AGENDA

Park Township
Planning Commission Regular Meeting

November 13, 2019
6:30 p.m.

(Please turn off or set to silent mode all cellphones and other electronic devices)

1. Call to Order

2. Approval of Agenda

3. Approval of Minutes: Regular meeting October 9, 2019

4. New Business:
   a. Public Hearings
      i. Text Amendments
         • Section 38-33(e) – Expiration of permits
         • Section 38-575(a)(5) and (b)(b) – Permitted signs in each zoning district (AG Agricultural and Permanent Open Space District)
         • Section 38-575(c)(1) – Permitted signs in each zoning district (C Districts)
         • Section 38-367 – Development requirements for PUDs with residential uses
         • Section 38-368 – Dedicated open space requirements (PUDs)
         • Section 38-504 – Outdoor Ponds
         • Section 38-505 – Earth change regulations and permits
         • Section 38-184(8) – Use regulations
         • Section 38-214(6) – Use regulations
         • Section 38-516 – Firewood Sales
         • Section 38-517 – Garage Sales

      Anticipated Action: Provide recommendation to the Board of Trustees

4. Old Business:
   a. None

6. Public Comments

7. Announcements
   a. Next meeting date December 11, 2019

8. Adjourn
CALL TO ORDER:

Chair Pfost called to order the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Township Hall at the Park Township Office.

ATTENDANCE:

Present: Terry DeHaan, Dennis Eade, Rosemary Ervine, David Kleinjans, Denise Nestel, Jeff Pfost

Absent: Diana Garlinghouse

Staff: Greg Ransford, Planner, Dan Martin, Legal Counsel, Emma Posillico, Zoning Administrator, Howard Fink, Township Manager

APPROVAL OF AGENDA:

Motion by Ervine, supported by Kleinjans, to approve the agenda as submitted.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Pfost noted on page 2 that “recused” should be replaced with “excused.” On page 4 he had a concern about the reference to the local sign ordinance and recent changes by GAAMPS (Generally Accepted Agricultural Management Practices). He asked Martin for clarification for the record.

Martin recommended the following change to clarify the paragraph in the minutes:
“Pfost said in the past the Right to Farm Act stated so long as you follow generally accepted agricultural management practices with respect to marketing roadside stands, including signs, the local sign ordinance was preempted by the Right To Farm Act. The GAAMPS were amended recently so that language regarding signs was deleted and it now specifically provides that the agricultural use must follow what the local community requires by ordinance, giving the Township the ability to regulate signs for agricultural uses.”

Martin noted that the corrected minutes need to show the changes made, including the deletions and additions to the minutes.

**Motion by Kleinjans, supported by Ervine, to approve the September 11, 2019 Regular Meeting Minutes as amended.**

**Voice Vote:**

Ayes 6, Nays 0. Motion carried.

**NEW BUSINESS:**

A. **Chief Scott Gamby Fire Department Presentation**

Gamby has been with the Park Township Fire Department for 32 years. He provided some highlights from his agenda submitted to the Planning Commission ahead of time. He noted that it is not required to have a fire company by law. Those services can be contracted.

He reviewed the six types of fire departments. 1) Career, an example is Grand Rapids; 2) Combination, an example is the City of Holland which hires full time and part time firemen; 3) Part-paid, Park Township and other townships are examples of this type. It is not a 24/7 station. The firemen carry pagers because they have other jobs. The response time is 8-12 minutes for Park Township; 4) Volunteer, for this type no stipend is given to firemen. An example is the Upper Peninsula where there is no tax basis for stipends; 5) Tribal, these fire companies are well funded and operated by casinos; and, 6) State and Federal, examples are state departments of natural resources, and national forest fire fighters.

He explained that the legal authority to operate fire department is through Public Acts of 1951 and 1941. The State of Michigan Fire Code 101 Life Safety gives the Fire Department a seat at the table for towns, cities and townships. In 2010 he realized Park Township did not have in place the State Fire Code and asked the Board of Trustees to adopt Fire Code 101. The fire code is a maintenance code which needs to be addressed by the State, similar to the Building Code for plumbers, electricians and
Funding is through the Part Township General Fund. Millage is another method for funding in some areas, private funding is through the tribal casinos, and for higher governmental authorities such as State and Federal funding for fire safety in the state and national forests.

Park Township established the Fire Department in 1947. Currently the Township has two stations. Staffing level is 32 firefighters, office staff and a chaplain. The department rents equipment on a 20 year replacement cycle for vehicles. The Board of Trustees covers replacement costs. The ISO gives the department an annual report card on central dispatching, water supply, and fire department operations. Flow tests on hydrants are part of this ISO review.

Pfost asked how the Planning Commission can assist his department in ensuring the safety of the community with fire safety oversight and interaction with the Fire Department.

Gamby said he works with the Township Planner and is available to do site planning when a new development comes in and he receives a copy of the plan. The intent of his site plan review is to answer two questions: Does it meet current standards and does it meet the fire code? He gets more involved in commercial and apartment buildings rather than subdivisions. He looks at infrastructure, i.e., are the fire hydrants large enough to provide water for the size of the project. He would like to see in the PUDs stricter compliance with guidelines of the fire code. Often follow-up field inspections reveal changes that have been made since the initial inspections.

Kleinjans asked about requirements for subdivisions.

Gamby said he looks at road systems. Fire trucks are 8’ wide and need 4’ clearance which means 12’ minimum distance. Often ambulances need 20’ with 4’ clearance so for these vehicles 24’ is usually the rule.

Pfost asked about numbering systems on buildings which can present a problem for firemen. Gamby said he is working on improving this. He has made sure every fireman has an app on phones and pagers. It is so important to identify quickly and accurately the source of a problem when a call comes in. Medical services are also provided by the Fire Department so an accurate address is necessary. On private drives each house should have a number.

Fink said many communities have ordinances requiring private drives to have addresses. The Township Planner should work with the Fire Department on this matter.

DeHaan asked for the timetable to update the 20 year plan for the Fire Department.

Gamby said there are a few changes in the new code. However, many requirements in the new code do not apply to Park Township because we don’t have large industrial parks and tank farms. We need to keep updating the code. He is preparing a proposal to give to the Township Manager next year.
DeHaan asked if the Fire Department is current on the new building codes. Gamby said yes.

Nestel asked about the sprinkling requirement for historic preservation areas such as Macatawa Park. This was not required for this community. It is often not requested by the residents in older historic neighborhoods.

Gamby said most Fire Departments would support residential sprinkling.

Fink asked when this will be state code.

Gamby said there is a resistant strong lobby from the builders’ association because of the high cost which averages between $2500 and $8000. It could be ten years before it is required. He added that if there is only one way into a development he can require residential sprinkling.

Ervine thanked Gamby for the information and for his years of service to the Township.

Gamby noted that the new upgrading code is due to be published in 2020. His long term goal is annual inspection.

Ervine asked how the Fire Department pays for a new vehicle that is more than budget.

Gamby explained that the Township adds $100K into the Fire Department’s budget each year. Fire trucks last about 20 years. A new tanker truck will cost about a half million today.

Fink said the Fire Department is a line item each year of the budget.

Ervine asked how many calls are received year.

