

LOVELLS TOWNSHIP ZONING ORDINANCE

Ordinance # 10-14-03

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Amendment #11-14-06

**Lovells Township
Crawford County, Michigan**

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LOVELLS TOWNSHIP ZONING ORDINANCE

ORDINANCE # 10-14-03

CRAWFORD COUNTY, MICHIGAN

PREAMBLE

This Ordinance is enacted to repeal a Zoning Ordinance adopted on April 12, 1978 and to adopt a revised Zoning Ordinance, which incorporates amendments adopted since 1978 and maintains zoning districts and regulations governing Lovells Township, Crawford County, Michigan. This Ordinance is further enacted to promote the public health, safety and general welfare; to encourage and regulate the use of land and location of buildings and structures for residence, trade, industry or other purposes; to regulate dimensions of yards and other space; to provide for the powers and duties of a Zoning Board of Appeals and a Zoning Board; to provide for the administration, enforcement, penalties for violation and amendment to this Ordinance.

Be it ordained by the Lovells Township Board, County of Crawford, State of Michigan, as follows:

ARTICLE I SHORT TITLE AND PURPOSE

SECTION 1.01 - TITLE

This Ordinance shall be known and may be cited as the "The Lovells Township Zoning Ordinance," and may be referred to herein as "this Ordinance".

SECTION 1.02 - PURPOSE

- A. The purpose of this Ordinance is to promote the public health, safety, and general welfare.
- B. To encourage the use of lands in accordance with their character and adaptability, and to limit the improper use of land.
- 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 the land shall be situated in appropriate locations and relationships.
- F. To avoid the overcrowding of population.
- G. To provide adequate light and air.

- H. To lessen congestion on the public roads and streets.
- I. To reduce hazards to life and property.
- J. To facilitate adequate provision 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 to the most advantageous uses of land, resources and properties.
- L. The Ordinance shall be made with reasonable consideration, among other things to 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 implement the recommendations of the *Lovells Township Comprehensive Plan* adopted on January 8, 2002.

SECTION 1.03 - AUTHORITY

This Ordinance is ordained and enacted into law pursuant to the provisions of and in accordance with the State of Michigan's Township Zoning Act (Act 184 of the Public Acts of 1943), as amended. The continued administration of this Ordinance, amendments to this Ordinance, and all other matters concerning operation of this Ordinance shall be done pursuant to the Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006), as amended. *(Amendment effective date December 1, 2006)*

SECTION 1.04 - REPEAL OF PRIOR ORDINANCE

The Lovells Township Zoning Ordinance previously adopted by the Lovells Township Board in 1978 and all amendments thereto, are hereby repealed. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted, or inflicted.

ARTICLE II RULES APPLYING TO TEXT AND DEFINITIONS

SECTION 2.01 - RULES APPLYING TO TEXT

For the purposes of this Ordinance, certain terms are defined to clarify the intent of the provisions of this Ordinance. The following rules shall apply, except, when clearly indicated otherwise.

- A. In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- B. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- C. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- D. A “building” or “structure” includes any part thereof.
- E. The word “person” includes not only an individual, but a firm, corporation, association, partnership, limited liability company or any other legal entity.
- F. The words “used” or “occupied,” as applied to any land or building, shall be construed to include the words “intended”, “arranged”, “designed to be used”, or “occupied”.
- G. Any word or term not defined herein shall be used with a meaning of common or standard utilization.
- H. The term “adjoining lots and parcels” is intended to include lots and parcels separated by highways, roads, streets or rivers.

SECTION 2.02 - DEFINITIONS

For the purpose of this Ordinance, the following terms and words are defined as follows:

ABUTTING: Having property or district line in common.

ACCESSORY BUILDING OR STRUCTURE: A subordinate structure devoted to an accessory use and located on the same premises with a main structure. An accessory structure attached to a main structure shall be considered part of the main structure for the purpose of determining yard setbacks.

ACCESSORY USE: A use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main use.

ALTERATION: Any change, addition or modification to a structure or type of occupancy or use of structure or land, or any change in the structural members of a building, such as walls or partitions, columns, beams or girders.

ALTERNATIVE TOWER STRUCTURE: Man-made trees, clock towers, bell steeples, light poles, water tanks and other similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA: An exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

APARTMENT: A room or suite of rooms, including bath and culinary accommodations, intended or designed for use as a residence by a single family.

APPURTENANCE: An ornamental, structural or mechanical element that is attached to and subordinate to a building or structure, but not including fences.

ATTACHED: Connected to a main building in a substantial manner by walls and/or a roof.

AVERAGE: For the purpose of this Ordinance, the term, "average" shall be an arithmetic mean.

BASEMENT: That portion of the building, which is partly underground and which has more than fifty percent (50%) of its floor to ceiling area below grade.

BED AND BREAKFAST FACILITY: Any single-family dwelling used or designed in such a manner that certain rooms in excess of those used by the residents are rented to the transient public for compensation.

BLUFF: The top of a steep bank rising sharply from the water's edge.

BOARDING HOUSE – ROOMING HOUSE: A building other than a hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for three (3) persons or more.

BUFFER STRIP: A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen in carrying out the requirements of this Ordinance.

BUILDABLE AREA: The space remaining after the minimum setbacks and open space requirements of this Ordinance have been complied with.

BUILDING: A structure of more or less permanent construction, having a roof supported by columns or walls and intended to be used for sheltering people, animals, property or business activity.

BUILDING, HEIGHT OF: The elevation measured from the average finished lot grade at the front of the building elevation to the highest point of the roof, excluding chimneys, steeples or similar appurtenances.

BUILDING LINE: A line formed by the face of the building.

BUILDING(S), MAIN: Any building(s) on a lot or site, which contain one or more principal or special uses.

BUILDING SITE: A lot, or a two-dimensional condominium unit of land (i.e. envelope, footprint) with or without limited common element designed for construction of a principal structure or a series of principal structures plus accessory buildings. All building sites shall have access to public or private roads.

CARE FACILITY, COMMERCIAL DAY: A facility receiving more than twelve (12) minor children or adults for care for periods of less than twenty four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meeting, or by a fitness center or similar operation, shall not be considered Commercial Day Care.

CARE FACILITY, CONVALESCENT OR NURSING HOME: A facility with sleeping accommodations where persons are housed twenty four (24) hours a day and furnished with meals, nursing and medical care.

CARE FACILITY, FAMILY: A single family residence in which care or supervision is provided for more than one (1) but less than seven (7) minor children or adults. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

CARE FACILITY, GROUP: A facility in which care or supervision is provided for at least seven (7) but not more than twelve (12) minor children or adults. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

CHURCH: See Place of Worship.

CLINIC: A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) professional, such as a physician, dentist or the like, and patients are not lodged overnight.

CLUB: An organization catering exclusively to members and their guests on premises and buildings for recreational, artistic, political or social purposes, which are not conducted primarily for financial gain and which do not provide merchandise, vending or commercial activities, except as required incidentally for the membership and purpose of such club.

CO-LOCATION: The location of two (2) or more communication providers of wireless communication facilities on a common structure, tower or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the Township.

COMMERCIAL VEHICLE: Any self-propelled or towed vehicle designed or used on public highways to transport passengers or property, if the vehicle meets one or more of the following:

1. Has either a gross vehicle weight rating or actual gross weight or gross combination weight rating or an actual gross combination weight of ten thousand one (10,001) or more pounds.
2. Is designed for carrying sixteen (16) or more passengers, including the driver.
3. Is used in the transportation of hazardous materials in a quantity that requires the vehicle to be marked or placarded.

COMMON ELEMENTS: Portions of a condominium project other than the condominium units.

CONDOMINIUM UNIT: That portion of a condominium project designed and intended for occupancy and use by the unit owner consistent with the provisions of the master deed, regardless of whether it is intended for residential, office, industrial, recreational or other type of use.

COUNTY: Crawford County, Michigan.

CUTTING EDGE OF A STREAM: The outside edge of a river or stream where water velocity has increased to the point where it may cause soil or stream bank erosion.

DISTRICTS: A geographic portion of the Township within which certain regulations and requirements or various combinations thereof apply uniformly under the provisions of this Ordinance. "Districts" as used herein is synonymous with the word "Zones" or "Zoning Districts".

DWELLING: A building, or portion thereof, which is designed or used primarily for residential purposes.

DWELLING, MULTIPLE: A dwelling or group of dwellings on one (1) lot or parcel and in one (1) structure, containing separate living units for three (3) or more families, but not including automobile courts, motels or hotels.

DWELLINGS, SINGLE- OR ONE-FAMILY: A detached building designed for or occupied primarily by one (1) family.

DWELLING, TWO-FAMILY: A detached building designed exclusively for occupancy by two (2) families living independently of each other.

DWELLING UNIT: A building or portion thereof, designed for permanent residential occupancy by one (1) family. In the case of buildings that are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities, municipal departments or other governmental agencies of underground or overhead gas, electrical communication, steam or water transmission or distribution systems, or collection, supply or disposal systems; including poles, wires, main drains, sewer pipes, cables, towers, fire alarm boxes, poles or other call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service by such utilities or agencies, or for the public health or safety or general welfare; but not including offices and buildings or yards used for bulk storage, fabrication or manufacturing of materials used by such utilities or municipal departments or other governmental agencies. Telecommunication towers or facilities, alternative tower structures, and wireless communication antennas are not included within this definition.

EXCAVATING: The removal of soil below the average grade of the surrounding land and/or road grade, excepting household gardening and ground care.

FAMILY: An individual or two (2) or more persons occupying the premises and living as a single non-profit housekeeping unit.

FARM: All the contiguous neighboring or associated land operated as a single unit, not less than ten (10) acres in size, on which bona fide farming is carried on directly by the owner or by his agent or by a tenant farmer, provided that the area thereof is sufficient to constitute actual farming; and for the purpose of this Ordinance, farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, dairy farms, apiaries, and forestry and tree harvesting; but not including establishments keeping fur-bearing animals, operated as a fish hatchery, commercial kennel, stock yard, slaughter houses, stone quarry, gravel or sand pit, fertilizer works, bone yards, or for the disposal of garbage, sewage, or junk or for the removal and sale of topsoil. The words "agriculture" and "farming" shall be considered as synonyms.

FENCING: The enclosure of an area by a structure of lumber, masonry, wire or other material designed and marketed for constructing such an enclosure.

FILTERED VIEW OF RIVER OR LAKE: The maintenance or establishment of woody vegetation of sufficient density to screen developments from the river or lake, or to provide for bank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river or lake view.

FLOOD AREA: That area subject to inundation by a river and/or stream and its tributaries based on reasonable flood expectancy as determined by flood history.

FLOOR AREA, GROSS: The area of all floors computed by measuring the dimensions of the outside walls of a building. Porches, patios, terraces, breezeways, carports, verandas, garages, unfinished attics, attic floor areas with less than five (5) vertical feet from floor to finished ceiling, basements except walkout basements, are excluded.

FLOOR AREA, GROUND: For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the square footage of floor space on the ground floor, measured from exterior wall to exterior wall, but exclusive of areas of basements, unfinished attics, attached garages, space for off-street parking, breezeways, enclosed or open porches, elevators, stair bulkheads and accessory structures.

FLOOR AREA, USEABLE: For the purpose of computing parking requirements, square footage of area used for or intended to be used for the display or sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area which is used for or intended to be used principally for the storage or processing of merchandise, for hallways or for utilities shall be excluded from the computation of Useable Floor Area. Measurement of Useable Floor Area shall be the sum of the horizontal area of all floors of the building measured from the interior faces of the exterior walls.

GAS AND OIL PROCESSING FACILITIES: Any facility and/or structure used for, or in connection with, the production, processing or transmitting of natural gas, oil, or allied products or substances, and the injection of same into the ground for storage or disposal, not under the exclusive jurisdiction or control of the Geological Survey Division, Michigan Department of Environmental Quality or Public Service Commission; not including industrial facilities such as cracking plants, large oil storage facilities and heavy industrial operations and facilities.

GASOLINE SERVICE STATION: A structure or structures and space combined, used solely for servicing motor vehicles with the usual operating commodities such as gasoline, fuel oil, grease, water, batteries, tires and other minor accessories, or services such as washing, waxing and lubricating and in connection with which there is no repair or refinishing of motor vehicles, except that the repair of tires, lights, changing of batteries or engine repairs and adjustments when conducted within an enclosed building shall not be excluded.

GRADE LEVEL: An average level of the finished surface of the ground five (5) feet from the exterior walls of the building or structure.

GUEST HOUSE: An accessory building on the same lot as a main dwelling to be used as lodging for the property owner's guest and not for commercial purposes, rental or profit.

GUEST ROOM: A bedroom in a bed and breakfast facility, intended for sleeping, separable from other rooms by a door, in excess of bedrooms used by the owner/operator, and available for rental to the transient public.

HEAVY INDUSTRY: Manufacturing, fabricating activities or other large scale specialized industrial operations having external effects which will be felt to some degree by surrounding uses.

HOME OCCUPATION: An occupation or profession carried on as a subordinate use by a member of a family residing on the premises and which is clearly incidental and secondary to the use of the parcel of land for residential purposes. A Home Occupation may include the limited inside storage, sales and processing of inventory and/or the seeing of customers or clients.

HOME OFFICE: An accessory use of a portion of a dwelling, not to exceed twenty five percent (25%) of the ground floor area, for the purposes of conducting business of a professional nature by the resident of the dwelling. A Home Office does not include the manufacturing, processing or storage of inventory or the seeing of customers or clients.

HOTEL: A building in which transient lodging or boarding and lodging are offered to the public for compensation. Boarding houses, bed and breakfast establishments, and apartments are excluded.

IMPERVIOUS SURFACE: A material incapable of being penetrated by water and other liquids. For the purpose of calculating storm water runoff, impervious surfaces shall include all roofs, slabs, pavements, sidewalks, gravel drives and parking lots.

INSTITUTIONAL OR PUBLIC USES: Churches and places of worship, schools teaching academic subjects, hospitals, convalescent and nursing homes, parks, civic centers, libraries and other governmental structures.

KENNEL, COMMERCIAL: Any lot or premises on which three (3) or more dogs, cats or other household animals are either temporarily or permanently boarded. Kennel shall include any lot or premises where household pets are bred and/or sold.

LAND THAT IS SUBJECT TO FLOODING: The area of land adjoining the designated portions of rivers and tributaries which:

1. Will be inundated by a flood which has a one percent (1%) chance of occurring or being exceeded in any given year (intermediate regional flood), as determined by detailed hydraulic studies which are acceptable to the Michigan Water Resources Commission; or
2. In the absence of such detailed flood plain studies, have a history of flooding or are delineated by approximate methods such as USGS flood prone area maps or HUD's special flood hazard boundary maps.

LIMITED COMMON ELEMENTS: A portion of the common elements reserved in the condominium master deed for the exclusive use of less than all of the co-owners.

LIVING SPACE: That area within a structure intended, designed, erected or used for human occupancy.

LOADING SPACE: An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.

LOT: A parcel of land exclusive of any adjoining street or road right-of-way, which is or may be, occupied by one (1) main building or use and its accessories, including the open spaces required by this Ordinance, but not necessarily conforming to the platted lot lines. The word "lot" shall include parcel and a unit of land within a site condominium which gives the owner exclusive rights to a building envelope of which a building is placed and limited rights to the yard area surrounding the building.

LOT AREA: The total horizontal area within the lot lines of the lot, excluding public or private street right of ways and/or easements dedicated for vehicle access.

LOT, CORNER: A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of less than one hundred forty five (145) degrees.

LOT COVERAGE: The amount of a lot stated in terms of percentage that is covered by all roofed buildings and other structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio-roofs and the like, whether open box type and/or lathe roofs or fully roofed, but shall not include fences, walls or hedges used as fences, or swimming pools.

LOT DEPTH: The distance between the front and rear lot lines measured in the main direction of the side lot lines.

LOT, INTERIOR: A lot other than a corner lot, with only one (1) lot line fronting a street.

LOT LINE: For the purpose of this Ordinance, a lot line is the boundary line between two (2) lots or the line between the properties of two (2) different owners and also the line between the lot and boundary of a street or road right of way.

LOT LINE, FRONT: In the case of an interior lot, it is the line separating the lot from the street right-of-way. In the case of a corner lot, the front lot line shall be the boundary line of the lot immediately adjacent to the street right-of-way on that side of the lot that has the narrowest

street frontage. In the case of a waterfront lot, the line adjacent to the water shall be the front lot line.

LOT LINE, REAR: A lot line which is opposite and most distant from the front lot line and, in the case of an irregularly shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE: Any boundary line not a front lot line or a rear lot line.

