.

9708. Time Period for Establishing Development or Use

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

9709. Reversion of Zoning

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in MCL 125.286i. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

9710. Subsequent Rezoning of Land

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

9711. Amendment of Conditions

- A. During the time period for commencement of an approved development or use specified pursuant to Subsection G above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
- B. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

9712. Township Right to Rezone

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Zoning Enabling Act (MCL 125.3101 *et seq.*).

9713. Failure to Offer Conditions

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

ARTICLE 98 - AMENDMENTS - VALIDITY AND PENALTIES

9801. Amendments

The Township Board may, from time to time, following receipt of a recommendation from the Planning Commission, amend, modify, supplement, or revise the Land Use District boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such an amendment. Said amendment may be initiated by resolution of the Township Board, the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment. Except for the Township Board, or the Planning Commission, the petitioner or petitioners requesting an amendment shall at the time of filing such petition, pay a filing fee as set from time to time by the Township Board.

[Annotation: Modified by Amendment, effective, July 13, 2007.]

9802. Amendment Procedure

The procedure for making amendments to the Ordinance shall be in the manner provided by the Michigan Zoning Enabling Act of 2006, with all amendment proposals being referred to the Township Planning Commission for statutorily required notices, hearing, transmission of the proposed amendments and summary of comments made at the public hearing and its proposed amendment, including any zoning maps and recommendations, to the Township Board for their action, with or without an additional public hearing. Within fifteen (15) days of adoption, a notice to that effect shall be published in a newspaper of general circulation in the Township and a copy of the amendment filed with the Township clerk.

In determining the appropriateness of any proposed zoning change, the Planning Commission and the Township Board shall give consideration to the following:

- A. For text amendments to add additional uses to a land use district:
 - 1. Is the proposed land use already provided for elsewhere in the Ordinance?
 - 2. Is the proposed land use compatible with uses already permitted in the land use district?
 - 3. Does the proposed land use comply with the Master Plan?
 - 4. Does the proposed land use contribute to the character of development envisioned in the Master Plan?
 - 5. Would the proposed land use be appropriate anywhere in the land use district?
 - 6. Would it be more appropriate to address the need by special use permit?
- B. For text amendments to change or add additional regulations or standards:
 - 7. Does the proposed rule, change or addition help reinforce the Master Plan?
 - 8. Is the proposed rule, change or addition in keeping with the spirit and intent of the Ordinance?

9803. Sanctions for Violations

Any person or other entity who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine determined in accordance with the following schedule:

	Minimum	Maximum
First violation within a three (3) year period*	\$50	\$500
Second violation within a three (3) year period*	\$125	\$500
Third violation within a three (3) year period*	\$250	\$500
Fourth or Subsequent violation within a three (3) year period*	\$400	\$500

* determined on the basis of the date of the violation(s)

Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the township has been put in connection with the violation. In no case, however, shall costs of less than \$9 nor more than \$500 be ordered. A violator of this ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law. Each day a violation of this ordinance continues to exist constitutes a separate violation. Provisions of this Ordinance may also be enforced by a suit for injunctive relief.

[Annotation: Added by amendment effective February 9, 1999]

9804. Conflicting Provisions

All previous zoning ordinances, including the Onekama Township Permanent Zoning Ordinance (Number 4) of November 10, 1987, as amended, or parts of ordinances conflicting with the provisions of this ordinance are hereby repealed insofar as the same affect this ordinance.