Gamby said the average is about 800-900 a year. This includes medical service calls.

Pfost asked Ransford to be sure to communicate with Gamby on new housing developments in the future with a check list appropriate for the Fire Department to review.

B. Text Amendments

1. Section 38-33(e) – Expiration of Permits

Posillico noted that the Staff Memo of October 2 summarized the provisions for the rear yard retaining wall which will be addressed under Old Business, as it was discussed initially at the September meeting.

With regard to the proposal to modify Section 38-33(e) Expiration of Permits of the Zoning Ordinance, it is Staff’s recommendation that a fee structure be administered through resolutions
passed by the Township Board. The language in this section that describes the fee structure for renewing building permits should be removed. The suggested modifications and proposed additions were provided in the October 2 Staff Memo.

Eade asked what was the motivation for this change and will this penalize homeowners.

Posillico said it will not penalize anyone but will continue the existing process. She explained that a when a building permit needs to be renewed, the current Zoning Ordinance language requires that half of the original permit fee be paid. However, often times when a permit is set to be renewed, a very small amount of work remains. The previous Building Inspector interpreted the Ordinance language to charge applicants a permit renewal fee based upon half of the value of the remaining work (as opposed to half of the original permit fee, for the entirety of the work). Posillico noted that applicants are accustomed to the procedure that the previous Building Inspector implemented, so removing the permit fee language from the Ordinance would allow for the continued implementation of the current fee schedule, which is adopted by Board resolution.

DeHaan asked if the Township is eliminating all fees.

Pfost said no. This is recommended language for the Township Board to consider. They will make the decision.

Posillico said it is eliminating the details on building permit fees from the Zoning fee ordinance, to ensure that permit fees are determined through Township Board resolution.

Nestel asked what the follow-up mechanism was for tracking these permits.

Posillico said the process is computerized. When a permit is set to expire, the Building & Zoning Assistant receives an electronic reminder. She then coordinates with the Building Inspector to estimate how much work is remaining on a project. Permit renewal fees are then based on the Building Inspector’s estimate and the applicant’s permit renewal request.

Kleinjans asked if we should state “fees as required by the Board of Trustees” within the Zoning Ordinance.

Ransford said typically we don’t reference fees in the Zoning Ordinance. It is the policy that is adopted through resolution of the Board of Trustees.

Martin said the Board establishes fee by resolution. It’s not necessary to state this in the Zoning Ordinance but it could provide clarity.

Posillico said a statement could be added regarding the fee process.

Eade suggested printed information should be provided to the homeowner outlining the process for obtaining a building permit.
Posillico said this information is posted on the website along with all forms. Pamphlets have been prepared and are available at the desk at the Township office.

Pfost asked Martin if a vote was required.

Martin said a Public Hearing should be held on all amendment changes. This can be done next month.

Kleinjans moved, supported by Ervine, to request Staff to move forward with the amendment changes for Expiration of Permits to present to the Planning Commission for a Public Hearing.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

OLD BUSINESS:

A. Text Amendments

Posillico introduced the first item, retaining walls for in-ground pools in the rear yards of waterfront lots, and provided the background information from the Planning Commission’s September 11, 2019 meeting. The ordinance language is highlighted by the following summary of the three key points followed by the recommended wording:

- To include a specific provision for retaining walls to be used as support walls for in-ground pools in rear yards of waterfront lots;

- Retaining walls shall be considered in the same manner as existing in-ground pool walls in rear yards of waterfront lots, and shall be no greater than 30 inches above grade; and

- Staff is proposing to add language that directly addresses the fact that retaining walls shall not create visual obstructions when utilized to support in-ground pools in the rear yards of waterfront lots.

Martin suggested a language change in subitems a and c: omit the word “said.”

Kleinjans asked about the term “above grade” – is grade well enough defined to be useful.

Posillico said with this language the homeowner has to show topography lines in their permit submission documents, which is not required through the current language for in-ground pools.

Kleinjans suggested a few minor editing changes.

Kleinjans moved, supported by Ervine, to request Staff to make the suggested changes to the language for In-ground pools and return it to the Planning Commission for approval and a Public Hearing.
Voice Vote:

Ayes 6, Nays 0. Motion carried.

B. Other Text Amendments

Following suggestions by the Planning Commission at the September 11, 2019 meeting, there have been revisions to several proposed text amendments to the Park Township Zoning Ordinance (PTZO). They include revisions to temporary agricultural signage, temporary commercial signage, Planned Unit Developments, ponds, earth changes, firewood sales, and garage sales.

1. Agricultural signage – modify “business” to “lot.” Allow a sign per lot meeting the minimum lot area but do not restrict one lot less than the minimum area.

2. Planned Unit Development – modify all open space references to “dedicated” open space. Add language to avoid exceptions such as “standard minimum lot area.”

3. Ponds – add Public Hearing language

4. Firewood sales – replace “storage of” with “structure or rack,” remove redundant language, and reference “face cord.”

5. Garage sales – change period of time to three (3) months

Ransford provided background on the remaining text amendments. It is important to note our revision to commercial signage, which was not pursuant to the Planning Commission’s direction. Following the September 11 meeting, Staff discussed the impact of the changes from the agricultural language to the commercial signage language by way of reference with the Zoning Administrator Posillico. In her opinion, given that numerous businesses exist together on small lots, the language should permit signage for each business. Given this, Staff proposed the modification.

After additional review of Section 38-367(1) – Number of Dwellings Permitted of the Park Township Zoning Ordinance, we did not include language regarding a “standard minimum lot area” because only the R-4 and R-5 Zoning Districts contain varying lot areas, but both of which are based on a lot with or without public utilities. Given this, it did not seem necessary to reference “standard minimum lot area” when each “standard” minimum exists without variance, depending on the availability of public utilities.

If the Planning Commission desires to restrict the number of dwellings permitted within a Planned Unit Development to the lot area of the underlying zoning district without public utilities, we can draft such accordingly. Otherwise, we believe the remainder of the language achieves the direction of the Planning Commission.

Martin recommended separate motions for each amendment.
1 – Signage

DeHaan moved, supported by Ervīne, to approve the amended language for Section 38-575(a)(5) and (b)(b).

Voice Vote:

Ayes 6, Nays 0. Motion carried.

2 – C districts – Commercial

Kleinjans moved, supported by Ervīne, to approve the amended language for Section 38-575(c)(1).

Voice Vote:

Ayes 6, Nays 0. Motion carried.

3 – PUDs – Development Requirements for Residential and Dedicated Open Space

Kleinjans moved, supported by Nestel, to approve the amended language for Section 38-367 and 38-368.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

4 – Outdoor Ponds

Ervine moved, supported by Kleinjans, to approve the amended language for Section 38-504.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

5. Earth Change Regulations

Ervine moved, supported by Kleinjans to approve the amended language for Section 38-505.

Voice Vote:

Ayes 6, Nays 0. Motion carried.
6. *Use Regulations*

*Kleinjans moved, supported by Ervine,* to approve the amended language for Sections 38-184(8) and 38-214(6)

**Voice Vote:**

Ayes 6, Nays 0. Motion carried.