LOT OF RECORD: A lot which is part of a subdivision, the map of which has been recorded in the office of the County Register of Deeds, or a lot described by metes and bounds, the deed to which has been recorded in the office of the County Register of Deeds at the time this Ordinance is passed.

LOT, THROUGH: A lot other than a corner lot, having frontage on more than one (1) street.

LOT, WATERFRONT: A lot having frontage directly on a lake, river, or stream within Lovells Township. The portion adjacent to the water shall be designated as the water frontage of the lot and the portion adjacent to the road shall be designated the road frontage of the lot.

LOT WIDTH: The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

LOT, ZONING: A single tract of land which at the time of filing for a Zoning Permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, and is under single ownership and control. A Zoning Lot may or may not coincide with a lot of record as filed with the County Register of Deeds and may include one or more lots of record.

MIXED OCCUPANCY: A dwelling, located to the rear or attached to a commercial building, occupied by the commercial enterprise's personnel only.

MOBILE HOME: Factory-built single-family structure that is manufactured under the authority of 42 U.S.C., Sections 5401 to 5426 (National Manufactured Home Construction and Safety Standards Act 1974) as amended (HUD Code), is transportable in one or more sections, and may be built on a permanent chassis which does not have hitch, axles, or wheels permanently attached to the body frame.

MOBILE HOME PARK: A parcel of land that has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use. Such developments shall be licensed by the Michigan Department of Public Health

MOTEL: Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade.

MUNICIPAL CIVIL INFRACTION: The term "Municipal Civil Infraction" means an act or omission that is prohibited by the Lovells Township Zoning Ordinance, which is not a crime under this Ordinance or any other County ordinance, and for which civil sanctions, including fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended.

NONCONFORMING LOT: A lot lawfully existing at the effective date of this Ordinance, or amendments thereto, that does not conform to the minimum lot size requirement for the district in which it is located.

NONCONFORMING STRUCTURE OR BUILDING: A structure or building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, that does not conform to the applicable setbacks, area, height, size and similar dimensional provisions of the Ordinance.

NONCONFORMING USE: Any use, whether a building or other structure or a tract of land, lawfully existing at the effective date of this Ordinance, or amendments thereto, which does not conform to the applicable use regulations for the district, either at the effective date of this Ordinance or as a result of a subsequent amendment thereto.

NUISANCE: Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

OCCUPANCY: Being present in any manner or form, including the meaning of intent, design, or arrangement for the use or inhabitation of.

OFF STREET PARKING: A facility providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted access and egress to at least two (2) vehicles.

OPEN SPACE: Land not used for any of the following: parking and loading spaces, road right-of-ways, building coverage, sewage disposal areas, water well houses, and related uses.

ORDINANCE: The Lovells Township Zoning Ordinance.

ORDINARY HIGH WATER LINE: Is defined as in Part 301 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, to mean 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 soil and the vegetation.

OWNER: A person holding any legal, equitable, option or contract interest in land.

PARK: Properties and facilities owned or operated by any governmental or private agency, which are open to the general public for recreational purposes.

PARKING SPACE: A defined area exclusive of drives, aisles, or entrances, fully accessible for the storage or parking of vehicles.

PERMIT, BUILDING: Authorization granted by the building official to erect, alter, enlarge, or relocate a structure.

PERSONS: "Persons" includes not only an individual, but a firm, corporation, association, partnership, limited liability company or any other legal entity.

PLACE OF WORSHIP: A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship,

together with all accessory buildings and uses customarily associated with such principal purpose.

PLANNED UNIT DEVELOPMENT (PUD): Land under unified control which allows a development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development.

PLANNING COMMISSION: Lovells Township Planning Commission established under the provisions of the Township Planning Act (Act 168 of the Public Acts of 1959), as amended. (*Amendment effective date December 1, 2006*)

POLLUTING MATERIALS: Materials which are capable of adversely affecting soil, air or water resources by altering odor, taste, color, or physical or chemical composition to a degree that public health or biological communities are threatened. Examples of polluting materials include fertilizers and pesticides.

PORCH, ENCLOSED: A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PORCH, OPEN: A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PRACTICAL DIFFICULTY: A situation whereby a property owner cannot establish a "minimum practical" legal use of a legal lot or parcel, meeting all of the dimensional standards of the zoning district within which the lot is located. Situations occurring due to the owner's desire to establish a use greater than the "minimum practical" standard to enhance economic gain greater than associated with the minimum practical standard or created by an owner subsequent to the adoption of the Ordinance is not a Practical Difficulty. The Zoning Board of Appeals is responsible for determining "Practical Difficulty".

PRINCIPAL OR MAIN USE: The primary or predominant use of the premises.

PRIVATE DRIVEWAY: A privately owned and maintained property, which is used for vehicular access serving less than three (3) principal buildings, lots or parcels.

PRIVATE ROAD: A way or means of approach, which provides direct access to three (3) or more principal buildings, lots or parcels, and which is constructed and maintained by the proprietors and is not dedicated for general public use.

PUBLIC UTILITY: Any person, firm, corporation, municipal department, or board fully authorized to furnish electricity, gas, steam, sewage disposal, telephone, cable television, transportation or water to the public.

RECREATIONAL VEHICLE: A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, fifth wheel trailers, travel trailers, and tent trailers; PROVIDED, however, that any such vehicle

or unit which is forty (40) feet or more in overall length shall be considered a mobile home and shall be subject to all regulations of this Ordinance applicable to a mobile home.

RECREATIONAL VEHICLE PARK: Any site, lot, field or tract upon which one (1) or more occupied travel trailers is harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used for, or intended for use as part of the equipment of such recreational vehicle park; which site, lot, field or tract shall be licensed and regulated by the Michigan Department of Public Health. May also be referred to as a campground.

RETAIL BUSINESS: A commercial enterprise, which sells commodities or goods in small quantities to the ultimate consumer.

RIGHT-OF-WAY: A street, alley or other roadway or easement permanently established for passage of persons or vehicles.

RUN-OFF: Water from rain or melting snow that flows over the surface of the ground and eventually draws into nearby water bodies.

SALVAGE YARD: A location where new or used materials, including waste, surplus, discarded or salvaged parts thereof are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, also including house wrecking and structural steel materials and equipment.

SETBACK: The minimum distance by which any building or structure must be separated from the lot lines, roadways, or from other buildings or uses. For the purposes of administration of this Ordinance, building setbacks shall be measured from the building wall that touches the ground, except for yard encroachments as permitted in Section 3.03.

SHORT TERM RENTAL: The lease or rental of a dwelling unit for monetary compensation for a period of less than thirty (30) days. For the purpose of this Ordinance, short term rental of a dwelling shall be considered a business enterprise and shall be allowed only in the Commercial & Business District, C-B. *(Amendment effective date November 25, 2005)*

SITE CONDOMINIMUM PROJECT: A plan or project consisting of not less than two (2) single-family dwelling units established in conformance with the Michigan Condominium Act P.A. 59 of 1978, as amended.

SITE PLAN: A scale drawing which shows the location and dimensions of improvements upon a parcel of land, including but not limited to location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems and drainage facilities, and environmental features.

SPECIAL USE PERMIT: Approval by the Planning Commission of a use of land in a zoning district that is not antagonistic to other land uses in the district, providing such use is listed in this Ordinance as a special use for the zoning district in question and the use meets all applicable Ordinance standards and requirements.

STORY: That portion of a building included between the surface of any floor and surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it, and exclusive of any mezzanine, balcony or basement.

STORY, HALF: That portion of a building between the eaves and ridge lines of a pitched roof, which may be used for living space.

STREET: A public or private thoroughfare, which affords the principal means of access to abutting property.

STREET LINE: A dividing line between the lot and the right of way of the contiguous street.

STRUCTURE: Anything constructed, erected or to be moved to or from any premises which is permanently or temporarily located above, on, or below the ground, including signs, billboards, fences and the like.

TOWNSHIP BOARD: Lovells Township Board.

TELECOMMUNICATION TOWERS AND FACILITIES: Includes transmitters, antenna structures, towers and supporting structures for all classes of communications services, including but not limited to, AM, FM, CATV, microwave, TV, VHF, cellular telephone and the like. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

UNNECESSARY HARDSHIP: A situation whereby a property owner, due to conditions of a lot or parcel, cannot use said lot or parcel for any legal use allowed by the Zoning Ordinance within the district which the lot is located. Situations occurring due to the owner's desire to establish an alternate use when allowed use options are available or due to situations created by an owner subsequent to the enactment of the Ordinance shall not be deemed an Unnecessary Hardship. The Zoning Board of Appeals is responsible for determining "Unnecessary Hardship".

USE, PERMITTED: A use by right, which is specifically authorized in a particular zoning district.

VARIANCE: A modification of the literal provisions of the Zoning Ordinance, which is authorized by the Zoning Board of Appeals when strict enforcement of the Ordinance would cause either an unnecessary hardship or practical difficulty.

VEHICLE REPAIR: Any major activity involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

VEHICLE SALES: An authorized and/or licensed dealership for the sale of new and/or used vehicles, trucks or trailers inoperable condition with completely enclosed office and sales facilities on the premises. All related activities incidental to the sale of new and/or used vehicles such as minor repairing, servicing, and restoring, shall be performed within completely enclosed facilities.

YARD: An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building or structure.

YARD, FRONT: A yard extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest point of the building.

YARD, REAR: A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On the corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the Rear Yard shall in all cases be at the opposite end of the lot from the front yard.

YARD, SIDE: A yard between the side lot line and the nearest side line of the building and extending from the rear line of the building to the front line of the building.

ZONING ADMINISTRATOR: The administrator of this Ordinance, appointed by the Township Board.

ZONING BOARD OF APPEALS: The Lovells Township Zoning Board of Appeals, whose duties and powers are detailed in Article XVII.

ZONING PERMIT: A standard form issued by the Zoning Administrator upon application and declaration by the owner or his duly authorized agent regarding proposed construction and use of land and buildings and structures thereon granting approval for the construction or use applied for.

ARTICLE III GENERAL PROVISIONS

SECTION 3.01 - PURPOSE

General regulations apply to all districts except as otherwise noted. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

SECTION 3.02 - APPLICATION OF REGULATIONS

In order to carry out the intent of this Ordinance:

- A. No building or structure shall be erected, altered or moved, nor shall any building or premises be used for any purpose other than is permitted in the district in which the building or premises is located. The Township Planning Commission shall have power on written request of a property owner in any zoning district to classify a use not listed with a comparable permitted use in the district and grant a permit for such use, giving due consideration to the intent of this Ordinance. Petition for such classification and permit shall be made through the office of the Township Zoning Administrator. In granting of permit for any such classified use, the Planning Commission may attach conditions and safeguards as may be deemed necessary for the protection of the public welfare, and for the proper use of development of the general neighborhood, and adjacent properties. If deemed incompatible, then the use may only be provided by due amendment to the Ordinance.

- B. Unless provided elsewhere in this Ordinance, or a variance is granted by the Zoning Board of Appeals, no building shall be erected or altered to exceed the height limitations, or occupy a greater percentage of lot area, or intrude upon the required front yard, rear yard, side yards, or accommodate a greater number of dwelling units, or provide less space per dwelling unit than is specified for the district in which such building is located.

- C. No lot area, yard, parking areas or other required space shall be divided, altered, reduced or diminished to create an area or dimension less than the minimum required under this Ordinance, except where such reduction has been brought about by the expansion or acquisition of public rights-of-way for a street, road or highway. If a required area is already less than the minimum required under this Ordinance, the area or dimension shall not be further divided or reduced.

SECTION 3.03 - PERMITTED YARD ENCROACHMENTS

The yard requirements of all districts are subject to the following permitted encroachments: Chimneys, flues, cornices, gutters, bay windows and similar features may project into any required yard a maximum of twenty-four (24) inches. Fences may be erected in the required yard up to the property line, except for the GB District.

SECTION 3.04 - LOT/BUILDING RELATIONSHIP

Every building erected, altered or moved shall be located on a zoning lot, as defined, and except in the case of an approved multiple dwelling development or a guest house as permitted in the Greenbelt District, there shall be no more than one (1) principal building and its permitted

accessory structures located on each zoning lot in any district where residential uses are permitted.

SECTION 3.05 - ACCESSORY BUILDINGS

Accessory buildings in the Residential (R), Recreation & Residential (R-R) and Green Belt (GB) districts shall be subject to the following regulations:

- A. The accessory building, whether detached or attached to a main building, shall be subject to, and must conform to, all yard regulations applicable to principal structures.
- B. Accessory buildings shall not be erected in the front yard, except in the R-R District, where an accessory building may be in the front yard if it meets the minimum required front yard setback.
- C. Accessory buildings shall not be occupied for dwelling purposes, unless it meets the current building code for occupancy and is used only temporarily for guest purposes and not for rental purposes.
- D. An accessory building may be constructed only when there is an existing dwelling or when construction of the dwelling is substantially complete.

SECTION 3.06 - TEMPORARY BUILDINGS

Temporary buildings for use incidental to construction work, and all debris, shall be removed within fifteen (15) days after the completion or abandonment of the work.

SECTION 3.07 - ESSENTIAL SERVICES

Essential services, as defined, shall be permitted as authorized and regulated by law, public policy and specific zoning regulations in any district, it being the intention otherwise to exempt such erection, construction, alteration and maintenance from the application of this Ordinance. However, electric, telephone and other electronic communications distribution networks are encouraged to be underground whenever possible. Telecommunication towers, alternative tower structures and antennas shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

SECTION 3.08 - REQUIRED WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES

Every building erected, altered or moved upon any premises and used in whole or in part as dwellings (year-round or seasonal), recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system and with means for collecting and disposing of all domestic, commercial, and industrial wastewater, and other wastes that may adversely affect health conditions, subject to the written approval of and following the requirements of the District Health Department.

SECTION 3.09 - TRAVEL TRAILERS AND RECREATIONAL VEHICLES

- A. In all districts, travel trailers and similar recreational vehicles may be stored on a lot or parcel of land containing a dwelling unit subject to the following conditions:

1. The travel trailer or recreational vehicle shall carry state license plates that is not more than one (1) year past expiration.
 2. One travel trailer or recreational vehicle may be stored in the rear or side yard of a lot containing a permanent dwelling, provided the yard setback requirements are met.
 3. The travel trailer or recreational vehicle is not connected to water and sewer services.
 4. The unit is not used for dwelling purposes.
 5. The open storage of a travel trailer or recreational vehicle shall not occur on vacant or unimproved property, except as provided in (B).
- B. In all districts, one travel trailer or recreational vehicle may be located on an unimproved lot or otherwise vacant property, subject to the following conditions:
1. Placement on the property and use of the unit shall not exceed thirty (30) days in a calendar year. Yard setback requirements for the district where the unit is located shall be met.
 2. Sanitation facilities must meet the requirements of, and be approved by the District Health Department.
 3. The travel trailer or recreational vehicle shall carry current state license plates.
 4. A permit must be obtained from the Zoning Administrator.

SECTION 3.10 - MOBILE HOMES ON INDIVIDUAL LOTS OR PARCELS

A mobile home sited on an individual lot or parcel shall meet the standards for minimum lot size, yard setbacks, minimum floor area and minimum dwelling unit width, if applicable, for the district in which it is located and shall meet the following additional standards:

- A. The mobile home shall be installed according to the construction code adopted by Crawford County, and the construction of the unit shall comply with the National Mobile Home Construction and Safety Standards Act of 1974, as amended (HUD Code).
- B. The unit shall be no older than seven (7) years of age at the time applicant applies for a permit.
- C. No person shall occupy a mobile home as a dwelling within Lovells Township until a certificate of compliance has been issued by the County Building Official, which shall indicate satisfactory compliance with all requirements of the HUD Code and the current Crawford County Construction Code.
- D. A mobile home shall not be used as an accessory building.
- E. No mobile home shall be located or placed in Lovells Township without prior completion of site preparation to include electric, water, sewage disposal and foundation to meet the current Crawford County Construction Code.
- F. No mobile home shall be stored on any lot or parcel in Lovells Township.

SECTION 3.11 - PETS AND OTHER ANIMALS

Domestic household pets, including dogs, cats, birds, and fish, but not including poisonous or dangerous reptiles, wild or dangerous animals, may be kept as an accessory residential use on any premises without a permit. Animals, which are usually considered farm animals, shall be

permitted on farms of ten (10) acres in size or greater. See Section 6.02(G) for the keeping of horses in the R-R District.

SECTION 3.12 - GRADES

No premises shall be filled or graded so as to discharge surface runoff on abutting premises in such a manner that will cause inconvenience or damage to adjacent properties. When property is developed adjacent to existing properties previously developed, existing grades shall have priority. All grading shall comply with the provisions of Part 91 of Act 451 of the Public Acts of 1994 (Soil Erosion and Sedimentation Control).