7. *Firewood Sales*

**Voice Vote:**

*Kleinjans moved, supported by DeHaan,* to approve the amended language for Firewood Sales (Section TBD)

**Voice Vote:**

Ayes 6, Nays 0. Motion carried.

8 – *Garage Sales*

*Kleinjans moved, supported by Nestel,* to approve the amended language for Garage Sales (Section TBD).

**Voice Vote:**

Ayes 6, Nays 0. Motion carried.

Pfost said a Public Hearing will be held for these amendments at the November meeting.

**PUBLIC COMMENT**

Pfost opened Public Comment at 8:16 P.M.

There was no comment.

Pfost closed Public Comment at 8:16 P.M.

**ANNOUNCEMENTS**

The next meeting will be on November 13, 2019.

**ADJOURNMENT**
Kleinjans moved, supported by Ervine, to adjourn the meeting at 8:20 P.M.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

Respectfully submitted,

Judith R. Hemwall
Recording Secretary
October 11, 2019

Approved:
Executive Summary

Pursuant to the Michigan Planning Enabling Act, Act 33 of 2008, as amended, the Park Township Planning Commission (PTPC) was formed to review land use proposals and provide approval, denial, or recommendation to the Park Township Board of Trustees regarding the same; draft and maintain the Park Township Master Plan; conduct revisions to the Park Township Zoning Ordinance and provide recommendation and; conduct review and analysis of other related land use matters as requested by the Park Township Board of Trustees.

As a result of the responsibility of the PTPC, the Department of Community Development provides this monthly activity report as a synopsis of the land use planning efforts of the PTPC.

Current Land Use Proposals

Timberline Woods Tentative Preliminary Plat

The proposed single-family residential development consisting of 51 lots within the R-3 Low Density Single-Family Residence Zoning District located on the south side of Riley Street was recommended for approval to the Board of Trustees on August 13, 2019. Timberline Woods has not yet submitted for review by the Board of Trustees.

Current Ordinance Reviews

Planned Unit Developments, Signage, Earth Changes, and Ponds

Pursuant to the direction of the PTPC, a public hearing has been scheduled for the November 13, 2019 meeting of the PTPC to consider revisions to language regulating Planned Unit Developments, signage, earth changes, and ponds.

Firewood Sales & Garage Sales

Pursuant to the direction of the PTPC, a public hearing has been scheduled for the November 13, 2019 meeting of the PTPC to consider language regulating firewood sales and garage sales.

Swimming Pool Height

Pursuant to the direction of the PTPC, a public hearing has been scheduled for the November 13, 2019 meeting of the PTPC to consider revisions to language regulating the height of swimming pools.
Tree Preservation Committee

The second draft of a Tree Preservation chapter was sent to the township Manager and township Legal Counsel on October 18, 2019 for review and comment. Following, the draft will be scheduled before the Tree Preservation Committee.

Neighborhood Heritage Preservation (NHP)

Ottawa Beach (West Michigan Park Association)

Following a second Focus Group held with Ottawa Beach residents on September 5th to further examine structure height within the community, staff provided attendees with a copy of additional revisions to the draft language as a result of the Focus Group. Prior to incorporating attendee feedback into the language, staff intends to meet to discuss approaches to the draft.

Four Remaining NHP Areas

Following the conclusion of the Ottawa Beach NHP effort, staff intends to present their findings and recommendations regarding the subsequent NHP areas.

Construction Observation Update – Approved Land Use Projects

The Reserve on Lake Macatawa

The applicant submitted a zoning permit application for a site construction trailer and have begun work on public utility lines. No permits have been sought for any residential units.

Beachwalk Condominiums – Ottawa Beach Road

NO CHANGE – Several units are under construction.

Coastal Condominiums

NO CHANGE – This project is currently inactive.

KIN Coffee – 1200 Ottawa Beach Road – Coffee Shop and Residential Use

A sign permit was issued on October 21, 2019. Remodel permits were issued on April 24, 2019 and have been limited to the interior.

Cityside Apartments

A building permit was issued on October 8, 2019.

Upcoming Matters

Itty Bitty Bar Parking Lot

NO CHANGE – The Itty Bitty Bar is seeking to construct additional parking to serve their multi-tenant building located at 1130 Ottawa Beach Road. Staff has provided review comments to the
applicant but has not received a response for several months. Most recently, the applicant illegally expanded their parking area again and a Stop Work Order was posted by the Township. Depending on the response of the applicant, the PTPC may receive a site plan for review.

**Geerlings Development Company Lot Merger**

The applicant seeks to reconfigure eight (8) existing lots into nine (9) lots pursuant to Section 38-483(d)(4) of the Park Township Zoning Ordinance since the resulting lots do not meet the underlying district standards. Section 38-483(d)(4) allows this reconfiguration by special use if the newly created lot areas and widths are equal to or similar to the lots in the surrounding neighborhood, and after considering related standards. The applicant is revising the plans as a result of our review comments and is anticipated to be on your December agenda.

**Macatawa Legends Planned Unit Development Amendment**

The applicant seeks to amend the existing Planned Unit Development and establish 57 single family lots on an existing private road. The applicant is revising the plans as a result of our review comments and is anticipated to be on your December agenda.

**Anchorage Marine Planned Unit Development Amendment**

The applicant seeks to amend the existing Planned Unit Development and establish six (6) residential units in the existing second story and a proposed third story, as two (2) story units. The applicant is revising the plans as a result of our review comments and is anticipated to be on your December agenda.
Pursuant to your direction at your October 9, 2019 meeting, attached is a Zoning Text Amendment Ordinance to revise several sections of the Park Township Zoning Ordinance (PTZO) as well as add two (2) sections regulating firewood sales and garage sales. Below is a list of all of the sections subject to the proposed amendment:

- Section 38-33(e) – Expiration of permits
- Section 38-575(a)(5) and (b)(b) – Permitted signs in each zoning district (AG Agricultural and Permanent Open Space District)
- Section 38-575(c)(1) – Permitted signs in each zoning district (C Districts)
- Section 38-367 – Development requirements for PUDs with residential uses
- Section 38-368 – Dedicated open space requirements (PUDs)
- Section 38-504 – Outdoor Ponds
- Section 38-505 – Earth change regulations and permits
- Section 38-184(8) – Use regulations
- Section 38-214(6) – Use regulations
- Section 38-516 – Firewood Sales
- Section 38-517 – Garage Sales

Additionally attached is a comparison document showing the proposed changes from the existing PTZO text. Proposed additions are shown in underlined text and proposed deletions are shown in strikethrough text.

Section 38-516 – Firewood Sales

While we anticipate Manager Fink will attend your upcoming meeting, he wanted us to express his concern regarding a portion of the Firewood Sales language. Specifically, he recommends that the Planning Commission consider the following. We have identified his concerns to correspond to the same subsection reference for your convenience (A, B, C):

A. Remove the restriction that firewood must be cut from the parcel on which it is sold;
B. How do we define “traffic hazard or nuisance” in a way that we can enforce?
C. Reduce the permitted area of firewood for sale, such as three (3) feet by four (4) feet

Anticipated Action

Pending comments received at the public hearing, the Planning Commission should provide a recommendation of adoption or adoption with revisions. The Planning Commission could also direct staff to revise the language and return it to a future agenda of the Commission, or provide a recommendation to not adopt the language.