SECTION 3.13 - NONCONFORMING LOTS, STRUCTURES AND USES

It is recognized that there exists within the districts established by this Ordinance and/or by subsequent amendments, lots, structures, and uses of land and structures, which were lawful before this Ordinance was passed or amended. It is the intent of this Ordinance to permit these legal nonconforming lots, structures, or uses to continue until they are removed.

A. Nonconforming Lots

1. A nonconforming lot is a lot that the boundaries of which are recorded in a plat, deed or land contract executed and delivered prior to the effective date of this Ordinance, and the width, depth, and/or area does not meet the minimum dimensional requirements of the district in which it is located.
2. Any allowed use, structure and customary accessory buildings may be erected on any single lot of record even though such lot fails to meet the requirements for area or width, or both; PROVIDED, the yard dimensions and other Ordinance requirements conform to the regulations for the district in which the lot is located, or the Zoning Board of Appeals has granted a variance.
3. Where two (2) or more adjoining nonconforming lots are existing under single ownership, such lots shall be combined to provide a parcel which meets, where possible, at least the minimum lot size for the district where located.

B. Nonconforming uses

Nonconforming uses of land may be continued, so long as they remain otherwise lawful, subject to the following provision: No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

C. Nonconforming structures

Nonconforming structures may be continued so long as they remain otherwise lawful, subject to the following provisions:

1. A nonconforming structure may be enlarged or altered in a way, provided that such enlargement or alteration does not increase its nonconformity.
2. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its gross floor area, exclusive of the foundation, or basement, it shall be reconstructed only in conformity with the provisions of this Ordinance.
3. Should such structure be moved for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
4. This subsection does not prevent the normal repair and maintenance to a nonconforming structure.

D. Nonconforming uses of structures and land

Nonconforming uses of structures and land may be continued so long as they remain otherwise lawful, subject to the following provisions:

1. No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied, other than to remove or lessen nonconforming conditions.
2. Any nonconforming use may be carried on throughout any parts of a building which were arranged or designed for the use, but then use shall not be extended to occupy any land outside the building.
3. Any nonconforming use of a structure, land or structure and land, may be changed to another nonconforming use provided that the other use is equally or more appropriate to the district than the existing nonconforming use.
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed. Changes in tenancy and ownership of nonconforming premises are permissible.
5. Removal or destruction of the use and/or structure shall eliminate the nonconforming status.
6. If a property owner has an intent to abandon a nonconforming use and/or nonconforming structure and if in fact abandons this nonconforming use and/or nonconforming structure for a period of one (1) year or more, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owner to abandon a nonconforming use and/or structure, the Zoning Administrator shall consider the following factors.
 - a. Whether utilities, such as water, gas, and electricity to the property have been disconnected.
 - b. Whether the property, buildings, and grounds have fallen into disrepair.
 - c. Whether signs or other indications of the existence of the nonconforming use have been removed.
 - d. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
 - e. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use and/or structure.

E. Special land use is not a nonconforming use.

Any use, for which a special use permit is required, as provided in this Ordinance, shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

SECTION 3.14 - RESTORATION OF UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the County Building Official.

SECTION 3.15 - CONTINUED CONFORMANCE WITH REGULATIONS

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this

Ordinance shall be the continuing obligation of the owner of such building or property on which the building, property or use is located.

SECTION 3.16 - FENCES

- A. Fences in any residential district shall not exceed six (6) feet in height, measured from the average grade to the upper most portion of the fence.
- B. Fences in the required front setback shall not exceed three (3) feet in height, and shall be in a location, and of a construction that will not obscure vision of the right-of-way. (See also Section 3.18.)
- C. Single strand smooth wire fences are allowed. Fences in all districts shall not contain barbed wire or be electrified unless approved by the Planning Commission.
- D. All fences, walls and similar structures shall be maintained in good condition. Chipped paint, missing fence pieces, leaning or fallen portions of a fence or other forms of deterioration shall immediately be replaced, removed, or repaired.
- E. Where a lot borders a lake, river or stream, fencing shall be set back from the ordinary high water line by the waterfront setback. Further, a fence placed in any part of the lot lying between the principal building and the ordinary high water line shall not exceed four (4) feet in height and shall not unreasonably restrict the waterfront view of neighboring residents.
- F. In the installation of any fence, the property owner is responsible for the location of the property line, and if necessary should obtain a land survey to determine accurate property lines. Lovells Township shall not be held responsible for any property line or fence disputes between adjacent property owners.

SECTION 3.17 - PRIOR BUILDING PERMITS

Any building permit issued prior to the effective date of this Ordinance shall be valid even though not conforming to the provisions of this Ordinance; provided the construction is commenced within ninety (90) days after the date of permit issuance and carried on diligently without interruption for a continuous period in excess of ninety (90) days.

SECTION 3.18 - INTERSECTION VISIBILITY

On any corner lot in any district requiring front and side yards, any fence, wall, screen, hedge, sign or other structure or planting shall not obstruct vision between the heights of three (3') feet and ten (10') feet within the triangular area formed by the intersecting street right-of-way lines and a straight line intersecting them at points which are on the right-of-way lines and thirty (30') feet distant from their point of intersection. The heights of clear vision areas shall be measured from the elevation of the street centerlines at the point of intersection. No fence, wall, screen, hedge, sign or other structure or planting shall obstruct vision from a driveway between the heights of three (3') feet and ten (10') feet, measured above the elevation of the street center line, within ten (10') feet of any front property line. This requirement shall apply unless otherwise directed by the Crawford County Road Commission.

SECTION 3.19 - MOVING BUILDINGS

The moving of a building to a different location shall be considered the same as erection of a new building, and all provisions, regulations or requirements relative to the erection of a new building shall be applicable.

SECTION 3.20 - OUTDOOR ADVERTISING SIGNS

The use and erection of all outdoor advertising signs shall be subject to the following provisions:

A. General Provisions for All Zoning Districts

1. Flashing, rotating, animated, intermittent, glaring and oscillating signs; the location of any sign hazardous to traffic; and the cluttering of signs within one hundred and fifty (150) feet of each other are prohibited.
2. Signs, which are in need of repair, other than normal maintenance; not securely affixed to a substantial structure; obsolete; affixed to trees, rocks, or other natural features; resemble official traffic signs; or obstruct official signs, are prohibited.
3. Any sign or advertising media existing prior to the adoption of this Ordinance, which does not conform to the provisions of this section, shall not be altered or replaced, other than normal maintenance, except in conformance with the provisions of this Ordinance.
4. Any sign except those established and maintained by County, State or Federal governments shall not be erected in, project into, or overhang a street or road right-of-way.
5. All directional signs required for the purpose of orientation, when established by County, State or Federal governments shall be permitted in all zoning districts.
6. No outdoor advertising structure shall be erected in such a manner that the position, size, movement, shape or color may interfere with the view of, or be confused with any public traffic sign or device.
7. Sign illumination shall not cause a reflection or glare on any portion of a public highway, in the path of oncoming vehicles, or on adjacent premises or residences.
8. Temporary political signs not exceeding four (4) square feet may be located in any zoning district and shall be removed within fourteen (14) days following the election date. Other temporary signs shall be removed at the completion of the advertised event.
9. One (1) real estate sign per premises or building may be permitted and located only while said real estate is actually on the market for sale, rent or lease not exceeding four (4) square feet and may be placed in the road right-of-way, but not on the shoulder of the road and not nearer an intersection than a sign indicating that there is a "stop sign ahead". Two (2) real estate signs may be permitted if said property fronts two (2) roads or streets. Off-premise signs pertaining to real estate development located in the Township and designed to promote the sale of lots or homes within a subdivision located in the Township may be permitted on a temporary basis in any zoning district, but shall not be located upon subdivided land unless such land is part of the subdivision being advertised for sale.
10. Signs which express non-commercial speech may be erected in any district. Such signs shall not exceed four (4) square feet in size.
11. Off-premise directional way-finding signs (signs which direct passers-by to a service or product, but do not advertise the name of the business, such as gas, food, lodging, etc.) may be erected in any district. Each way-finding directional sign shall not exceed six (6) square feet per panel, no more than six (6) panels per sign structure shall be allowed, and all panels on the sign structure shall be uniform in shape and design. The sign structure shall not interfere with clear vision from the roadway. Lovells Township and

participating businesses shall share the cost of directional way-finding signs proportionally as defined by the Township Board. (*Amendment effective date November 25, 2005*)

B. Limitations by Districts

The use of outdoor advertising signs and media shall be limited in the respective districts to the following, subject to the requirements of Subsection A above.

1. Green Belt District, G-B

See Section 5.02(I)

2. Recreational & Residential District, R-R and Residential District, R

a. One on-premise advertising sign for principal and special approval uses other than dwellings, shall not exceed eighteen (18) square feet, not be located nearer to the front lot line than one-half (1/2) the required front yard setback, and shall not exceed six (6) feet in height.

b. One (1) identification sign per dwelling unit, including home occupations, not exceeding four (4) square feet in area.

c. One (1) advertising and informational sign per public or semi-public institution, located on-premises not exceeding thirty-two (32) square feet, and set back at least twenty-five (25) feet from the front lot line and ten (10) feet from the rear and side lot lines.

d. No off-premise advertising signs shall be permitted in the Recreational & Residential District, R-R and Residential District, R, except as permitted in Section 3.20, A, 11. (*Amendment effective date November 25, 2005*)

3. Commercial & Business District, C-B

a. No sign shall project beyond or overhang the wall, or any permanent architectural feature, by more than one (1) foot, and shall not project above or beyond the highest point of the roof or parapet.

b. Up to two (2) on-premise advertising signs per principal business or commercial use, the total square footage of which shall not exceed sixty four (64) square feet in area and shall not exceed thirty (30) feet in height or the height of the building and set back from the front lot line at least ten (10) feet.

c. Off-premise signs shall not exceed thirty-two (32) square feet in area and setback from the front lot line at least ten (10) feet. Off-premise signs shall be spaced no closer than one thousand (1,000) feet between signs on the same side of the right-of-way, or closer than two hundred (200) feet to any adjacent R-R or R District.

4. Industrial District, I

a. Up to two (2) on-premise advertising signs per principal industrial use, the total square footage of which shall not exceed sixty four (64) square feet in area and shall not exceed thirty (30) feet in height and set back from the front lot line at least twenty (20) feet.

b. Off-premise signs shall not exceed thirty-two (32) square feet in area and setback from the front lot line at least ten (10) feet. Off-premise signs shall be spaced no closer than one thousand (1,000) feet between signs on the same side of the right-of-way, or closer than two hundred (200) feet to any adjacent R-R or R District.

ARTICLE IV DISTRICTS AND ZONING MAP

SECTION 4.01 - DISTRICTS

For the purpose of this Ordinance, Lovells Township is hereby divided into the following zoning districts. The locations of these districts are shown on the accompanying Zoning Map of Lovells Township:

- A. Green Belt District, G-B
- B. Recreational & Residential District, R-R
- C. Residential District, R
- D. Commercial & Business, C-B
- E. Industrial District, I

SECTION 4.02 - ZONING MAP OF LOVELLS TOWNSHIP

- A. Establishment of District Boundaries: The boundaries of the zoning districts are established and shown on the Zoning Map of Lovells Township, Crawford County, Michigan, which accompanies this Ordinance. The zoning map, as amended, with all notations, references and other information is a part of this Ordinance. The Zoning Map shall be kept in the office of the Zoning Administrator, whose responsibility it shall be to enter on the map all amendments adopted by the Township Board.
- B. Interpretation of District Boundaries: Unless otherwise provided, the boundary lines of all zoning districts shall be interpreted as following along section lines or the division of sections such as quarter and eighth lines; or the centerlines of highways, streets, alleys, railroad lines and waterways; or the shoreline of water bodies; or the boundaries of incorporated areas, recorded plats or subdivision; or property lines of legal record on the date of enactment of this Ordinance, or any extension of said lines. Projections from the shoreline into unzoned water areas shall be subject to the regulations of the zoning district of the land at the shoreline.

SECTION 4.03 - DETERMINATIONS BY TOWNSHIP ZONING BOARD OF APPEALS

All questions concerning the exact location of any zoning district not clearly described shall be determined by the Township Zoning Board of Appeals, consistent with the purpose of this Ordinance, upon written application through the Zoning Administrator, or upon its own motion.

ARTICLE V GREEN BELT DISTRICT, GB

SECTION 5.01 - DESCRIPTION AND PURPOSE

The purpose of this district is to provide for the preservation and enhancement of waterways, through regulation of uses and activities of land within four hundred (400) feet of lakes, rivers and streams.

In 1987, the Michigan Department of Natural Resources (DNR) designated the Au Sable River and specific tributaries as "a natural river" under the authority of the Natural River Act (P.A. 231 of 1970), now Part 305 of the Natural Resources and Environmental Protection Act (P.A. 451 of 1994). The Natural River Act is administered by the DNR. The Act allows for local governments to adopt waterfront protection measures, which are compatible with the DNR requirements. In situations where there is no local zoning or the zoning authority does not provide waterfront protection regulations in the zoning ordinance, the DNR will administer the rules of the Act.

In addition to the protection of the Au Sable and designated streams, Lovells Township also wishes to include waterfront protection regulations around the Township's lakes for their enhancement and protection.

The Green Belt District includes four hundred (400) feet on both sides of the East Branch of the Au Sable River, the North Branch of the Au Sable River, the West Branch of Big Creek, the Middle Branch of Big Creek, the East Branch of Big Creek and around all lakes in Lovells Township.

SECTION 5.02 - USE REGULATIONS

Land and/or buildings in the Green Belt Zone may be used for the following purposes:

- A. One single-family dwelling, including family care facility as defined.
- B. Parks and playgrounds.
- C. Plats meeting the district regulations.
- D. One detached guest house per dwelling unit, which is used for non-commercial purposes, may be permitted under the following conditions:
 - 1. The lot shall be a minimum of one hundred twenty thousand (120,000) square feet with a minimum of four hundred (400) feet water frontage. (*Amendment effective date November 25, 2005*)
 - 2. The guest house shall have a minimum ground floor area of four hundred eighty (480) square feet and ground floor area not to exceed one thousand two hundred (1,200) square feet. (*Amendment effective date November 25, 2005*)
 - 3. The guest house shall meet all the yard and waterfront setback requirements of Sections 5.04. (*Amendment effective date November 25, 2005*)
- E. A detached accessory building not more than thirty five (35) feet in height subject to the following conditions:

1. The accessory building shall be placed to the side or rear of the dwelling.
 2. The accessory building shall meet the required side or rear yard setbacks and shall not be nearer than ten (10) feet to the main dwelling.
- F. Industrial and commercial structures and uses:
1. New industrial uses and buildings and expansion of existing uses and buildings shall not be permitted within one thousand (1,000) feet of the designated Natural River and tributaries.
 2. New commercial uses and buildings, such as gas stations, motels, restaurants, retail stores, and the like shall be prohibited in the district.
 3. New canoe liveries, expansion of existing liveries, or expansion of commercial launching or retrieval of watercraft is prohibited in the district.
- G. Private recreation or conservation clubs may be allowed under special use permit approval by the Planning Commission. (See Article XII)
- H. New development, exploration or production of oil, gas, salt brine, sand or gravel are prohibited within one thousand three hundred twenty (1,320) feet of the designated Natural River or tributaries.
- I. Signs may be allowed, provided they are related to the permitted uses of the site, are not attached to any tree or shrub as follows:
1. One temporary non-illuminated sign advertising real estate for sale not to exceed four (4) square feet in size per lot.
 2. Signs less than two (2) square feet in size for the purpose of preventing trespass and/or hunting on private property may be placed no closer than one hundred (100) feet to another one.
- J. A legal nonconforming structure that is nonconforming due to waterfront setback may be allowed to expand no more than fifty percent (50%) of the existing ground floor area, provided that the expansion does not increase the waterfront setback nonconformity. The fifty percent (50%) increase allowed shall be the total increase allowed from the effective date of this amendment. (*Amendment effective date November 25, 2005*)

SECTION 5.03 - HEIGHT REGULATIONS

No building shall exceed thirty five (35) feet or two and one-half (2 1/2) stories in height, whichever is lesser.

SECTION 5.04 - AREA REGULATIONS

No building or structure, nor enlargement of any building or structure shall be erected unless the following lot area and yard setback requirements are provided and maintained as follows:

- A. The minimum lot size shall be sixty thousand (60,000) square feet. The minimum lot width shall be two hundred (200) square feet measured at the ordinary high water mark. Lots created after the adoption of this Ordinance shall meet the minimum lot width and size.
- B. The minimum side yard setback shall be thirty (30) feet from the side lot line.
- C. The minimum setback from the road right-of-way shall be fifty (50) feet.