The proposed amendments have been scheduled for a public hearing at your November 13, 2019 meeting. If you have any questions, please let us know.

GLR
Planner

Attachments

cc: Howard Fink, Manager
ORDINANCE NO. 2019 - ____

ZONING TEXT AMENDMENT ORDINANCE


THE TOWNSHIP OF PARK, COUNTY OF OTTAWA, AND STATE OF MICHIGAN ORDAINS:

Section 1. Expiration of permits. Section 38-33(e) of the Zoning Ordinance shall be amended to state in its entirety as follows.

Sec. 38-33(e) Expiration of permits.

A permit for any building or structure for which construction work has not begun within six months from the date of its issuance, or for which all construction work has not been completed within one year from the date of its issuance, shall expire automatically. A permit expiring automatically pursuant to this subsection shall, upon reapplication, be renewable once only upon payment of an additional fee as established by Township Board resolution. A renewed permit shall automatically expire if construction work has not begun within one year from the date of issuance of the original permit and shall also expire automatically if all construction work has not been completed within two years from the date of issuance of the original permit.

Section 2. Swimming pools. Section 38-492 of the Zoning Ordinance shall be amended to state in its entirety as follows.

Sec. 38-492 Swimming pools.

(a) No swimming pool (referred to as "pool" in this section) shall be constructed, erected or installed on any lands in the Township unless a permit therefor has first been obtained from the Zoning Administrator.
(b) The outside edge of the pool wall shall not be located nearer than four feet to
(c) A pool of which any wall, including retaining walls designed to structurally support the pool, is greater than 30 inches above grade shall not be located in the required rear yard of a waterfront lot. Any fence used as a barrier for a pool located in the rear yard of a waterfront lot shall be glass, or other see-through material approved by the Zoning Administrator, which results in minimal visual obstruction. Any retaining walls that structurally support a pool shall result in minimal visual obstruction of waterfront lots.

Section 3. Permitted signs in each zoning district. Section 38-575(a)(5) of the Zoning Ordinance shall be amended to state in its entirety as follows.

Sec. 38-575(a)(5) Permitted signs in each zoning district.

One (1) or more temporary seasonal signs advertising business operations such as being “open” or the sale of products on the Lot where the sign is located. The collective total square footage of such signs shall not exceed an area of 64 square feet per Lot, provided, however, that the Lot shall meet the minimum Lot area for the district and no individual sign shall exceed an area of 32 square feet. All such signs shall be separated by no less than fifty (50) feet. Where temporary seasonal signs are located on one (1) or more legal non-conforming Lots advertising business operations, the collective total square footage of temporary seasonal signs throughout all of the Lots shall not exceed an area of 64 square feet and no individual sign shall exceed an area of 32 square feet. All such signs shall be separated by no less than fifty (50) feet.

Section 4. Permitted signs in each zoning district. Section 38-575(b)(b) of the Zoning Ordinance shall be added to state in its entirety as follows.

Sec. 38-575(b)(b) Permitted signs in each zoning district.

In the R-1 Rural Estates Residence District, one or more temporary seasonal signs advertising business operations such as being “open” or the sale of products on the Lot where the sign is located. The collective total square footage of such signs shall not exceed an area of 64 square feet per Lot, provided, however, that the Lot shall meet the minimum Lot area for the district and no individual sign shall exceed an area of 32 square feet. All such signs shall be separated by no less than fifty (50) feet. Where temporary seasonal signs are located on one (1) or more legal non-conforming Lots advertising business operations, the collective total square footage of temporary seasonal signs throughout all of the Lots shall not exceed an area of 64 square feet and no individual sign shall exceed an area of 32 square feet. All such signs shall be separated by no less than fifty (50) feet.

Section 5. Permitted signs in each zoning district. Section 38-575(c)(1) of the Zoning
Ordinance shall be amended to state in its entirety as follows.

Sec. 38-575(c)(1) Permitted signs in each zoning district.

All signs permitted in the R-1 Rural Estate Residence District, subject to the same conditions, restrictions, and requirements as provided in the R-1 Rural Estate Residence District, except that political signs and real estate signs may be larger than permitted in the R-1 Rural Estate Residence District, but shall not be greater than 32 square feet in area, signs permitted by Section 38-575(b)(b) shall not exceed fifty percent (50%) of the dimensional provisions therein but may be permitted per business on a Lot, and home occupation signs are prohibited.

Section 6. Development requirements for PUDs with residential uses. Section 38-367 of the Zoning Ordinance shall be amended to state in its entirety as follows.

Sec. 38-367 Development requirements for PUDs with residential uses.

For planned unit developments which will devote all or a portion of the site to residential use, the following requirements shall apply, in addition to the requirements of Section 38-366:

(1) Number of dwellings permitted. An area which is requested for approval to a PUD shall be developed in accordance with the density determined by using the minimum lot size required by the current zoning district for the area for residential uses according to the requirements of Section 38-367(2).

(2) Formula to determine number of dwellings on net buildable acreage. The number of dwellings which may be constructed within a PUD shall be determined as follows:
   a. Determine gross site acreage. The gross site acreage may include the public road right-of-way(s) to which the site abuts only if the legal description for the land includes the road right-of-way(s).
   b. Subtract all the areas of existing wetlands, creeks, streams, ponds, lakes, or other water bodies, floodplains, critical dunes, and slopes of 20% or greater.
   c. If requested by the Planning Commission or the Township Board, the determination of the existence of wetlands or floodplain areas on a parcel shall be demonstrated through a written determination by the Michigan Department of Natural Resources, or by a professional biologist, ecologist, environmental engineer or similar professional person deemed acceptable to the Planning Commission or the Township Board and in compliance with the standards for wetlands or floodplains established by the Michigan Department of Natural Resources at the time of the review.
   d. Subtract acreage proposed to be devoted to nonresidential uses, except those areas proposed for, but not limited to, parks, playgrounds, and dedicated open space, which shall not be subtracted.
      i. Facilities proposed for, but not limited to, community buildings, indoor recreational facilities, and similar facilities shall be
considered nonresidential uses and shall be subtracted to determine net buildable acreage.

ii. Streets, alleys, drives, or similar improvements internal to the site designed for the circulation of traffic, with or without a right-of-way, shall be subtracted to determine net buildable acreage. The area for these improvements shall be calculated using a width of no less than 66 feet by their total length. Driveways generally perpendicular to the Street, alley, drive, or similar improvement shall not be included within this calculation.

e. The number of acres remaining shall be the net buildable acreage.

f. Multiply the net buildable acreage by the number of dwelling units per acre that results using the minimum residential lot size required by the current zoning district.