- D. Waterfront setbacks -- Because of the severe limitations for residential development due to poorly drained and unstable soils, high water tables and possible contamination of surface water and ground water supplies, no structures shall be constructed on land subject to flooding. Construction where allowed must meet the following standards:
1. Along the North Branch of the Au Sable River, structures may be constructed no closer than two hundred (200) feet from the ordinary high water mark, except that for every foot of ground elevation above the elevation of the ordinary high water mark, one (1) foot may be subtracted from the setback, to a minimum of one hundred fifty (150) feet.
 2. Along all other streams in the district, structures may be constructed no closer than one hundred fifty (150) feet from the ordinary high water mark, except that for every foot of ground elevation above the elevation of the ordinary high water mark, one (1) foot may be subtracted from the setback, to a minimum of one hundred (100) feet.
 3. On all lakes, buildings may be constructed no closer than one hundred (100) feet from the ordinary high water mark, except that for every foot of ground elevation above the elevation of the ordinary high water mark, one (1) foot may be subtracted from the setback, to a minimum of fifty (50) feet.
 4. New buildings and structures must be setback not less than fifty (50) feet from the top of the bluff on the cutting edge of the stream.
 5. New buildings and structures must be setback not less than twenty five (25) feet from the top of the bluff on the non-cutting edge of the stream.

SECTION 5.05 - LIMITATION ON FUNNEL DEVELOPMENT (*Amendment effective date October 27, 2005*)

- A. In order to restrict the number of users of lake frontage for the purpose of preserving the water quality of the lakes, avoiding congestion on the lakes, and preserving the quality of the recreational use of the lakes within the Township, the owner of a waterfront lot abutting a lake may provide legal access to the lake for dwelling units located on non-waterfront lots only if all of the following requirements are met:
1. The waterfront lot shall have lake frontage of no less than two hundred (200) feet as measured along the ordinary-high water mark.
 2. The density formula for the number of dwelling units located on both the waterfront lot and on non-waterfront lots that may have legal access to the lake either from or over a waterfront lot shall not exceed one (1) dwelling unit per fifty (50) feet of lake frontage on such waterfront lot as measured along the ordinary-high water mark.
 3. Any legal access to the lake over a waterfront lot shall have a minimum lake frontage of forty (40) feet and an additional ten (10) feet of lake frontage for each dwelling unit in excess of four (4) that is provided legal access to the lake over the same waterfront lot as measured along the ordinary-high water mark.
 4. Only one (1) area of legal access to the lake shall be permitted on a waterfront lot.
 5. An instrument creating the legal access to the lake, whether granted by single fee ownership, joint fee ownership, an interest in a general or limited common element of a condominium development, an easement, or a lease, shall be recorded in the Crawford County Register of Deed's Office and a recorded copy filed with the Zoning Administrator.
- B. Subsection A above, however, shall not apply to a public access site or waterfront lot under the possession and control of a governmental agency, including but not limited to Lovells Township, Crawford County, the Crawford County Road Commission, or the State of Michigan, that is intended to provide the general public with access to the water.

- C. Funnel development shall not be allowed on the Au Sable River or designated tributaries, according to the Au Sable Natural River Plan.

SECTION 5.06 - ACCESSORY STRUCTURES

- A. **Limitation on boat docking and docks.** On rivers and streams, no more than one (1) dock per parcel is allowed, no more than twelve (12) feet in length, no more than four (4) feet in width, and extending no more than four (4) feet over the water. On any lakefront lot one (1) dock is allowed for each one hundred (100) feet of lake frontage, as measured along the ordinary-high water mark, no more than thirty-six (36) feet in length (dock length shall be measured from the water's edge) and no more than four (4) feet in width. No more than two (2) boat mooring spaces shall be permitted per dock. Each dock shall be placed no less than thirty (30) feet from the side riparian boundary line of the waterfront lot as projected from the shoreline in the manner prescribed by law. No dock may create a navigational hazard. Permanent docks may be erected only after receiving all required permits from the Department of Natural Resources, Army Corp of Engineers, or other state or federal agencies.
- B. **Pumphouses.** For lakefront property only, one structure housing a pump used for pumping water from the lake, provided it is setback at least five (5) feet from the ordinary high water mark, has a ground cover area of not more than nine (9) square feet, has a height not more than three (3) feet, does not cause soil erosion, and is screened from the lake by natural vegetation.

SECTION 5.07 - NATURAL VEGETATION STRIP

To minimize erosion, stabilize the shoreline, protect water quality, keep nutrients from the water, maintain water temperature at natural levels, preserve fish and wildlife habitat, screen man made structures and preserve aesthetic values of the area, a natural vegetation strip shall be maintained. Along the North Branch of the Au Sable River, the natural vegetation strip shall extend a minimum of seventy five (75) feet from the ordinary high water mark. On other streams and lakes in the district, the strip shall extend fifty (50) feet from the ordinary high water mark.

Within the natural vegetation strip, trees and shrubs may be selectively pruned, or with Zoning Administrator approval be removed for harvest, to achieve a filtered view of the river or lake from the principal structure and for reasonable private access to the water. Pruning and removal activities shall:

- A. Insure a live root system stays intact to provide for bank stabilization and erosion control. Once the roots are naturally dead, they can be removed.
- B. Insure that any path to the water is no wider than four (4) feet, and meander down to the water's edge in a manner that protects the soil and vegetation from erosion while screening the principal structure from direct view.

Dead, diseased, unsafe or fallen trees, and noxious plants and shrubs such as poison ivy, poison sumac, poison oak, and other plants regarded as a common nuisance may be removed. Planting of perennial native species in the natural vegetation strip is encouraged, especially where exposed soil and steep slopes exist and in reforestation efforts.

SECTION 5.08 - USE OF PESTICIDES, HERBICIDES AND FERTILIZERS

Because of the potentially severe adverse effects on waterfront vegetation, fish, wildlife and water quality from improper use of pesticides, herbicides and fertilizers, their use within the Green Belt District is discouraged. It is recommended that advice of qualified specialists be sought, when use of these products is necessary.

SECTION 5.09 - LAND ALTERATION

Grading or filling on land subject to flooding is prohibited. Cutting or filling for buildings and structures, including accessory buildings, where the groundwater table is within four (4) feet of the surface is allowed only when a permit is obtained from the local soil erosion and sedimentation control officer, as required by Part 91 of the Natural Resources and Environmental Protection Act (P.A. 451 of 1994), and subject to the requirements of the building inspector having jurisdiction.

SECTION 5.10 - SANITARY WASTE SYSTEMS

Septic tanks and drainfields shall be setback a minimum of one hundred fifty (150) feet from the ordinary high water mark, a minimum of one hundred (100) feet from surface or subsurface drainages that discharge into any river or stream, and shall meet the construction standards and approval of the District Health Department.

ARTICLE VI RECREATION & RESIDENTIAL DISTRICT, R-R

SECTION 6.01 - INTENT

The intent is to establish and promote the proper use, enjoyment and conservation of the forest and land particularly adapted for agricultural, recreational, low density residential and other specialized rural uses requiring large tracts of land, which are compatible with the residents.

SECTION 6.02 - PERMITTED PRINCIPAL USES

- A. Detached single-family dwelling.
- B. Two-family dwelling units.
- C. Church, place of worship and related structures, such as parish hall or parsonage, school and cemetery. (See Section 14.01D)
- D. Family care facility, as defined
- E. Customary accessory buildings. (See Section 3.05)
- F. Farms for both general and specialized farming together with residential dwellings, barns, accessory buildings, and other installations, provided that no livestock, farm animals or fowl are allowed within fifty (50) feet of any lot line and one hundred (100) feet from any residential dwelling on adjacent properties.
- G. The keeping of horses and ponies may be allowed under the following conditions:
 - 1. Minimum acreage: One horse or pony will be allowed on three (3) acres. Each additional horse or pony requires two (2) additional acres.
 - 2. All horses or ponies are required to have a corral and stable. A stable for one (1) horse or pony shall have a minimum floor area of one hundred forty four (144) square feet with an additional forty eight (48) square feet for each additional horse or pony. A corral for one (1) horse or pony shall be a minimum of two thousand five hundred (2,500) square feet (i.e. 50'x50') with an additional seven hundred fifty (750) square feet for each additional horse or pony.
 - 3. Stable and corral shall maintain a fifty (50) foot setback from all lot lines and one hundred (100) feet from any residential dwelling on adjacent properties.
 - 4. A buffer strip fifty (50) feet deep on side and rear lot lines shall be maintained in its natural state. Additional planting of trees and shrubs is encouraged but not required.
 - 5. Large deposits or concentration of manure must be a minimum of seventy five (75) feet from lot lines and one hundred fifty (150) feet from all dwellings and further disposed of in a sanitary manner on at least a monthly basis.
 - 6. Where applicable, a minimum setback of one hundred fifty (150) feet from the Green Belt District shall be maintained.
 - 7. Corral shall not be constructed with slabwood or barbed wire, but shall be constructed of standard building materials strong enough to contain the horses and ponies and aesthetically compatible with the intent of the district.
 - 8. Horses and ponies must be kept and sheltered in a manner conforming to all state and local health codes.

9. Horses and ponies, stable and corral shall be placed in the rear or side yards of the parcel.

H. Home office, as defined.

SECTION 6.03 - SPECIAL PERMIT USES

The following uses may be authorized by the Planning Commission provided a Special Use Permit is approved in accordance with the procedures, provisions and standards of Article XIII.

- A. Community centers and facilities owned and operated by a non-profit neighborhood group.
- B. Recreational vehicle parks and mobile home parks constructed and licensed in accordance with the Michigan Department of Health requirements.
- C. Extractive industries, such as minerals, gravel and sand, subject to the performance standard of the Industrial District.
- D. Gas and oil processing facilities. (See Section 14.01H.)
- E. Commercial kennels. (See Section 14.01F.)
- F. Recreational facilities compatible with the intent of this district, such as riding stables, golf courses, athletic fields, and archery ranges. (See Section 14.01K.)
- G. Forest industries and production of forest products, subject to the performance standard of the Industrial District.
- H. Home occupation. (See Section 14.01J.)
- I. Bed and breakfast facility. (See Section 14.01A.)
- J. Multiple family units.
- K. Telecommunication towers and facilities and alternative tower structures. (See Section 14.01N.)

ARTICLE VII RESIDENTIAL DISTRICT, R

SECTION 7.01 - INTENT

The intent is to establish and preserve quiet desirable neighborhoods of detached single family dwellings with a low to medium density. This district shall be free from other uses except for uses, which are compatible with the residential uses of the district.

SECTION 7.02 - PERMITTED PRINCIPAL USES

- A. Detached single-family dwelling unit.
- B. Family care facility, as defined.
- C. Church, place of worship and related structures, such as parish hall or parsonage, school and cemetery. (See Section 14.01D.)
- D. Customary accessory buildings. (See Section 3.05)
- E. Home office, as defined.

SECTION 7.03 - SPECIAL PERMIT USES

The following uses may be authorized by the Planning Commission provided a Special Use Permit is approved in accordance with the procedures, provisions and standards of Article XIII. Special Use Permits shall be issued only on lots fronting on and with principle driveway access to a street with paving at least twenty four (24) feet in width, and located and designed to avoid undue traffic, noise or other nuisances or dangers. All lighting shall be directed away from residential uses.

- A. Recreational facility compatible with the intent of this district.
- B. Public utility buildings and structures without outdoor storage yards for vehicles and equipment.
- C. Group care facility, as defined.
- D. Home occupation. (See Section 14.01J.)
- E. Bed and breakfast facility. (See Section 14.01A.)

ARTICLE VIII COMMERCIAL & BUSINESS DISTRICT, C-B

SECTION 8.01 - INTENT

The intent is to establish and preserve a general commercial zoning district containing uses which include services and retail sale or combination retail/wholesale of commodities catering to the entire community and the needs of highway and tourist traffic.

SECTION 8.02 - PERMITTED PRINCIPAL USES

- A. The retail sale or combination retail/wholesale of commodities such as, but not limited to: foods, florist shops, pharmaceutical products, clothing, dry goods, hardware, furniture and household appliances; shops and stores for conducting the trade of electricians, decorators, painters, photographers, plumbers, and similar businesses.
- B. Professional services such as, but not limited to doctors, lawyers, dentists, engineers, architects, and insurance and real estate sales offices.
- C. Banks and financial institutions.
- D. Personal services such as, but not limited to: beauty salons, barber shops, tailor shops, and shoe repair.
- E. Tourist facilities such as, but not limited to restaurants, delicatessens, and other dispensaries of food products, motels, hotels and cabin courts.
- F. Funeral homes. (See Section 14.01G.)
- G. Commercial day care facility, as defined.
- H. Customary accessory detached uses and structures.
- I. Short term rental of a dwelling. (*Amendment effective date November 25, 2005*)

SECTION 8.03 - SPECIAL PERMIT USES

The following uses may be authorized by the Planning Commission provided a Special Use Permit is approved in accordance with the procedures, provisions and standards of Article XIII.

- A. Establishments selling alcoholic beverages for consumption on the premises.
- B. Private for-profit recreational facilities such as, but not limited to theaters, recreational amusement centers and bowling alleys.
- C. Private clubs, lodges, halls and similar places of assembly, completely within an enclosed building.
- D. Retail sales requiring outdoor storage or display. (See Section 14.01E.)

- E. Retail sale of petroleum products and the servicing of motor vehicles, such as gasoline/service station. (See Section 14.01I.) These uses shall also meet the performance standards of the Industrial District.
- F. Fully enclosed warehousing and storage rental facilities.
- G. Vehicle sales, service and rental including, but not limited to: automobiles, trucks, farm equipment, recreational vehicles, mobile homes, boats, snowmobiles and off-road vehicles (ORV). (See Section 14.01O.) These uses shall also meet the performance standards of the Industrial District.
- H. Laundry and dry cleaning establishments, meeting the performance standards of the Industrial District.
- I. Car wash establishments. (See Section 14.01B.)
- J. Pet shops.
- K. Residential units, which are an accessory to a commercial use, provided the units have parking and entrances distinctly different from the commercial use and shall be approved for occupancy by the District Health Department with regard to drinking water supply and sanitary disposal facilities. The units shall meet at least the minimum floor area requirement for dwellings in the R District.

SECTION 8.04 – PROPERTIES WITH AU SABLE RIVER FRONTAGE (*Amendment effective date May 27, 2005*)

For properties in the C-B District having Au Sable River frontage, the following sections of the G-B District shall apply: Section 5.04 Area Regulations, Section 5.05 Limitations on Funnel Development, Section 5.06 Accessory Structures, Section 5.07 Natural Vegetation Strip, Section 5.08 Use of Pesticides, Herbicides, and Fertilizers, Section 5.09 Land Alterations, and Section 5.10 Sanitary Waste Systems.

ARTICLE IX INDUSTRIAL DISTRICT, I

SECTION 9.01 - INTENT

The intent is to establish and preserve a zoning district for necessary industrial and related uses to serve the general industrial needs of the community provided that the industry will be isolated from other types of land uses and not causing undesirable emissions and/or offensive odors.

SECTION 9.02 - PERMITTED PRINCIPAL USES

Manufacturing and other industrial uses conducted within a completely enclosed building. Outside storage may be allowed upon Planning Commission approval.

SECTION 9.03 - SPECIAL PERMIT USES

The following uses may be authorized by the Planning Commission provided a Special Use Permit is approved in accordance with the procedures, provisions and standards of Article XIII.

- A. Manufacturing and other industrial uses that are conducted outside of an enclosed structure.
- B. Extractive and mining activities including processing.
- C. Asphalt plants.
- D. Salvage yards.
- E. Gas and oil processing facilities. (See Section 14.01H.)

SECTION 9.04 - PERFORMANCE STANDARDS

No use shall be permitted within this district which does not conform to the following minimum standards of use, occupancy, and operation.