(3) Additional dwellings. Additional dwellings above those authorized by Section 38-367(1) and (2) may be allowed at the discretion of the Township Board following a recommendation by the Planning Commission if the development provides additional amenities or preserves additional dedicated open space, beyond that required by Section 38-368, which would result in a significant recognizable benefit to the Township and residents of the PUD. In considering whether the PUD will result in a significant recognizable benefit to the Township and the residents of the PUD, the Planning Commission and Board shall consider whether the PUD includes one or more of the following items as well as similar items:

a. Recreational facilities such as playground areas with play equipment, ball fields, bike paths, constructed lake, community building or similar recreation facilities, with the exception of golf courses.

b. Additional landscaping to preserve or enhance the views along the roadway.

c. Enhancement of existing wetlands, or creation of lakes or ponds which are not designed solely to function as retention or detention facilities, but are designed primarily as recreational or visual amenities, subject to applicable regulations.

d. Provision of additional unique dedicated open space or mature stands of trees which would be of recognizable benefit to Township residents and residents of the PUD.

e. Provision of a public or private community water and/or sanitary sewer system.

f. If additional dwelling units are to be allowed, the maximum number of dwelling units shall be determined according to the formula in Section 38-367(2)a and f by utilizing the gross site acreage. In no case shall the number of dwelling units exceed that allowed by this subsection.

(4) Mixed-use developments.

a. Where a mix of commercial, residential, or other combinations of land uses are proposed for one PUD, the density of the residential portion of the PUD site shall be calculated based upon the net buildable acreage of only that portion of the site where residential uses are permitted by the underlying zoning district.
b. The formula to determine additional dwellings for a mixed-use PUD shall be based upon the gross site acreage of only that portion of the PUD site where residential uses are permitted by the underlying zoning district.

Section 7. Dedicated open space requirements. Section 38-368 of the Zoning Ordinance shall be amended to state in its entirety as follows.

Sec. 38-368 Dedicated open space requirements.

(a) A PUD with residential uses shall provide and maintain the following minimum amount of dedicated open space in accordance with the standards of this article. The Planning Commission shall have the discretion to recommend to the Township Board more than the minimum amount of dedicated open space required by the following, if such recommendation is made pursuant to the Planning Commission finding that the purpose and the objectives of the PUD District as required by Section 38-363 are met.

1. For land zoned AG, a minimum of 40% of the gross site area devoted to residential use shall be permanently preserved as dedicated open space.

2. For land zoned R-1, R-2 or R-3, a minimum of 20% of the gross site area devoted to residential use shall be permanently preserved as dedicated open space.

3. For land zoned R-4 or R-5 and not served with public or private sewer, a minimum of 20% of the gross site area devoted to residential use shall permanently be preserved as dedicated open space. For land zoned R-4 or R-5 and served with public or private sewer, and for those uses proposed for multifamily development, a minimum of 15% of the gross site area devoted to residential use shall be permanently preserved as dedicated open space.

4. For land zoned R-4 or R-5 and proposed for manufactured housing community, the regulations of Article IX of this chapter regarding minimum dedicated open space shall apply.

(b) Areas not considered dedicated open space. The following land areas shall not be considered, allowed, or approved as dedicated open space for the purposes of this section:

1. The area within any public or private road easement or right-of-way or within streets, alleys, drives, or similar improvements pursuant to Section 38-367(2)d.ii of this Ordinance.

2. Any easement for overhead utility lines, unless adjacent to qualified dedicated open space.

3. Only 50% of the area of any existing floodplain, streams, wetlands, lakes, ponds, and slopes which are 20% or greater shall be counted as dedicated open space.

4. The area within a platted lot or site condominium lot.

5. The area of required setbacks or required distances between buildings.

6. Proposed detention and retention ponds. Stormwater management facilities such as rain gardens, bioswales, vegetated filter strips, constructed wetlands, and similar facilities may be considered, allowed, or approved as dedicated open space upon recommendation of the Planning Commission and approval
by the Township Board based upon a review of the purpose and objectives in Section 38-373 and the standards in Section 38-373(i).

(7) Community drain fields if such areas are not completely underground.
(8) Any area devoted to a golf course.
(9) Landscaping buffers and greenbelts as required by ordinance.

Section 8. Ponds. Section 38-504 of the Zoning Ordinance shall be amended to state in its entirety as follows.

Sec. 38-504 Ponds.

(a) Required authorization. No pond shall be constructed, erected, installed, located, deepened, expanded, reconstructed, or widened unless it has first been authorized, as is provided in this section, by either the Zoning Administrator or by the Planning Commission. If an existing pond is to be expanded or widened beyond its existing footprint, the pond shall be brought into full compliance with all requirements of this section. If an existing pond is to be reconstructed within its existing footprint (e.g., deepened, cleaned out, etc., but not expanded or widened), the pond shall not be required to be brought into full compliance with all requirements of this section; provided, however, that an existing pond that is reconstructed within its existing footprint shall have a slope no steeper than 1:3. For purposes of this subsection, the term "existing pond" means a pond that was constructed, erected, installed, or otherwise located on a lot prior to February 10, 2000. All ponds that are constructed, erected, installed, or otherwise located on a lot on or after February 28, 2000, must, at all times, comply fully with all requirements of this section, including, without limitation, if and when the pond is deepened, expanded, reconstructed, or widened.

(b) Application. An application for authorization of a pond shall be made to the Township. The application shall include the following:

(1) The name of the person who will be the owner of the pond. If the owner of the pond will be someone other than a natural person, the application shall indicate the name of the president/chief executive officer of the firm, association, partnership, joint venture, corporation, limited liability company, or other equivalent entity that will be the owner of the pond. If the owner of the pond will be a trust or an estate, the application shall indicate the name of the trustee or personal representative.

(2) The location of the proposed pond or the existing pond that is to be deepened, expanded, reconstructed, or widened.

(3) A statement of purpose or use of the pond.

(4) The safety precautions to be taken to protect those persons making use of the pond or who might be in danger thereby. These safety precautions shall address not only those persons who are anticipated to utilize the pond and its adjoining lands but also any third parties who may elect to utilize the pond and its adjoining lands without authorization from the owner.

(5) A survey map shall contain the following:

(a) The dimensions of the pond.
(b) The distances from the pond to the parcel's boundaries, to any existing or proposed structures on the parcel, to any septic system, to any existing ponds, lakes, streams or other watercourses located within the parcel and/or on adjacent properties, and to any buildings and structures on adjacent parcels.

(6) Drawings of the pond prepared by an engineer licensed by the state showing or otherwise stating the following information:

(a) The depth of the pond.
(b) The surface area of the pond at the normal water elevation.
(c) The surface area of the pond that meets the minimum depth requirement contained in Subsection (d)(6)b of this section.
(d) The contour of the pond's side slopes and of the area in the general vicinity of the pond.
(e) The volume of soil to be excavated for the pond and the volume of that soil which will be kept on the site of the pond.
(f) Plans regarding excavation for the pond, including equipment access and the placement of soil on the parcel, if applicable.
(g) Landscaping to be installed around the pond, including any berms, fencing or screening.
(h) The effect of the pond on the water table of the parcel to be occupied by the pond, the water table of parcels in the vicinity of the pond, and on the quality and quantity of water available from wells on parcels in the vicinity of the pond. This information and analysis shall specifically address the consequences of any dewatering planned in conjunction with the construction, erection, installation, expansion, reconstruction, deepening, or widening of an out-door pond. In its discretion, the Planning Commission may require that the engineer's statement concerning the matters included in Subsection (b)(6)h of this section state that it can be relied upon by the Township and by the owners of all lands within the vicinity of the pond.

(i) Provisions for maintenance of the pond, including equipment such as bubblers, aerators, fountains, etc., and the method of filtration and treatment of the pond water, if applicable.

(7) A soil borings report showing soil borings on the proposed site of the pond. There shall be a minimum of one soil boring for each full pond acre for the first five acres of pond coverage and, thereafter, one additional soil boring for each additional five acres or fraction thereof of pond coverage, i.e., six borings for a pond with coverage of more than five acres but no more than 10 acres, seven borings for a pond with coverage of more than 10 acres but no more than 15 acres, etc. All soil borings shall be reasonably distributed so as to give comprehensive coverage of the proposed pond area and shall be at least to the anticipated depth of the pond in the vicinity where the soil boring is taken. A geotechnical engineer licensed by the state shall prepare the soil borings report.

(8) A statement concerning the hours of operation relating to the construction of the pond and the duration of the pond construction project.
(9) Drawings showing the low water clearance level over stumps and other materials constituting an underwater hazard.

(10) Such additional information as the Zoning Administrator or the Planning Commission may request in order to evaluate the application.

(c) Procedure. The following procedures shall apply to applications for ponds.

(1) An application for pond approval for a pond that is less than 1 1/2 acres in size, covers less than 25% of the area of the lot on which it is to be located, and is the only pond on the lot shall be considered and decided by the Zoning Administrator. In considering the approval of such a pond, the Zoning Administrator may, in his discretion, waive any of the application requirements contained in Subsection (b)(6) and/or (b)(7) of this section. The Zoning Administrator may, in his discretion, decline to make a decision on a pond approval application and refer the decision thereon to the Planning Commission. No pond shall be approved pursuant to this subsection unless the pond meets all of the restrictions and requirements contained in Subsection (d) of this section.

(2) An application for pond approval for a pond that is not subject to Zoning Administrator consideration and approval pursuant to Subsection (c)(1) of this section shall be heard and decided by the Planning Commission as a special use. No pond shall be approved pursuant to this subsection unless the pond meets all of the restrictions and requirements contained in Subsection (d) of this section.

(d) Restrictions and requirements. The following restrictions and requirements shall apply to all ponds and ponds may only be located as follows:

(1) Landscaping and visual enhancement of the parcel: all zoning districts.

(2) Recreation, swimming and boating: AG, R-1, R-2, R-3, R-4, R-5 and C-2 Zoning Districts only as an accessory use to a permitted principal use of the parcel.

(3) Livestock watering and fish production for commercial purpose: AG Zoning District only.

(4) Wildlife habitat, not used for any commercial purposes: all zoning districts.

(5) Source of water for irrigation, spraying or fire suppression: AG Zoning District and for a planned unit development if included as an approved accessory use in the planned unit development.

(6) Stormwater retention, detention, or drainage: all zoning districts.

(a) The pond shall comply with all of the yard requirements for the zoning district in which it is located. As part of the authorization of a pond, the Zoning Administrator or the Planning Commission may approve the location of a pond in a front yard.

(b) Each pond shall have a required depth over a minimum of 15% of the area of the pond as follows:

<table>
<thead>
<tr>
<th>Pond Size</th>
<th>Required Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>(acres)</td>
<td>(feet)</td>
</tr>
<tr>
<td>1 or smaller</td>
<td>10 or more</td>
</tr>
<tr>
<td>Larger than 1</td>
<td>15 or more</td>
</tr>
</tbody>
</table>
(c) If the Planning Commission determines that compliance with the required depth requirement of this subsection is not necessary to maintain acceptable water quality in the pond, then the Planning Commission, in its discretion, may waive the required depth requirement of this subsection.

(d) The side slopes (contour) of a pond shall be constructed and maintained below normal water level with a slope no steeper than 1:6 until a depth of three feet and thereafter with a slope no steeper than 1:3.

(e) The side slopes (contour) of a pond shall be constructed and maintained above the normal water elevation with a slope no steeper than 1:6 for a minimum distance of 10 feet measured along the slope from the normal water elevation. This ten-foot area shall be maintained with stone, rock, sand, or other similar materials.

(f) All stumps and other materials that could constitute an underwater hazard shall be removed; provided, however, that stumps and other materials need not be removed if there is at least a ten-foot clearance between the stump or other underwater material and the normal water elevation of the pond.

(g) The discharge pipe from any pond without a direct outlet to an established drain shall have the drain size designed and engineered by an engineer licensed by the state and approved in writing by the Ottawa County Drain Commissioner. No pond shall be wholly or partially emptied in any manner that will cause water to flow upon the land of another and no pond shall be wholly or partially emptied upon any land if a storm drain is readily accessible to the premises on which the pond is located. Discharge into the public sanitary sewer is prohibited.

(h) No water drawn from a governmentally owned or operated water system shall be used in connection with the filling or operation of a pond.

(i) If any sand, topsoil, gravel, or other such material is to be removed from the parcel on which the pond will be located, all requirements of this article and all other Township ordinances, rules, and regulations shall be complied with as well as all requirements of all county, state, and federal ordinances, statutes, laws, rules, and regulations.

(j) No pond located on land that is not included in a subdivision, site condominium, or other residential development consisting of multiple building sites shall be located closer than 75 feet from the exterior boundary of the land on which it is located. No pond located inside a subdivision, site condominium, or other residential development consisting of multiple building sites shall be located closer than 75 feet from the outside boundary of the subdivision, site condominium, or other residential development, consisting of multiple building sites. However, if written consent is obtained and provided to the Township from the adjoining landowner, the Zoning Administrator (if he is considering and deciding on the pond application) or the Planning Commission (if it is considering and deciding on the pond application) may, in approving a pond, permit a setback of less than 75 feet in either of the two situations.
described in this subsection, subject, however, to a minimum setback of 25 feet in any event.

(e) Standards. In considering approval of a pond, the Zoning Administrator and the Planning Commissions shall consider the following standards:

1. Whether all other permits or approvals from other governmental units or agencies have been obtained; for example, approval of the Ottawa County Drain Commissioner for any ponds that would come under the jurisdiction of that office and any approval/permit that may be under Part 301 of the Natural Resources and Environmental Protection Act (MCL § 324.30101 et seq.).
2. The location of the pond on the parcel and its proximity to adjoining parcels.
3. The potential for the pond to become a safety hazard for adjoining property or the public.
4. The number of other ponds on the parcel or in the vicinity of the parcel.
5. The character, nature and size of the pond and its effect on the parcel, including the effect on other appropriate uses of the parcel.
6. The potential for the pond to result in stagnant water or insect breeding so as to become a nuisance.
7. The effect of the pond on adjacent properties, on wells and the water table in the vicinity and on the health, safety and welfare of the public.