- A. **Smoke, Dust, Dirt and Fly Ash:** It shall be unlawful for any person, firm or corporation to emit or discharge any smoke, dust, dirt, or fly ash in quantities sufficient to create a nuisance within the Township, as determined by the emission standards of the DEQ.
- B. **Open Storage:** The open storage of any equipment, vehicles and all materials including wastes, shall be screened from public view, from public streets and from adjoining properties. The screening may consist of evergreen trees or shrubs, a wall, or an obscuring fence of a height of not less than six (6) feet to screen such stored materials. Scrap, junk cars and other junk materials shall not be piled or stacked as open storage to a height in excess of twenty (20) feet.
- C. **Glare and Radioactive Materials:** Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful rays shall be permitted in such a manner as not to extend beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic

radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

- D. Fire and Explosive Hazards:** The storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning, as determined by the Township's fire protection authority, is permitted subject to compliance with all other yard requirements and performance standards previously mentioned, and providing that the following conditions are met:
1. Said materials or products shall be stored, utilized or produced within completely enclosed buildings or structures having incombustible exterior walls.
 2. All such buildings or structures shall be set back at least forty (40) feet from the lot lines and all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Fire Association.
 3. The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the State Rules and Regulations as established by Public Act 207 of 1941 as amended.
- E. Groundwater Protection (for uses which use, generate or store hazardous substances in quantities greater than 25 gallons or 220 pounds per month):**
1. The site shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, surface water and wetlands.
 2. Secondary containment for above ground areas where hazardous substances are used or stored shall be provided and maintained. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 3. General purpose floor drains may be allowed only if they are connected to an on-site holding tank or a system authorized through a state groundwater discharge permit.
 4. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct or indirect discharges, shall be allowed without required permits.
- F. Buffer Strip:** Whenever an industrial use is adjacent to a residential district or a residential use, a buffer strip shall be provided on the industrial side of the boundary between the districts. The buffer strip is required to ensure that there is an appropriate relationship to the surrounding area.
1. The width of the buffer strip shall be a minimum of one (1) foot for each ten (10) feet of frontage on the industrial property, with a minimum of ten (10) feet required.
 2. The area set aside for a buffer strip shall be landscaped with plantings that will provide an effective screening at all seasons of the year.

ARTICLE X SCHEDULE OF REGULATIONS

Except as otherwise specifically provided in this Ordinance, no building or structure or part thereof shall be erected, constructed, moved, altered or maintained, except in conformity with the provisions of this Ordinance, including the requirements of the Schedule of Regulations shown below.

SECTION 10.01 - SCHEDULE OF REGULATIONS

District	Minimum Lot Size		Minimum Yard Setbacks			Minimum Dwelling Unit Ground Floor Area	Maximum Building Height	
	Lot Area	Lot Width	Front	Side	Rear		In Feet	In Stories
GB	See Article V, Section 5.04					800 sq ft (A)	35 ft	2 1/2
R-R	101,640 sq ft	165 ft	30 ft	30 ft	50 ft	800 sq ft	35 ft	2 1/2
R	14,000 sq ft	100 ft	30 ft	10 ft (B)	10 ft	800 sq ft	35 ft	2 1/2
C-B			100 ft	15 ft (C)	25 ft (D)		35 ft	2 1/2
I			50 ft	10 ft (C)	25 ft (D)		35 ft	2 1/2

SECTION 10.02 - FOOTNOTES TO SCHEDULE OF REGULATIONS

- A. A minimum dwelling width of twenty (20) feet across any front, side or rear of the structure is required.
- B. On corner lots, a side yard of not less than twenty five (25) feet shall be maintained on the side street.
- C. Where the commercial or industrial use abuts a residential use or land in the GB, R or R-R districts, the side yard setback shall be a minimum of twenty five (25) feet.
- D. Where the commercial or industrial use abuts a residential use or land in the GB, R or R-R districts, the rear yard setback shall be a minimum of fifty (50) feet.

SECTION 10.03 - MAXIMUM LOT COVERAGE

Maximum lot coverage shall be based on lot size as follows, regardless of district:

Less than one-half acre	35%
One-half acre -- one acre	25%
More than one acre	15%

ARTICLE XI PLANNED UNIT DEVELOPMENT, PUD

SECTION 11.01 - INTENT

The intent is to permit more flexibility and consequently encourage a greater imaginative and creative use and design of structures and land than is allowable under the zoning districts of this Ordinance, where such modifications will not be significantly inconsistent with the Comprehensive Plan upon which it is based. A PUD may be established in all districts except the GB District. It is further intended to promote more efficient and economical use of the land, while providing a harmonious variety of housing choices, a higher level of urban amenities, the preservation of natural scenic qualities of open space and to give the developer reasonable assurances of ultimate approval before expending complete design monies while providing Township Officials with assurances that the project will retain the character envisioned at the time of concurrence.

SECTION 11.02 - REGULATIONS ESTABLISHING PERMITTED USES

- A. Permitted uses are restricted to the following standards:
 - Residential Uses. Dwelling units in detached, semi-detached, attached, or multiple family dwellings or any combination thereof, along with customary accessory detached uses and structures are permitted in a PUD. Site condominium projects (Act 59 of 1978) established after the effective date of this Ordinance shall be designated as a PUD.
- B. Other non-residential uses. Non-residential uses of a religious, cultural, or recreational character are permitted in a PUD provided that such uses are designed to serve primarily the residents of the PUD and are compatibly and harmoniously incorporated into the unitary design of the PUD.
- C. Permitted uses shall be in conformance with a specific and precise final development plan and the provisions of this Article.

SECTION 11.03 - PARCEL SIZE AND DISTRICTS WHERE PUD IS ALLOWED

The provisions of this article may be applied upon application by the owner to any parcel ten (10) acres in size, or greater in the R and R-R districts.

SECTION 11.04 - LOT AND YARD REGULATIONS

- A. Minimum requirements set forth by the original district in which the proposed PUD is located shall act as general guideline for the lot and yard regulations. Consideration shall be given to lot and yard regulations in the following manner.
 - 1. Front yard – Where the applicant provides privacy by reducing traffic flow through street layout such as cul-de-sacs, or by screening or planting, or by facing the structure toward open space or a pedestrian way, or through the room layout of front elevation, it is possible to reduce the front yard requirements. At a minimum, all building and structures shall be set back fifty (50) feet from the centerline or twenty five (25) feet from the property line (whichever is greater) from any street within the PUD.

2. Lot width and side yard – Where the design is such that light, air, and privacy can be provided, especially for living spaces and bedroom, narrower lot width and side yard regulations may be permitted.
3. Rear yard – Except where it can be demonstrated to the Planning Commission that a lesser rear yard requirement is justified, the rear yard shall be equal to or greater than the rear yard requirements of the original district.
4. Building spacing – Building spacing may be reduced when adequate privacy, light, and air are provided to each unit. At a minimum, spacing between the sides of buildings shall be at least fifteen (15) feet.

SECTION 11.05 - OPEN SPACE REQUIREMENTS

- A. Required open space shall comprise no less than fifty (50) percent of the total lot or parcel area.
- B. Areas covered with buildings, streets, parking lots, driveways and other paved surfaces are not considered open space, except as noted in (C) below. A minimum of fifty percent (50%) of the required open space shall be devoted to landscaping, patios, walkways and recreation areas for the collective enjoyment and common use of occupants of the development.
- C. Recreation facilities or structures and their accessory uses located in common recreation areas shall be calculated as open space, as long as the total impervious surface (paving, roofs, etc.) constitute no more than five percent (5%) of the total required open space.

SECTION 11.06 - INSURING OPEN SPACE INTEGRITY

All land shown on the final development plan as common open space must be conveyed under one of the following options:

- A. It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures, or improvements which have been placed on it.
- B. It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the trustees subject to covenants to be approved by the Planning Commission which restricts the common open space to the uses specified on the final development plan, and which provides for the maintenance of the common open space in a manner which assures its continuing use for its intended purposes.

SECTION 11.07 - OPEN SPACE RESTRICTION

No common open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use under amendment procedures of this Ordinance. However, no authorized change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas.

SECTION 11.08 - OPEN SPACE ENFORCEMENT

If the common open space is not conveyed to a public agency, either one of the following methods of enforcement shall be provided:

- A. The legal right to develop the common open space for the uses not specified in the final development plan must be conveyed to public agency.
- B. The restrictions governing the use, improvement, and maintenance of the common open space must be stated as conditions to the conveyance of the common open space, the fee title to the common open space to vest in a public agency in the event of a substantial default in the stated conditions.

SECTION 11.09 - PRIVATE COVENANTS ENFORCEMENT

If the common open space is not conveyed to a public agency, the covenants governing the use, improvement, and maintenance of the common open space may authorize a public agency to enforce their provisions.

SECTION 11.10 - HOMEOWNERS' ASSOCIATIONS

If the common open space is deeded to Homeowners' Association, the applicant shall file a declaration of covenants and restrictions that will govern the association, to be submitted with the application for the pre-application conference. The provisions shall include, but not be limited to the following:

- A. The Homeowners' Association must be established before the units are sold.
- B. Membership must be mandatory for each homebuyer and any successive buyer.
- C. The open space restrictions must be permanent, not just for a period of years.
- D. The Association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.
- E. Homeowners must pay their pro rata share of the cost; the assessment levied by the association can become a lien on the property.
- F. The Association must be able to adjust the assessment to meet changed needs.

SECTION 11.11 - FAILURE TO MAINTAIN OPEN SPACE

In the event that the organization or any successor organization responsible to own and maintain common open space, at any time after establishment of the planned unit development, fails to maintain the common open space in reasonable order and condition in accordance with the plan, the Planning Commission may serve written notice upon such organization or upon the residents of the planned unit development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. The notice shall include a demand that such deficiencies of maintenance be remedied within thirty (30) days, and shall state the date and place of a hearing thereon, which shall be held within twenty eight (28) days of the notice. At the hearing the Planning Commission may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be remedied. If the deficiencies set forth in the original notice or in the modifications are not remedied within the thirty (30) days or any extension, the Township, in order to preserve the taxable values of the properties within the planned unit development and to prevent the common open space from becoming a public nuisance, may enter upon the common open

space and maintain it for a period of one (1) year. The entry and maintenance shall not vest in the public any right to use the common open space, except when the open space is voluntarily dedicated to the public by the owners. Before the expiration of the organization responsible for the maintenance of the common open space, a public hearing shall be scheduled upon notice to such organization or to the residents of the planned unit development, to be held by the Planning Commission at which hearing the organization or the residents of the planned unit development shall show cause why the maintenance by the Township shall not, at the election of the Planning Commission continue for a succeeding year. If the Planning Commission determines that the organization is not ready or willing or able to maintain the common open space in a good, clean, and safe condition, the Township Board, in its discretion may continue to maintain the open space, subject to a similar hearing and determination in the next succeeding year.

The cost of such maintenance by the Township shall be proportionally assessed against the properties within the planned unit development that have a right of enjoyment of the common open space and shall become a tax lien on the properties. The Township, at the time of entering upon the common open space for the purposes of maintenance, shall file a notice of the lien in the office of the county recorded upon the properties affected by the lien within the planned unit development.

SECTION 11.12 - ENVIRONMENTAL STANDARDS

- A. Environmental design criteria in PUD District shall include the following: the preservation of trees, groves, waterways, scenic points, historic spots, and other community assets and landmarks.
- B. The Township Zoning Administrator may require a "grading plan" which will confine excavation, earth moving procedures, and other changes to the landscape in order to insure preservation and prevent despoliation of the character of the area to be retained as common open space. All manufactured slopes, other than those constructed in rock, shall be of a character so as to cause the slope to blend with the surrounding terrain and development. The developer shall provide for maintenance of the planting until growth is established.

SECTION 11.13 - TRAFFIC CIRCULATION

- A. Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Minor streets within the PUD shall not be connected to streets outside the development in such a way as to encourage their use by through traffic. A part of every residential building shall not be farther than sixty (60) feet from an access roadway or drive providing vehicular access from a public street, and not further than five hundred (500) feet, measured along the route of vehicular access, from a public street. All non-residential land uses with a PUD should have a direct access to a collector or primary street, especially where large parking areas are included.
- B. The pedestrian circulation system and its related walkways should be insulated completely and as reasonably as possible from the vehicular street system in order to provide separation of pedestrian and vehicular movement. This shall include, when deemed to be necessary by the Planning Commission, pedestrian underpass or overpass or in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses, which generate a considerable amount of pedestrian traffic.

SECTION 11.14 - STREETS

- A. Standards of design and construction for roadways, both public and private, within planned residential development may be modified as is deemed appropriate by the Planning Commission, especially where it is found that the plan for PUD provides for separation of vehicular and pedestrian circulation patterns and provides for adequate off-street parking facilities. If the PUD owners in the future should convey the private streets to the county, the owners do fully agree that, before acceptance of such streets by the county, the owners will bear full expense of reconstruction or any other action necessary to make the streets meet county road standards, prior to dedication and acceptance. Finally, the owners also agree that these streets shall be dedicated to public use without compensation to the owners and without the owners expense in making such streets conform to the requirements applicable at that time for public streets if, at some future date, a local governing body so requests.
- B. The name of the PUD and new street names shall not duplicate or closely approximate phonetically the name of any other subdivision or street in Lovells Township.

SECTION 11.15 - PARKING STANDARDS

The following is the parking criteria for PUD's:

- A. For each dwelling unit, there shall be two (2) off-street parking spaces consisting of not less than two hundred (200) square feet each.
- B. Parking areas shall be arranged so as to prevent through traffic to other parking areas.
- C. Parking areas shall be screened from adjacent structures, roads, and traffic arteries with hedges, dense planting, earth berms, and changes in grade or walls.
- D. No more than thirty (30) parking spaces shall be provided in any single residential parking area.
- E. All streets and any off-street loading area shall be paved, and the design thereof approved by Planning Commission. All areas shall be marked so as to provide for orderly and safe loading, parking, and storage.
- F. Parking for non-residential purposes shall be provided appropriate to the type of non-residential use and shall follow the guidelines for parking set forth by commercial and industrial uses, with changes made as deemed necessary by the Planning Commission.
- G. All parking areas shall be adequately lighted. The lighting shall be so arranged as to direct the light downward and away from adjoining residences.
- H. All parking areas and off-street loading areas shall be graded and drained so as to dispose of all surface water without erosion, flooding and other inconveniences.

SECTION 11.16 - PUD TRANSITIONAL YARD REGULATIONS

To ensure that there is an appropriate relationship to the surrounding area, there shall be a minimum fifty (50) foot transitional yard along the perimeter of the PUD. This buffer zone must

be kept free of buildings or structures and must be landscaped, screened, or protected by natural features.

SECTION 11.17 - PUD APPLICATION PROCEDURE

- A. **Ownership Requirements.** An application for approval of a PUD may be filed by a person having an interest in the property to be included in the planned unit. The PUD application shall be filed in the name or names of the recorded owner or owners of property included in the development. However, the application may be filed by holder(s) of an equitable interest in such property. Full ownership interest in the land – legal title of the execution of a binding sales agreement must be in evidence before the final approval of the plan. The PUD shall be in single ownership by the time the final development plan is approved.
- B. **Pre-Application Conference.** The applicant shall meet informally with the Zoning Administrator, the Township Supervisor and the Chairperson of the Planning Commission in connection with the preparation of the planned unit development application. It shall be the responsibility of the Zoning Administrator to contact and invite these Township Officials. The general outlines of the proposal, and sketch plans are to be offered by the applicant at this pre-application conference. Thereafter, the Zoning Administrator shall furnish the applicant with written comments regarding the conference, including appropriate recommendations to inform and assist the applicant prior to the preparation of the planned unit development application.
- C. **Preliminary Development Plan.** The following written and graphic documents shall be submitted:
1. A legal description of the total site proposed for development including the present and proposed ownership of all or parts of the development.
 2. A written statement of the nature and character of the proposed development, and the methods to be used in achieving these goals.
 3. A written schedule of the approximate date, or dates, if the development is to be divided into stages, when construction will begin and be completed.
 4. Quantitative data for the following: total number and type of dwelling and non-residential units, the proposed floor area, ground coverage, outdoor livability and open space ratios, the proposed gross residential density of any separate stages, the number of parking spaces for each use proposed, any feasibility studies the applicant wishes to submit in support of the plan.
 5. A graphic plan at scale of 1:1,200 (1 inch=100 feet) showing the existing site conditions, including contours, at an interval no greater than five (5) feet, waterways or bodies of water, unique natural features, rock outcroppings and vegetative cover.
 6. A preliminary plat meeting the requirements of the Land Division Act, P.A. 288 of 1967 as amended, if the land is to be platted.
 7. A site plan or plans at a scale of 1:1,200 showing the location and floor area and use of existing and proposed buildings, structures, and improvements, including maximum heights, the location and size of all areas to be conveyed, dedicated, or reserved as outdoor livability space, recreation areas, schools sites, and similar public or semipublic uses, the proposed circulation system, including private and public streets, parking and loading areas, pedestrian ways, and access to existing and planned streets outside of the development, the existing and proposed utilities including sanitary and storm systems, and water, gas, electric, telephone, and television cable lines and a preliminary landscape plan.