(f) Conditions for authorization. In giving its authorization, the Zoning Administrator or the Planning Commission may:

1. Require financial assurance for the completion of the pond project within the time set in the issued building permit. The financial assurance shall be in the form of cash or a letter of credit acceptable to the Planning Commission and which shall permit the Township to access such funds to enable the Township to remedy a violation of the authorization and the issued building permit. The Planning Commission shall determine the amount of such bond or letter of credit at the time of authorization.
2. Require proof of liability insurance in amounts acceptable to the Planning Commission, which shall be in place at the time the building permit is issued and shall be maintained until the pond construction project is completed.
3. Require that the pond be enclosed with a wall, fence, or other type of enclosure. Such wall, fence, or other type of enclosure shall not be less than four feet above the grade line. The wall, fence, or other type of enclosure shall be designed so there are no openings of such a nature or size as to permit any child to pass through or under the fence, wall, or other type of enclosure except as a gate or door, and shall be of a type not readily climable by children. All gates or doors leading to a pond, except a door in any building forming a part of the enclosure, shall be kept closed when no one is present on the lot on which the pond is located and such gates and doors shall be fitted with a positive latching device which will automatically latch them when said gate or door is in a closed position.
4. Require the construction, installation, operation, maintenance, and repair of bubblers, aeration equipment, fountains, or similar devices intended to maintain and enhance the pond water quality.
(5) Impose such other conditions or require such modifications in the plans for the pond as are determined reasonable and necessary for the protection of the health, safety and welfare of the general public.

(g) Responsibility. By applying for approval of the pond, applicant shall be deemed to have consented to and agreed to all of the following:

(1) That the applicant and all parties at any time owning or having any interest in the premises on which the pond is located agree that they shall, at no time, petition for the establishment of a lake board pursuant to Part 309 of Public Act No. 451 of 1994 (MCL § 324.30901 et seq.), and they shall, at no time, petition for or otherwise investigate any other legal proceeding under any federal or state statute or other provision of federal or state law which would result in the imposition of an assessment, charge or other financial responsibility on the Township in connection with the pond. Without limiting the generality of the immediately preceding sentence, applicant and all parties at any time owning or having any interest in the premises on which the pond is located shall at no time petition for the maintaining of normal height and level of waters, maintenance, improvement, or development of the pond for fishing, wildlife, boating, swimming, algae and other vegetative controls, or for any other recreational or agricultural use.

(2) That the applicant has designed and engineered the pond and applicant assumes all responsibility with respect to the adequacy of its design, the adequacy of any outlet, the safety of the pond with respect to adjoining landowners and the public generally, and all other aspects of the ponds' construction, erection, installation, location, repair, maintenance, expansion, widening, reconstruction, or deepening.

(3) That the applicant shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the Township and its officers, board, Planning Commission, Zoning Board of Appeals, employees, and agents against any and all claims, damages, demands, expenses, liabilities, and losses of any character or nature whatsoever arising out of or resulting from the construction, erection, installation, location, maintenance, repair, reconstruction, deepening, expanding, or widening of the pond, including, but without limitation, any liability to third parties on account of any negative effect caused by the pond on the water table of parcels of land in the vicinity of the pond. The indemnification obligation provided in the preceding sentence shall include the payment of all reasonable attorneys' fees and other expenses of defense.

The provisions of this subsection shall be included as part of the application for a pond and the applicant shall be required, as a condition of making an application for a pond, to accept and agree to all of the provisions of this subsection.

(h) Building permit. Upon authorization and compliance with all conditions, the Zoning Administrator shall issue a building permit for the pond construction project. The building permit shall be valid for a period of one year, provided that the permit may be renewed prior to its expiration date by the Zoning Administrator for a period not exceeding an additional six months.
(i) Garden/landscaping ponds. This section shall not apply to small garden and/or decorative landscaping ponds having a permanent liner with an aggregate surface area of 150 square feet or less.

(j) Verification of compliance. Upon completion of the pond, the engineer who prepared the drawings of the pond as required in Subsection (b)(6) of this section, unless that requirement has been waived by the Zoning Administrator pursuant to Subsection (c)(1) of this section, shall certify that the pond has been constructed, erected, installed, located, deepened, expanded, reconstructed, or widened in accordance with the application and the Zoning Administrator or the Planning Commission approval. The engineer's certification shall be made within 30 days of the completion of the pond and prior to the utilization of the pond for its intended purposes. The Zoning Administrator may, in his discretion, require a review by the Township's engineer, at the sole cost and expense of the applicant, to verify such compliance. In such circumstance, the applicant shall deposit with the Township a fee in the amount of the reasonable anticipated cost of the Township Engineer's review. If the advanced payment of fees exceeds the actual expense of the Township Engineer's review, the Township shall return the entire or unused portion of the deposit to the applicant. If the advanced payment is insufficient to pay the actual expense of the Township Engineer's review, then the applicant shall promptly pay the Township the balance of the engineering expense.

Section 9. Earth change regulations and permits. Section 38-505 of the Zoning Ordinance shall be amended to state in its entirety as follows.

Sec. 38-505 Earth change regulations and permits.

(a) Permit required. Except as exempted under Subsection (e) of this section, no earth change shall be conducted on any parcel of land unless such earth change has been authorized by and is in compliance with a permit issued pursuant to this section. For purposes of this section, the term "earth change" means a man-made change in the natural or existing cover or topography of land, including without limitation, the excavating, mining, removing, importing, moving, filling, stockpiling, depositing and/or storing of topsoil, subsoil, sand, gravel, clay, aggregate, stone, sludge, ash and/or any similar materials and resources.

(b) Application for permit. An application for an earth change permit shall be filed with the Zoning Administrator. An application fee, as established by the Township Board from time to time, shall be paid when the application is filed. Such application shall contain the following information and documentation:

(1) The name and address of the applicant. If the applicant is not an individual, the name and title of a contact person for the applicant shall be provided.

(2) If the applicant is not the owner of the parcel, the name and address of the holder of record title and the nature of applicant's interest in the parcel shall be stated.

(3) A survey and legal description of the parcel for which the earth change permit is sought.
(4) A statement together with a map that details the specific nature and extent of the proposed earth change activity including the following:
   (a) The type of materials involved in the proposed earth change.
   (b) A fair and reasonable estimate of the number of cubic yards of materials involved and description as to what volume of materials are to be excavated from, removed from, imported onto, moved on and/or stored on the parcel as part of the proposed activities.
   (c) A map depicting the proposed contours of the parcel upon completion of the earth change activities and showing the location of the proposed earth change activities in relation to the boundaries of the parcel and to buildings, septic systems, existing bodies of water and watercourses, both on the parcel and on adjacent lands.
   (d) The location and type of any fencing or other screening to be located on the parcel during the earth change activities.
   (e) The proposed landscaping and/or revegetation to secure and stabilize the ground and any slopes during and at the completion of the earth change activities.
   (f) A description of the type and amount of equipment proposed to be employed in the earth change activities.
   (g) The points of ingress and egress for the parcel and the route the applicant intends to use in transporting materials to and/or from the parcel. The location and size of aprons and scrub pads, if any are proposed, shall be detailed, together with a cleaning and maintenance plan. Aprons and scrub pads may be required as a condition to issuance of the permit and, if so, they shall be constructed of concrete or asphalt with scrub pads having a minimum length of 100 feet from the road onto the parcel and a minimum width of 12 feet and with aprons having a minimum radius of 25 feet, unless the Planning Commission determines other dimensions under the circumstances of the project.
   (h) Any proposed road signage for "slow trucks," "truck crossings," etc.
   (i) Proposed hours of operation.
   (j) Duration of earth change activities.