8. A plan at an appropriate scale showing land areas adjacent to the proposed development, their uses, zoning and general character, and the effects of the proposed development on such land including the treatment of the perimeter areas of the PUD.
 9. Additional material as may be required by the Planning Commission.
- D. Public Hearing. Following the submission of a Preliminary Development Plan which includes all required data, the Planning Commission shall hold a public hearing on the plan, and vote to approve, approve with modifications or disapprove of the plan. Notice of the public hearing shall meet the requirements of Section 13.02(B)(4). A public hearing will be scheduled only if all required data for the Preliminary Development Plan has been submitted. If all required data is not submitted with the Preliminary Development Plan, it shall be deemed incomplete and may be denied by the Planning Commission on that basis alone.
- E. Final Development Plan.
1. Within nine (9) months following approval of the Preliminary Development Plan, the applicant shall submit to the Planning Commission a Final Development Plan containing in a final detailed form the information required in the Preliminary Development Plan. At its discretion and for good cause the Planning Commission may extend for six (6) months the period for filing the Final Development Plan.
 2. If the developer fails to submit a Final Development Plan for any reason, within the time allowed, the approval of the Preliminary Development Plan shall be revoked.
 3. If the Final Development Plan is in substantial compliance with the Preliminary Development Plan, it shall be approved by the Planning Commission within thirty (30) days.
 4. If compliance with the Preliminary Development Plan is not established, submission of the Final Development Plan shall follow the procedure for approval of a Preliminary Development Plan before final approval may be given.
 - a. Amendments to an Approved Planned Unit Development shall be permitted only under the following circumstances.
 - (1.) The owner of property for which a PUD has been approved shall notify the Zoning Administrator of any desired changes to the approved PUD. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, or any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - (a.) Reduction of the size of any building and/or sign.
 - (b.) Movement of buildings and/or signs by no more than ten (10) feet.
 - (c.) Landscaping approved in the PUD plan that is replaced by similar landscaping to an equal or greater extent.
 - (d.) Changes in floor plans that do not exceed five percent (5%) of the total floor area and which do not alter the character of the use or increase the amount of required parking.
 - (e.) Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - (f.) Changes related to items (a) through (e) above, required or requested by Lovells Township, Crawford County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the PUD, or any specified conditions imposed as part of the original approval.

- (2.) All amendments to a PUD approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised development plan showing the approved amendment. The revised development plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
- (3.) Amendments to an approved PUD that cannot be processed by the Zoning Administrator under subsection (1) above shall be processed in the same manner as the original PUD application.
- b. If construction has not started within eighteen (18) months of approval the Final Development Plan, said approval shall lapse. The Planning Commission may extend this period by six (6) months upon showing of good cause by the applicant. If the construction of the entire development or established stages is not significantly complete within the time limits imposed by the construction schedule, the Planning Commission shall review the PUD and may recommend that the time for completion be extended, that the final approval of the PUD be revoked, or that the Final Development Plan be amended.

ARTICLE XII SITE PLAN REVIEW

SECTION 12.01 - SITE PLAN REVIEW (ALL DISTRICTS)

Site plans give the Planning Commission an opportunity to review development proposals in a concise and consistent manner. The use of the site plan ensures that the physical changes in the property meet with local approval and that development actually occurs as it was promised by the developer.

- A. Circumstances Requiring a Site Plan: Site plans are required for the following reasons:
1. All new uses except single-family and two-family dwellings or structures customarily accessory to such dwellings. A plot plan sufficient to meet building permit application requirements is required for such uses.
 2. Expansion or renovation of an existing use, other than one-family and two-family dwellings, which increases the existing floor space more than fifty percent (50%).
 3. Change of use for an existing structure, except for single-family and two-family dwellings.
 4. Uses which require five (5) or more parking spaces.
 5. Special Permit Uses.
 6. Planned Unit Developments.
 7. Site Condominium Projects.
 8. Any other uses as required by this Ordinance.
- B. Site Plan Data Required: Each site plan submitted shall contain the following information unless specifically waived in whole or in part by the Planning Commission because it is clearly evident the data will not serve any useful purpose.
1. The date, north arrow, scale and name of the individual or firm responsible for preparing the plan. The scale must be at least one (1) inch = fifty (50) feet for parcels less than three (3) acres and at least one (1) inch = one hundred (100) feet for parcels three (3) acres or more.
 2. The boundary lines of the property, to include all dimensions and legal description.
 3. The location of all existing and proposed structures on the site, including proposed drives, walkways, signs, exterior lighting, parking (showing the dimensions of a typical parking area), loading and unloading areas, common use areas and recreational areas and facilities.
 4. The location and width of all abutting right-of-ways.
 5. The location of existing environmental features, such as streams, wetlands, shore-lands, mature specimen trees, wooded areas or any other unusual environmental features.
 6. The location and identification of all existing structures within a two hundred (200) foot radius of the site.
 7. The name and address of the property owner.
 8. The existing zoning district in which the site is located and the zoning of adjacent parcels. In the case of a request for a zoning change, the classification of the proposed new district must be shown.
 9. The location of all existing and proposed landscaping as well as all existing and proposed fences or walls.
 10. A location sketch of the proposed use or structure.
 11. The type, location and size of all existing and proposed utilities.
 12. The location, size and slope of all surface and subsurface drainage facilities.
 13. Summary tables, cross-sections and/or floor plans should be included with site plans for proposed structures, giving the following information:

- a. The number of units proposed, by type, including a typical floor plan for each unit.
 - b. The area of the proposed units in square feet, as well as area dimensions of driveways and staging areas.
 - c. Typical elevation drawings of the front and rear of each building.
14. The topography of the existing and finished site shall be shown by contours or spot elevations. Where the existing slope on any part of the site is ten percent (10%) or greater, contours shall be shown at height intervals of two (2) feet or less.
15. Impact statement addressing the demands the development will have on community services and any environmental impacts.
16. The Planning Commission may waive any or all of the above site plan requirements for good cause shown if the information will serve no valid purpose.
- C. The applicant shall submit seven (7) complete copies of the proposed site plan, including all required additional or related information, to the Zoning Administrator.
- D. Site plans shall be submitted at least fifteen (15) days prior to the Planning Commission meeting where the site plan will be considered. If the site plan is required as part of a Special Use Permit or Planned Unit Development, the submittal procedures from the respective Articles in this Ordinance shall be followed.
- E. Submitted site plans which do not include data required in subsection B shall be deemed incomplete and may be denied on that basis.

SECTION 12.02 - STANDARDS FOR SITE PLAN REVIEW

The Planning Commission shall have the responsibility and authorization to approve, disapprove or approve with modifications, the site plan in accordance with requirements of the zoning district in which the proposed use is located and shall further consider the following criteria:

- A. The sewage disposal and water systems meet the applicable health and sanitary codes and ordinances.
- B. Stormwater will not adversely affect neighboring properties and all water conveyances on land surfaces will transport stormwater at a non-erosive velocity.
- C. Adequate snow handling measures.
- D. The location and nature of the use will not be in conflict with any principal permitted use of the district or neighborhood.
- E. The use will not create any major traffic problem or hazard.
- F. The use will not be any more objectionable to adjacent and nearby properties than would be any permitted principal use of the district by reason of traffic, noise, vibration, dust, fumes, smoke, odor, fire hazard, glare, flashing lights, or disposal of waste and sewage.
- G. The use will not discourage or hinder the appropriate development and use of adjacent premises and the neighborhood.

SECTION 12.03 - SITE PLAN AMENDMENTS

An approved site plan may be submitted for minor amendment to the Zoning Administrator for review and approval. Minor amendments are those which will have no foreseeable effect beyond the property boundary such as minor changes in the siting of buildings, the alignment of interior roadways and parking areas, and the addition of small accessory buildings and structures. No such changes shall increase the height or size of principal structures, increase traffic, reduce the efficiency of public facilities or reduce the amount of any required open space. Any amendment not considered a minor amendment is a major amendment. If, in the judgement of either the Zoning Administrator or the Planning Commission Chair, a site plan amendment is major, the provisions of Section 12.01 (C) and (D) shall be followed.

SECTION 12.04 - SITE PLAN EXPIRATION

Site plan approval shall expire if the authorized work is not commenced within twelve (12) months after approval, or if work is suspended or abandoned for a period of twelve (12) months. For work to proceed, the applicant shall resubmit the site plan following the requirements of Section 12.01. If work is not completed within twenty four (24) months after approval of the site plan, the applicant may request not more than two (2) additional twelve (12) month extensions. If a site plan is resubmitted or extensions requested, the applicant shall provide a performance guarantee under the provisions of Section 16.07.

ARTICLE XIII SPECIAL USE PERMITS

SECTION 13.01 - PURPOSE

Certain land use activities entitled "Special Permit Uses" may be authorized in the various zoning districts but only if adequate safeguards are provided to ensure the protection of the public health, safety and general welfare. The uses that may be authorized are listed in the "Special Permit Uses" section of each zoning district. Special uses are authorized by the Township Planning Commission by the issuance of a special use permit provided:

- A. The proposed use is one listed as a special permit use for the district in which the use is to be located.
- B. The provisions of this Article are complied with.
- C. The standards for the particular use as stated in the provisions for that district in which the use is located are fulfilled, and all other applicable standards or other requirements of this Ordinance are met.

SECTION 13.02 - PROCEDURE

- A. Applications for special use permits authorized in this Ordinance shall be submitted to the Zoning Administrator on a form supplied for such purposes. Applications shall be accompanied by the payment of the fee established by the Township Board (Section 16.03) and a site plan meeting the requirements of Article XII.
- B. An application for a special use permit shall be processed in the following manner:
 - 1. The Zoning Administrator shall forward the complete application and supporting data to the Township Planning Commission. If all required information is not provided the Zoning Administrator may deny the application on that basis.
 - 2. The Township Planning Commission shall review the proposed development as presented in the application and in terms of the specifications established in this Ordinance.
 - 3. After review of the application by the Planning Commission, a public hearing shall be held within five (5) weeks of receipt of the application and all required materials. A notice that a request for special use permit has been received shall be published in a newspaper which circulates in the Township, and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet.
 - 4. The notice shall be given not less than fifteen (15) days before the date the application will be considered. (*Amendment effective date December 1, 2006*) If the name of the occupant is not known, the term "occupant" may be used in making notifications. 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, each shall receive notice. In the case of a single structure containing more than four (4) dwelling units, 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. The notice shall:

- a. Describe the nature of the special land use request.
 - b. Indicate the property, which is the subject of the special use permit request.
 - c. State when and where the public hearing will be held and the special use permit request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
- C. Within three (3) months following the public hearing, the Planning Commission shall approve, deny, or approve with conditions the application for the special use permit. The Planning Commission's decision must:
- 1. Be made in writing, and include a finding of fact describing how the special use permit does or does not comply with the provisions of this Article.
 - 2. Clearly specify any conditions attached to an approval of a special use permit and the basis for those conditions (Section 16.05).
 - 3. If the Planning Commission denies the application, the reasons for its denial must be clearly specified. A copy of the Planning Commission's decision must be provided to the applicant.

SECTION 13.03 - BASIS OF DETERMINATION

The Planning Commission shall review the proposed special use in terms of the standards stated within this Ordinance and shall approve the special use permit if the application meets off the following standards.

- A. The use will be designed, constructed, operated and maintained so as to be harmonious with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed to be located.
- B. The use will not be hazardous or disturbing to existing or future nearby uses.
- C. The use will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.
- D. The use will not create excessive additional public costs and will not be detrimental to the economic welfare of the Township.
- E. The use will be consistent with the intent and purposes of this Ordinance and meet the goals and objectives of the *Lovells Township Comprehensive Plan*.

SECTION 13.04 - REAPPLICATION

No application for a special use permit which has been denied wholly or in part shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found by the Zoning Administrator to be sufficient to justify reconsideration by the Planning Commission.

SECTION 13.05 - SPECIAL USE PERMIT VALIDITY

- A. 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 any subsequent owner.

- B. In instances where development authorized by a special use permit has not commenced within one (1) year from the date of issuance, the permit shall expire.
- C. A special use permit shall become invalid when the use of the property for which the permit was granted is discontinued for a period of six (6) months. However, the Planning Commission shall not invalidate a special use permit unless intent to discontinue the operation is evident. Intent to discontinue is demonstrated by disconnected utilities, sign removal, fixture and furniture removal or inventory removal.

SECTION 13.06 - JURISDICTION OF ZONING BOARD OF APPEALS

The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the denial or revocation of special use permits.

ARTICLE XIV SITE DEVELOPMENT STANDARDS

SECTION 14.01 - SITE DEVELOPMENT STANDARDS FOR SPECIFIC USES

Those permitted uses and special permit uses enumerated in any zoning district, and if included below, shall be subject to the requirements of this Article, in addition to those of the zoning district in which the use is located, along with provisions located elsewhere in this Ordinance.

A. BED AND BREAKFAST FACILITIES

While this subsection is established to enable single-family dwelling units to be used as bed and breakfast facilities, it is the intent of the Planning Commission to preserve the character of the residential district in which the operation is located. A bed and breakfast operation is a subordinate use to a single-family dwelling unit subject to the following conditions:

1. The operator shall live on the premises when the operation is active.
2. A special use permit is required prior to commencing use. The special use permit shall allow annual inspection by the Zoning Administrator at a convenient time.
3. Bed and breakfast facilities will operate in compliance with all local, state and federal requirements.
4. The number of rooms available for guests shall be limited to five (5). Each guest room shall be equipped with a separate functioning smoke detector alarm, and a fire extinguisher in proper working order shall be installed and maintained on every floor. Guests shall have access to lavatory and bathing facilities.
5. The maximum length of stay for guests shall be fourteen (14) consecutive days.
6. Two (2) off-street paved or graded gravel parking spaces shall be provided for the operator of the facility, plus one (1) parking space for each available guest room and one (1) for any non-resident employed.
7. The dwelling unit has no exterior evidence, other than a sign meeting the requirements of Section 3.20, to indicate that the dwelling is being utilized for any purpose other than as a residence.
8. Breakfast may be served only to overnight guests, in accordance with state public health regulations regarding bed and breakfast facilities.
9. Any number of dwelling residents may assist with the bed and breakfast operation, but not more than one (1) non-resident full-time equivalent employee may be hired.
10. The bed and breakfast operation shall produce no excessive noise, traffic, glare or other nuisance that would be detrimental to the character of the neighborhood.

B. CAR WASH FACILITIES

1. Vacuuming activities shall be carried out in the rear yard and at least fifty (50) feet distance from any adjoining residential use.
2. The entrances and exits of the facility shall be from within the lot and not directly to or from adjoining street or alley. A street or alley shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.

C. CARE FACILITIES

1. All care facilities, including family, group or convalescent homes for the care of persons of all ages (children and adults) shall be licensed by the appropriate agency of the State of Michigan, and shall provide a copy of the license to Lovells Township before operation of the care facility proceeds.

2. Convalescent homes, nursing homes, extended care facilities and similar uses shall be located so that the site has direct ingress and egress to a major street or a minor street no more than four hundred (400) feet from its intersection with a major street. No building shall be located closer than thirty (30) feet to any lot line. Service entrances shall be screened from the view of adjacent residential property.

D. CHURCHES OR PLACES OF WORSHIP

1. For every one (1) foot of height (excluding spire) above the maximum building height allowable for the district in which the church is located, an additional one (1) foot setback on all sides of the main structure shall be required.
2. Proper vehicular ingress, egress and off-street parking requirements shall be maintained according to Article XV.

E. COMMERCIAL AND INDUSTRIAL USES WITH OUTDOOR STORAGE

Outside storage of equipment or materials in the C-B and I Districts shall be located in the rear or side yards, screened from view, and vehicular access to such storage shall be maintained.

F. COMMERCIAL KENNELS

1. All kennels shall be operated in conformity with all pertinent county and state regulations.
2. Kennels for the boarding of not more than fifteen (15) dogs and/or cats with not more than three (3) outside exercise areas may be permitted. The kennel and runs must be located a minimum of one hundred fifty (150) from both side lot lines and one hundred eighty (180) feet from an adjoining residence. There shall be a rear yard of not less than one hundred fifty (150) feet.
3. A visual barrier between the kennel area and adjoining property must be maintained.
4. The sale of pet supplies is allowed provided it is clearly incidental and subordinate to the kennel.
5. One non-illuminated sign meeting the requirements of Section 3.20 is permitted.
6. The kennel shall be operated in conjunction with a single-family dwelling occupied by the kennel owner.

G. FUNERAL HOMES

1. A well-designed and landscaped off-street vehicle assembly area for funeral processions shall be maintained in addition to required off-street parking and related vehicle maneuvering space.
2. A caretaker's residence may be located inside the main facility.

H. GAS AND OIL PROCESSING FACILITIES

1. The facility shall comply with all federal, state and local building, environmental and health codes and regulations.
2. The applicant shall provide copies of the application for permit to drill, permit to drill, survey record of well location, and plat, as provided to the Supervisor of Wells, Department of Environmental Quality, as part of the permit process for the location and erection of oil and gas processing facilities.
3. The Planning Commission may impose reasonable conditions in order to comply with the Zoning Ordinance standards.
4. The facility may incorporate surface land owned or leased by the oil and/or gas company. If leased, the lease documents shall be submitted to the Planning Commission, and the Township Board shall be informed of the length of the lease.

5. Because the subject facilities are industrial in nature, the required site plan shall also show adequate visual and sound privacy from adjacent property and public roads. Forested greenbelt, berms, attractive fence screen, landscaping, mufflers, insulation, or other contrivances may be used to insure compliance with visual and sound privacy of the adjacent properties.
6. In the event the facility is no longer required or is not used for two (2) years, the existing facility shall be removed and the area restored to its original state. Further, the area shall be checked by an agency concerned with environmental protection to insure that it is clear of pollutants.
7. The sound level of the facility shall not exceed sixty (60) decibels as measured four hundred and fifty (450) feet in any direction from the facility.
8. The facility shall be built no closer than four hundred and fifty (450) feet from an existing dwelling.
9. The facility shall be built no closer than one hundred (100) feet from any public road.

I. GASOLINE/SERVICE STATIONS

1. No ingress or egress to an automobile service station, public garage or filling station, shall be closer than twenty-five (25) feet from any intersection or residential property line abutting the property on which such facility is located.
2. The entire lot, excluding those areas occupied by a building or landscaped areas, shall be hard-surfaced with concrete or a plant mixed bituminous material.
3. All lubrication equipment, hydraulic hoists and pits shall be completely enclosed within a building. All gasoline pumps and canopy overhang shall be located not less than twenty-five (25) feet from any lot line and shall be arranged so that motor vehicles may be provided easy egress and ingress to and from the adjoining street, and so that no portion of the vehicle while it is stopped for service, shall overhang onto a sidewalk, curb, street or public right-of-way.
4. All outside storage areas for trash, used tires, auto parts and the like shall be enclosed by a (6) foot totally obscuring wall. Outside storage or parking of disabled, wrecked or partially dismantled vehicles shall be allowed for a period not to exceed fifteen (15) days.
5. The property on which the automobile service station, repair garage or filling station is located shall be no closer than five hundred (500) feet from a vehicular entrance or exit to a hospital, library, museum, public or private school, playground, church or park.
6. All exterior lighting, including signs, shall be hooded or shielded so that glare shall be directed downward and away from the view of adjacent properties.

J. HOME OCCUPATIONS

The purpose of the home occupation special use permit provisions is to allow the operation of home occupations for supplemental income purposes in residential districts. Home occupations are limited to those uses, which may be conducted within an occupied residential dwelling or in an accessory building without changing the appearance or condition of the residence in any way. The following criteria shall be employed by the Zoning Board to determine a valid home occupation:

1. The use shall not employ any person who is not a member of the household.
2. The structures on the property shall not show any external indication of the home occupation, or any change in the appearance of the building(s) or premises from a dwelling, except than one non-illuminated sign meeting the requirements of Section 3.20 may be erected to advertise the activity.
3. The use may be conducted in an accessory building, only when the Planning Commission determines that the use conforms to the required conditions for home

occupations, and would more appropriately be conducted in an accessory building rather than in a dwelling.

4. The use shall not constitute a retail store such as those permitted in the Commercial & Business District.
5. The use shall not necessitate the use of heavy commercial vehicles.
6. The use shall not generate pedestrian or vehicular traffic beyond that which is normal to the residential district.
7. No outdoor storage is permitted.
8. No more than twenty five percent (25%) of the dwelling's ground floor area may be used for the home occupation, except for bed and breakfast facilities. There is no limit on the accessory building floor area to be used in the home occupation.
9. In no way shall the appearance of the residence be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character by the use of colors, materials, construction, lighting, or the emission of sounds, noises, odors or vibrations.
10. There shall be no use of community facilities beyond that normal to the use of the property for residential purposes.
11. The display of goods produced or services performed on the premises shall not be evident from the exterior of the residence.

K. RECREATIONAL FACILITIES, SUCH AS RIDING STABLES, GOLF COURSES, ATHLETIC FIELDS, AND ARCHERY RANGES

1. No loud speakers or public address systems shall be used except by approval of the Planning Commission, which shall determine that no public nuisance or disturbance will be established.
2. A landscaped buffer a minimum of ten (10) feet in width shall be provided between the recreational use and any adjacent residential use or residential district.
3. All lighting shall be directed downward, and no light shall be evident on adjacent properties.
4. Customary accessory commercial uses may be located on the same site as the main recreational use and shall be clearly incidental to the main use.

L. PUBLIC RECREATIONAL FACILITIES

1. Public recreational facilities shall be located so that the site has direct ingress and egress access to a major street or a minor street no more than four hundred (400) feet from its intersection with a major street.
2. The Planning Commission may require additional safeguards to meet the intent of the district where located.

M. SCHOOLS

1. A required yard (front, side and rear) of not less than thirty (30) feet shall be required for all buildings.
2. Off-street passenger loading zones shall be provided for school buses and private vehicles.
3. Parking lots shall not occupy more than forty percent (40%) of the entire lot or parcel.

N. TELECOMMUNICATION TOWERS AND FACILITIES AND ALTERNATIVE TOWER STRUCTURES

1. Uses include steel antenna towers, monopoles, and antenna supporting structures for all classes of communications services, including but not limited to, AM, FM, CATV, microwave, TV, VHF, cellular telephone, and the like. Such towers shall be constructed

in conformity with all applicable rules and regulations of any governmental agency or regulatory body having jurisdiction, and the requirements of Electronic Industries Association (EIA) standards, as amended.

2. The applicant shall pursue all possible co-location opportunities that could meet the needs of the applicant. The applicant shall provide verification that notice requesting co-location was sent to all owners of all towers within a two (2) mile radius of the proposed tower location. If co-location is possible, a special use permit for a new tower shall not be approved.
3. The tower shall be setback not less than one (1) times the height of the tower measured from the base of the tower to all points on each property line. All tower structures shall be equipped with anti-climb devices to prevent unauthorized access.
4. The base of the tower shall be fully enclosed by a chain link fence not less than six (6) feet in height and located at such distance from the base on all sides of the tower to prevent entry into the radio frequency radiation envelope area. The fence shall be securely locked at all times, except when a representative of the owner of such tower is on the premises for inspection, repair or maintenance. Signs shall be posted on all sides of the fence with adequate warnings of potential hazards. There shall be no employees located on the site on a permanent basis.
5. All accessory buildings housing transmitting equipment shall be surrounded by a chain link fence at least six (6) feet in height and shall be kept locked at all times, except when a representative of the owner is on the premises for purposes of inspection, repair or maintenance. Adequate signs warning of any hazards shall be placed on all sides of the fence. The accessory buildings shall also be locked at all times, except when a representative of the owner is on the premises for purposes of inspection, repair or maintenance. Accessory buildings shall not be located closer than thirty (30) feet to any property line.
6. All guy cables and wires shall be wholly located on the premises upon which the tower is located.
7. At the time of application for a special permit to construct the tower, the applicant shall submit to the Zoning Administrator a copy of the plans and engineering specifications for the tower, propagation studies showing the need for the tower and justification for the proposed tower height, together with a copy of all permits and approvals or regulatory bodies and agencies having jurisdiction and a certification of the owner, contractor and/or engineer that the tower meets the minimum standards of the Electronic Industries Association (EIA).
8. Minimum spacing between tower locations shall be one half mile (2,640') in order to prevent a concentration of towers in one area.
9. Towers shall not exceed two hundred (200) feet from the natural grade.
10. Towers shall not be artificially lighted except as required by federal, state or county regulations.
11. The tower operator/owner acknowledges that any use of the tower, antennae or structures which is customarily rented or sold as part of the normal business application of the facility shall be available to Lovells Township free of charge or at a substantially reduced rate if market demand for tower space limits available capacity.
12. The approval of any of the above mentioned towers shall cease when the tower is no longer used for the purpose for which the special use permit was initially granted. The applicant shall dismantle and remove the tower, accessory buildings and appurtenances within ninety (90) days after operations cease.
13. Upon approval of a tower, the applicant shall provide to the Township a performance guarantee equal to the estimated amount required for removal of the tower.

O. VEHICLE SALES, RENTAL AND SERVICE CENTERS

Vehicles shall include new or used automobiles, trucks, watercraft, recreational vehicles, motor bikes, boats, ATV's, campers, snowmobiles, and trailers, provided:

1. Ingress and egress to the use shall be at least sixty (60) feet from the intersection of any two streets.
2. Display areas shall be surfaced with concrete, asphalt or a similar durable, smooth and dustless surface.
3. The arrangement of vehicles stored in the open shall be uniform, following the patterns established for off-street parking lots.
4. Sales or display areas shall set back a minimum of twenty (20) feet from any public or private street or road right-of-way.
5. Service areas shall be in completely enclosed buildings and storage areas for vehicles that are being serviced must be in the rear yard and screened from adjacent properties.

ARTICLE XV OFF-STREET PARKING REGULATIONS

SECTION 15.01 - VEHICULAR PARKING SPACE REQUIREMENTS

It is the intent of this section to have the proper number of parking spaces provided for any given use based upon considerations of the typical number of motor vehicles that can be anticipated to be at the premises at the same time during the average day.

A. Residential Parking Requirements:

Residential off-street parking spaces shall consist of a parking strip, driveway, garage or any combination located on the premises they are intended to serve. Commercial vehicles, as defined by this Ordinance, may be parked in any of the residential districts in the side or rear yard.

B. Non-Residential Parking Requirements

1. Parking shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
2. Adequate space shall be provided in all parking areas to facilitate turning around of vehicles so that the entry on to streets may be in a forward manner and not by backing. Furthermore, in parking areas where internal movement of vehicles is necessary, adequate aisle space shall be provided to insure vehicular and pedestrian safety.
3. Usable floor area shall be used to determine minimum parking requirements and is the area used for or intended to be used for the display or sale of merchandise or services, or for use to serve patrons, clients, or customers. Usable floor area shall be exclusive of basements, cellars, attics, hallways, bathrooms or any other areas used for storage or utilities. Useable Floor Area may be computed by calculating the sum of usable floor area for each floor of the building, or by reducing the gross floor area by twenty percent (20%).
4. Adequate area must be provided for snow piling. Handicap parking shall be provided as required by federal regulations. Designation of parking areas must be clearly identifiable for use by the public.

C. Minimum Number of Parking Spaces per use. Maximum number of parking spaces per use shall not exceed two hundred percent (200%) of the minimum requirement unless approved by the Planning Commission.

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| 1. | Auto repair and service stations. | Two (2) spaces for each service bay; plus one (1) space for each employee. |
| 2. | Banks, business offices, studios and professional offices of architects, lawyers, and similar professions. | Three (3) plus one (1) space for each three hundred (300) square feet of usable floor area. |
| 3. | Barber shops and beauty parlors. | Two (2) for each operator chair. |

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| 4. | Bed and breakfast establishments. | Two (2) spaces for the operator; plus one (1) for each guest - room, plus one for each employee. |
| 5. | Bowling establishments. | Four (4) for each bowling lane. |
| 6. | Churches, theaters and auditoriums, except schools. | One (1) for each four (4) seats; plus one (1) for each two (2) employees. |
| 7. | Community center, library, museum or art center. | One (1) for each two hundred (200) square feet of usable floor area. |
| 8. | Computer sales and repair, printing, appliance service shops and similar businesses. | One (1) for each employee; plus one (1) for each three hundred (300) square feet of usable floor area. |
| 9. | Dwellings. | Two (2) for each dwelling unit. |
| 10. | High schools. | One (1) for each six (6) seats in main auditorium or one (1) for each employee; plus one (1) for each four (4) students, whichever is greater. |
| 11. | Home Occupation. | Two (2) spaces per dwelling plus the applicable number of parking spaces for the applicable business. |
| 12. | Hospitals, clinics. | One (1) for each bed and/or examining room; plus one (1) for each two (2) employees on maximum working shift; plus one (1) for each two hundred (200) square feet of waiting room. |
| 13. | Hotels, motels, tourist homes and lodging house. | One (1) for each sleeping room; plus one (1) for each two (2) employees on the maximum working shift. |
| 14. | Laundromats. | One (1) for each two (2) washing machines. |
| 15. | Manufacturing or industrial establishments, warehouse or similar establishment. | One (1) for each employee on maximum working shift; or one for each eight hundred (800) square feet of usable floor area, whichever is greater. |

- 16. Nursing Homes. One (1) per four (4) beds plus one (1) for each two (2) employees on the maximum working shift.
- 17. Private clubs, nightclub, dance halls and similar establishments. One (1) for each one hundred (100) square feet of usable floor area.
- 18. Professional offices of doctors, dentists and similar professions. One (1) for each two hundred (200) square feet of usable floor area or a minimum of four (4) spaces, whichever is greater.
- 19. Restaurants and similar service establishments. One (1) for each one hundred (100) square feet of usable floor area.
- 20. Retail stores. One (1) for each three hundred (300) square feet of usable floor area.
- 21. Schools (except high schools). One (1) for each ten (10) seats in main assembly room, or one (1) for each employee plus two (2) for each classroom, whichever is greater.

D. For uses that are not specifically identified, the required parking spaces shall be in accord with the use the Zoning Administrator or Planning Commission determines to be a similar type.

E. Lesser amounts of required parking spaces may be allowed by the Zoning Administrator or Planning Commission for lots with existing structures or buildings when the following conditions exist:

- 1. The parking requirements of this section which would be applicable as a result of the proposed use cannot be satisfied on such a lot because there is not sufficient area available on the lot that can practicably be used for parking.
- 2. The structures or buildings on it were constructed before the effective date of this Ordinance.
- 3. The new use does not involve any enlargement of any structure or building on the lot.

F. Commercial Parking Area Design Standards

- 1. The layout of off street parking facilities shall meet the following requirements:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length
Parallel	12ft	8ft	23ft
30-53°	12ft	8ft-6 in	20ft
54-74°	15ft	8ft-6in	20ft
75-90°	20ft	9ft	18ft

- 2. All spaces shall be provided access by maneuvering lanes. Backing directly onto a street shall be prohibited.

3. Adequate ingress and egress to a parking lot by means of clearly defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than residential use shall not be across from land zoned for residential use.
4. Entrances and exits of any off street parking lot for commercial use shall be at least twenty-five (25) feet from the lot line of any adjacent residential uses.
5. Drive-through business shall provide adequate parking space to accommodate the maximum number of cars that may be expected to seek service at any one time without queuing onto the adjacent thoroughfare. The Planning Commission may require that a determination be made by a registered professional engineer, with a specialization in traffic engineering, to specify the amount of queuing space that is needed. Provisions for parking for drive-through facilities must meet with the approval of the Planning Commission and no parking on the public right-of-way shall be permitted.
6. All parking areas containing two thousand seven hundred (2,700) square feet or more shall provide snow storage area. Snow storage shall be provided on the ratio of ten (10) square feet per hundred (100) square feet of parking area. Snow storage areas shall be located in such a manner that they do not interfere with the clear visibility of traffic on adjacent streets and driveways.
7. Parking lots with more than two (2) parking aisles may be required to provide interior landscaped areas, interior being defined as the area within the perimeter of the paved surface.
8. When required, landscaped areas shall be a minimum of seventy-five (75) square feet with a minimum width of five (5) feet. Interior landscape areas shall be designed to cause minimum interference with snow removal. Each interior landscape area shall include one (1) or more canopy trees based on the provision of one (1) tree per each one hundred (100) square feet of interior landscape area.
9. One (1) parking area may contain required spaces for several different uses, except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.
10. In the instance of where different developments have different operating hours or the parking needs of individual buildings or uses occur at different days or times; the same spaces may be credited for both uses.

SECTION 15.02 - LOADING SPACE REQUIREMENTS

- A. For every building, or addition to an existing building, hereafter erected to be occupied by a use allowed in any commercial or industrial zoning district or other similar use requiring the receipt or distribution in vehicles, of materials or merchandise, there shall be provided and maintained on the same premises with such building or addition off street loading spaces in relation to floor area as follows:
 1. Up to twenty thousand (20,000) square feet – one (1) space.
 2. Twenty thousand (20,000) to fifty thousand (50,000) square feet – two (2) spaces.
 3. Fifty thousand (50,000) to one hundred thousand (100,000) square feet – three (3) spaces.
 4. One (1) additional space for each additional one hundred thousand (100,000) square feet or fraction thereof.
- B. Each loading space shall be a minimum of (10) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height. No loading space shall be located closer than fifty (50) feet to any lot in any residential district unless wholly within a completely enclosed building or enclosed on all sides by a wall.

ARTICLE XVI ADMINISTRATION

ARTICLE 16.01 - ADMINISTRATIVE STANDARDS

For the purpose of administering this Ordinance, the Zoning Administrator, the Planning Commission, the Zoning Board of Appeals, the Township Board and any other reviewing body or official shall consider each case as an individual case. Consideration shall be given to the location, size and character of a use to determine if the use will be in harmony with the intent and appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts. Consideration shall be given to the following:

- A. Intent of the Zoning District.
- B. Current use of adjacent lands and neighborhood.
- C. Physical appearance of existing or proposed structures (location, height, bulk of buildings as well as construction materials).
- D. The suitability of the proposed landscaping in providing ground cover, screening and decoration on the site.
- E. The nature and intensity of operations involved in or conducted in connection with the proposed use.
- F. The type of use, the physical and economic relationship of one type of use to another.
- G. Assembly of persons or employees, which may be conflict with normal traffic in the vicinity.
- H. Vehicular and pedestrian traffic volumes and patterns, particularly of children, as well as vehicular turning movements in relation to traffic flows, intersections and site distances.
- I. The physical characteristics of the site such as area, drainage, topography, open space, landscaping and access to minor and/or major streets.
- J. Demands upon public services such as electricity, police and fire protection, schools and refuse disposal, or the need for public services the Township may not provide.
- K. The type and amount of litter, waste, noise, dust, traffic, fumes, glare and vibration which may be generated by such use.
- L. Area requirements for the proposed use and potential for the use or its area requirements to expand.
- M. Other factors necessary to maintain property values in the neighborhood and guarantee safety, light, air and privacy to the principal permitted uses in the district.
- N. Compliance with the *Lovells Township Comprehensive Plan*.

SECTION 16.02 - THE ZONING ADMINISTRATOR

The office of Zoning Administrator is hereby established. The Township Board shall appoint the Zoning Administrator. He/she shall receive such compensation as the Township Board may determine. He/she may be provided with the assistance of such other persons at the Township Board may direct. The Zoning Administrator's duties are as follows:

- A. **Administration of this Ordinance.** He/she shall administer the provisions of this Ordinance and shall have all administrative powers, which are not specifically assigned to some other officer or body. The Zoning Administrator shall be guided by the standards set forth in Section 16.01.
- B. **Zoning Permit.** The Zoning Administrator shall review all building permits and site plans for compliance with the provisions of this Ordinance or any written order from the Planning Commission or Zoning Board of Appeals.
 1. He/she shall have no power to vary or waive ordinance requirements.
 2. The Zoning Administrator shall not issue a Zoning Permit where it appears that any land area required to conform to the provisions of this Ordinance is also required as a part of any adjoining property to keep the development or use in conformance with this Ordinance, or to keep it from becoming more nonconforming if such land area was, at any time, subsequent to the commencement of development of use of such adjoining property, in common ownership with such adjoining property.
 3. Zoning permit expiration regulations are the same as Section 12.04.
- C. **Records.** The Zoning Administrator shall keep records of all official actions, which shall be public record.
- D. **Zoning Map.** The Zoning Administrator shall maintain and make available for public inspection, the Official Zoning Map.
- E. **Inspections.** The Zoning Administrator shall have the power to make his/her inspection of buildings and premises necessary to carry out duties in the administration and enforcement of this Ordinance.
- F. **Penalties for Violations.**
 1. Any person, partnership, limited liability company, corporation, association, or other legal entity who creates or maintains a nuisance per se as defined in this Ordinance or who violates or fails to comply with any provisions of this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Pursuant to MCLA 600.8727, as amended, Lovells Township reserves the right to collect all costs in connection with the municipal civil infraction up to a maximum amount of \$500.00. The Township shall establish a fine schedule for its municipal civil infractions, which shall be filed with the court and updated at the discretion of the Township Board pursuant to the dictates of law. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance. *(Amendment effective date December 31, 2005)*
 2. Any land, dwelling, buildings, or structures, including tents and trailer coaches, used erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, are hereby declared to be a nuisance per se.

3. The Township Zoning Enforcement Officer is hereby designated as the authorized township official to issue municipal civil infraction notices and citations. Additional parties authorized to issue municipal civil infraction notices and citations may be designated by the Township Board from time to time.
4. In addition to enforcing this Ordinance as a municipal civil infraction, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

G. Reports and Recommendations. The Zoning Administrator shall review all requests for administrative or legislative action. He/she shall forward an analysis of site factors and other information pertaining to the request to the appropriate body. The analysis may include a recommendation for action.

H. Land Division. The Zoning Administrator shall review all applications for division of land or lot splits to assure compliance with the minimum lot area and width requirements of this Ordinance. (*Amendment effective Date November 25, 2006*)

SECTION 16.03 - FEES

- A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a Fee Schedule establishing basic zoning fees related to the following:
1. Zoning permits.
 2. Special use permits.
 3. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
 4. Classification of unlisted property uses.
 5. Requests to change a nonconforming use to another nonconforming use.
 6. Requests for variances from the Zoning Board of Appeals.
 7. Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, the Zoning Board of Appeals, or the Zoning Administrator shall not be subject to a zoning fee.
 8. Site plan reviews.
 9. Requests for a planned unit development (PUD).
 10. Any other discretionary decisions by the Planning Commission, Zoning Board of Appeals, or Township Board.
- B. The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when the applicant withdraws an application or appeal.

- C. If the Zoning Administrator, Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Zoning Administrator, Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Clerk such additional zoning fees in an amount determined by the Zoning Administrator equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any certificate or prior to the final decision on an appeal.

SECTION 16.04 - AMENDMENTS

Amendments or supplements to this Ordinance may be adopted from time to time in the manner as provided by the Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006), as amended. (*Amendment effective date December 1, 2006*)

- A. **Initiation.** Proposals or supplements may originate with the Township Board, the Township Planning Commission, the Zoning Board of Appeals, or by written petition by any property owner in the Township. Petition by property owner shall be accompanied by the fee prescribed in the Fee Schedule adopted by the Township Board to cover the cost of advertising public hearing and investigation.
- B. **Filing of Application.** All petitions for amendment to this Ordinance or Zoning Map shall be in writing, signed and filed in triplicate with the Township Zoning Administrator with appropriate fee, for presentation to the Township Planning Commission. All petitions for amendments to this Ordinance shall contain, but not be limited to:
1. The petitioner's name, address and interest.
 2. The name, address, and interest of every person, association, firm or corporation having a legal or equitable interest in the land.
 3. The nature and effect of the proposed amendment.
 4. A fully dimensioned map, showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning classification, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration.
- C. **Hearing and Notice.** (*Amendment effective date December 1, 2006*) Before submitting its recommendations on a proposed amendment to the Township Board, the Planning Commission shall hold not less than one (1) public hearing, notice of which shall be given by

one (1) publication in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of the hearing. Not less than fifteen (15) days notice of the time and place of the hearing shall also be given by mail to each electric, gas, pipeline, and telephone public utility company, and to each railroad operating within the district or zone affected, that registers its name and mailing address with the Township for the purpose of receiving such notices. An affidavit of mailing shall be maintained.

If an individual property or several adjacent properties are proposed for rezoning, the Township Planning Commission shall give notice of the proposed rezoning to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed as determined by the most recent tax roll, and to the occupants (if other than the property owner) of all single-family and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the Notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be made not less than fifteen (15) days before the hearing.

The notice shall do all of the following:

1. Describe the nature of the request.
2. Indicate the property that is the subject of the request and include a listing of all existing street addresses within the property. Street addresses need not be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
3. State when and where the request will be considered.
4. Indicate when and where written comments will be received concerning the request.
5. Include the places and times at which the tentative text and any maps of the Zoning Ordinance may be examined.

D. Action by Planning Commission. The Planning Commission shall hold the required public hearing as noticed. Following the hearing, the Planning Commission shall submit the proposed amendment to the county zoning commission or county coordinating zoning committee for thirty (30) day review period and recommendation, if such body has been appointed. Following county review, the Planning Commission shall submit its recommendations and a summary of comments received at the public hearing along with the proposed amendment, including any zoning maps, to the Township Board.

E. Action by Township Board. Upon receipt of the transmittal, the Township Board shall commence final consideration of the Planning Commission's recommendation. In this regard, the Township Board may decide to hold additional hearings on the proposed amendment, if in its judgement, it deems that further hearings may be necessary. Notice of such addition hearing shall be published in a newspaper of general circulation not less than fifteen (15) days before the hearing. (*Amendment effective date December 1, 2006*) In the event the Township Board considers further amendments, changes, additions or departures to the initial recommendation by the Township Planning Commission, the Township Board shall refer these further amendments, changes, additions or departures back to the Planning Commission for a report on such additional matters by a specified date. After receiving the report, the Township Board shall grant a hearing on a proposed amendment to any property owner, who by certified mail, addressed to the Township Clerk, requests a hearing. Thereafter, at a regular or special meeting properly called, the Township Board may adopt

the proposed amendment by a majority vote of its membership with or without amendments that have been previously considered by the Planning Commission or at a hearing.

- F. **Notice of Adoption.** Following Township Board adoption, the amendments or supplements shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation within fifteen (15) days after adoption. The notice of adoption shall include the following:
1. A summary of the regulatory effect of the amendment, including the geographic area(s) affected, or the text of the amendment as adopted.
 2. The amendment shall take effect upon the expiration of seven (7) days after publication or at such later date after publication as specified by the Township Board.
 3. The place and time where a copy of the amendment may be purchased or inspected.
- G. **Resubmittal Procedure.** No petition for rezoning, which has been disapproved by the Township Board shall be submitted for a period of one (1) year from the date of disapproval, except as may be permitted by the Township Board after learning of new and significant facts or conditions which might result in a favorable action upon resubmittal.

SECTION 16.05 - CONDITIONS

The Zoning Administrator, Planning Commission, and Zoning Board of Appeals may attach reasonable conditions with the approval of special permit uses, planned unit developments, site plans, variances, and other discretionary zoning decisions. These conditions may include those necessary 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, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements.

- A. Be designed to protect natural resources, the health, safety, 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.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in this Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

SECTION 16.06 - REHEARINGS

- A. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:
 1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.

2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals findings of fact which occurred after the public hearing.
 3. The township attorney by a written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of the procedure used in the matter was clearly erroneous.
- B. A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion, pursuant to the following procedures:
1. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission or Zoning Board of Appeals minutes regarding the decision for which the rehearing is being requested.
 2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
 3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address, or may be served personally on the applicant. The notice shall be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
 4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

SECTION 16.07 - PERFORMANCE GUARANTEE

In connection with the construction of improvements through site plan approval, special use permit approval, or a PUD project, the Planning Commission may require the applicant to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation, roads, parking lots, and water and sewer systems, which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission, which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount of contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the development, of if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning

Commission. Any cash deposit or certified funds shall be returned for the development or each phase of a multi-phase development in the following manner:

- A. One-third (1/3) of the cash deposit after completion of one-third (1/3) of the public and site improvements;
- B. Two-thirds (2/3) of the cash deposit after completion of two-thirds (2/3) of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third party to construct the public and site improvements and the third party has provided a bond meeting the requirements described above and the bond also names the Township as a third party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

ARTICLE XVII ZONING BOARD OF APPEALS

SECTION 17.01 - INTENT

It is the intent of this article that all questions of interpretation and enforcement of this Ordinance shall be first presented to the Zoning Administrator. Such questions shall be presented to the Zoning Board of Appeals only on appeal from the decision of the Zoning Administrator. Recourse from decisions of the Zoning Board of Appeals shall be to the courts as provided by law and particularly by Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006), as amended. (*Amendment effective date December 1, 2006*)

SECTION 17.02 - ESTABLISHMENT

A Zoning Board of Appeals is hereby established, which shall consist of three (3) members to be appointed by the Township Board, each for a term of three (3) years. Members of the present Zoning Board of Appeals shall continue in office until the expiration of their terms. The Township Board shall appoint as necessary, persons to fill vacant positions for varying terms so that not more than three (2) terms expire in any given year. One (1) member of the Zoning Board of Appeals shall be a member of the Planning Commission. One (1) member may be a member of the Township Board. The remaining member(s) of the Zoning Board of Appeals shall be selected from the electors of the Township. An elected officer of the Township shall not serve as chairperson of the Zoning board of Appeals. An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals. Members of the Zoning Board of Appeals may be removed from office by the Township Board for nonperformance of duty or misconduct in office upon written charges and after a public hearing.

The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to serve as a regular member in the absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive Zoning Board of Appeals meetings. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

SECTION 17.03 - PROCEDURES

The Zoning Board of Appeals shall elect from its membership a chairperson, vice-chairperson, and any other officers it deems necessary. The Zoning Board of Appeals shall adopt rules necessary to conduct its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairperson and at such other times as the Zoning Board of Appeals may determine. The chairperson, or in his/her absence the vice-chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Zoning Board of Appeals shall maintain a record of its proceedings, which shall be filed with the office of the Township Clerk and shall be a public record. The Zoning Board of Appeals shall not conduct business unless a majority of the members are present. The concurring majority vote of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to

decide in favor of the applicant any matter upon which they are required to pass under this Ordinance, or to effect any variation in the application of this Ordinance. A decision of the Zoning Board of Appeals shall take immediate effect.

SECTION 17.04 - DUTIES

- A. **Appeals.** The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance. It shall hear and decide appeals from and review any order, requirements, decision or determination, except decisions relating to alleged violations of this Ordinance, made by the Zoning Administrator or any administrative official charged with enforcement of this Ordinance. It shall also hear and decide all matters referred to it, or upon which it is required to act under the provisions of this Ordinance. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to effect any variation in this decision or determination of any administrative official, or to effect any variation in this matter upon which they are required to pass or to effect any variation in this Ordinance. The appeal may be taken by any person aggrieved or by an officer, department, or board of the Township. The grounds of every determination shall be stated.

An appeal shall be taken within thirty (30) days after receipt of the ruling, by the filing with the Zoning Board of Appeals of a notice of appeal specifying the grounds. The officer from whom the appeal is taken shall promptly transmit to the Zoning Board of Appeals, all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed for unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeals has been filed with him that by reason of facts stated in the certificate, a stay would in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court, on application on cause shown, after notice to the officer from whom the appeal is taken.

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing any party may appear in person or by the agent or by attorney. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all powers of the officer from whom the appeal was taken, and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice be done. The decision of the Zoning Board of Appeals shall not be final, and any person having an interest affected by any this Ordinance shall have the right to appeal to the Circuit Court on questions of law and fact.

- B. **Interpretation.** The Zoning Board of Appeals shall have the power to hear and decide upon requests for interpretation of the provisions of this Ordinance and accompanying Zoning Map.

C. **Variance.** The Zoning Board of Appeals shall have the power to grant variances from the strict requirements of this Ordinance so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done.

1. Dimensional Variances: A dimensional variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing the following:

- a. That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.
- b. That the need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
- c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density, or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
- d. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
- e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

2. Use Variances: A use variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that unnecessary hardship exists by showing all of the following:

- a. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.
- b. That the need for the requested variance is due to the unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
- c. That the proposed use will not alter the essential character of the neighborhood.
- d. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

SECTION 17.05 - NOTICE

Following receipt of written request concerning an appeal of an administrative decision, a request for an interpretation of the Zoning Ordinance, or a request for a variance, the Zoning Board of Appeals shall hold a public hearing, after giving, the following applicable notice:

- A. For an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person filing the appeal and to the Zoning Administrator or other administrative agency or official whose decision is being appealed not less than fifteen (15) days before the public hearing. (*Amendment effective date December 1, 2006*)
- B. For a request seeking an interpretation of the Zoning Ordinance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the interpretation not less than fifteen (15) days before the public hearing. (*Amendment effective date December 1, 2006*)

- C. For a variance request, a notice stating the nature of the variance being requested and the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the variance not less than fifteen (15) days before the public hearing. (*Amendment effective date December 1, 2006*) A notice stating the nature of the variance being requested and the time, date, and place of the public hearing shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question and to the occupants of all structures within three hundred (300) feet of the boundary of the property in question. For a variance request for river or stream properties in the GB District, notice shall also be sent to the DNR's Natural Rivers Administrator.

ARTICLE XVIII VALIDITY AND ENACTMENT

SECTION 18.01 - VALIDITY

If any part, section, paragraph, sentence or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

SECTION 18.02 - ENACTMENT

The required public hearing was held on the fourteenth day of May, 2003, for this Zoning Ordinance of Lovells Township, and the Ordinance was adopted by the Lovells Township Board of Trustees at a regular meeting held on the fourteenth day of October, 2003.

Notice of adoption shall be published in a newspaper having general circulation in Lovells Township within fifteen (15) days after adoption.

This Zoning Ordinance shall take effect eight (8) days after publication in a newspaper of general circulation in the Township.

Frederick C. Schaibly, Lovells Township Supervisor

Cheryl L. Hopp, Lovells Township Clerk