(5) Information regarding approvals and/or permits required under any other federal, state, local government or agency.

(6) Information regarding financial assurance (in the form of a bond or letter of credit) to be provided to the Township to ensure compliance with the permit.

(c) Action on application. If the Zoning Administrator determines the application to be complete, the application will be forwarded to the Planning Commission

(1) In making its decision, the Planning Commission shall consider the following standards:
   (a) The nature of the proposed earth change, including without limitation, whether materials are to be excavated and removed from, or imported to, or moved upon the parcel and the purpose for the proposed earth change, together with the clearing of the land.
   (b) The size of the parcel.
(c) The effect of such earth change on neighboring parcels and whether such earth change can be conducted in a manner harmonious with the neighboring uses.
(d) The potential of the earth change to create safety concerns or hazards, to cause problems with noise, fumes, dust, lights and vibrations, to create erosion problems, to alter the groundwater table in the vicinity, to cause flooding or diversion of water, to result in the creation of sand blows, stagnant water pools, bogs and other similar problems affecting the adjacent properties and environment in the vicinity.
(e) The change in the topography and loss of natural resources.
(f) The types of trucks and other equipment to be used and the potential for traffic congestion, damage to roads, noise and debris, and safety hazards resulting from trucks and equipment used in the earth change activities.
(g) Whether the earth change activities comply with all applicable federal, state, county and local laws, ordinances, rules, regulations permits and requirements.

(2) The Planning Commission may approve, approve with appropriate conditions, or deny the application for an earth change permit and shall state the findings and conclusions for its decision. The Planning Commission shall have the right subsequently to impose additional conditions of approval or to amend any conditions of approval if reasonably necessary to achieve the purposes of the zoning chapter and/or address any change in circumstances or problems; provided that, such action shall not be taken without notice to the applicant and a hearing pursuant to Section 38-36.
(3) If the Planning Commission approves, with or without conditions, the issuance of the earth change permit, it shall also establish the appropriate amount and type of financial assurance to be provided by the applicant to ensure compliance with the permit and to make funds available to the Township to correct any noncompliance.

(d) Issuance of permit. Upon approval of the Planning Commission, the Zoning Administrator at the request of the applicant shall issue an earth change permit. The issuance and the permit are subject to the following conditions:
(1) The applicant must request and obtain the permit within six months from the date of approval by the Planning Commission; otherwise the approval is null and void and reapplication is required.
(2) At the time the permit is requested, the applicant shall provide the required financial assurance.
(3) At the time the permit is requested, the applicant shall provide proof of adequate comprehensive general liability insurance and such insurance shall be maintained during the earth change activities.
(4) The permit shall allow only those earth change activities specified in the terms and provisions of the application, as modified and/or supplemented by any conditions of approval made by the Planning Commission, which terms, provisions and conditions shall be deemed included in the permit without further recitation.
(5) The permit issued shall not be transferable or assignable by the applicant, unless an application to approve such transfer or assignment is made and the
Planning Commission, after a hearing, approves the transfer or assignment, which approval may be with appropriate conditions. The permit, including all terms, provisions and conditions, shall be binding upon the applicant, parties having an interest in the parcel and any successors or assigns.

(6) The permit shall be issued for the duration of the earth change activities as approved in the decision of the Planning Commission; provided however, that no permit shall be issued for a period exceeding three years. Prior to expiration of the initial permit period, the applicant may request the, in its discretion, to grant an extension of the permit not to exceed one year. Such request will be subject to the laws, ordinances, rules and regulations then in effect and, there is no assurance or commitment for approval of such request under the laws and circumstances that may exist.

(e) Exemptions from permit requirements.

(1) The following earth change activities do not require a permit, but are subject to the provisions of Subsection (e)(2) of this section:

(a) Up to 2,500 cubic yards of topsoil, subsoil and sand may be removed from or imported to a parcel for purposes of the construction of a building or structure on the parcel.

(b) Topsoil or sand may be moved from one part of a parcel to another area of the same parcel.

(2) Exempted earth changes shall comply with the following standards:

(a) The earth change shall not create or cause a safety hazard, erosion by wind or water, alteration of groundwater tables and other similar problems.

(b) The earth change shall not cause or create sand blows, stagnant water pools, bogs or any similar type circumstances that cause injury to adjoining properties.

(c) The earth change shall not cause a significant change in the natural topography or have an adverse or destructive impact on the environment or a natural resource.

(d) The earth change shall not result in traffic congestion, road safety hazards or other similar problems.

(f) Violations. A violation of this section or of any term, provision or condition of an approval granted and/or permit issued under this section shall constitute a violation of this chapter, and in addition to the remedies provided in this chapter, the Zoning Administrator may issue a stop work order and/or may revoke or cancel any permit in the manner provided in Section 38-33(f).

(g) Relation to ponds. The requirements of this section are in addition to and separate from any requirements, approvals and permits relating to the creation of ponds under Section 38-504.

Section 10. Use regulations. Section 38-184(8) of the Zoning Ordinance shall be amended to state in its entirety as follows.

Sec. 38-184(8) Use regulations.

Removal and processing of topsoil, sand, gravel, or other such minerals when
authorized by the Planning Commission in accordance with Section 38-505.

Section 11. Use regulations. Section 38-214(6) of the Zoning Ordinance shall be amended to state in its entirety as follows.

Sec. 38-214(6) Use regulations.

Removal and processing of topsoil, sand, gravel, or other such minerals when authorized by the Planning Commission in accordance with Section 38-505.

Section 12. Firewood Sales. Section 38-516 of the Zoning Ordinance shall be added to state in its entirety as follows.

Sec. 38-516 Firewood Sales.

The sale of firewood is considered a seasonal temporary use within any zoning district and is subject to the following conditions.

A. All firewood sales are limited to firewood that has been cut from the parcel or lot where the firewood is to be sold.
B. Firewood sales must be conducted in a manner that does not create a traffic hazard or nuisance to neighboring properties.
C. Firewood must be stacked in a neat, compact and orderly manner to avoid creating a harborage for animals, rodents or other pest infestation or other hazard to the public safety and welfare. Firewood must be stored as a face cord in one (1) or more structures or racks that are at least three (3”) inches above the ground, not more than forty-eight (48”) inches in height, and not more than eight (8’) feet in length.
D. Any signs advertising the sale of firewood must conform to the signage provisions of the zoning district in which the property is located.

Section 13. Garage Sales. Section 38-517 of the Zoning Ordinance shall be added to state in its entirety as follows.

Sec. 38-517 Garage Sales.

Garage sales, rummage sales, yard sales, moving sales, and similar activities are considered temporary accessory uses within any residential zoning district and are subject to the following conditions.

A. Any garage sale, rummage sale or similar activity will be allowed without a temporary Zoning Permit for a period not to exceed four (4) days within a three (3) month period. Any such activities operating for a period of time in excess of four (4) days will require a temporary Zoning Permit from the Zoning Administrator.
B. All such sales must be conducted a minimum of thirty (30’) feet from the front lot line and a minimum of fifteen (15’) feet from the side lot lines.

C. No signs advertising such sales may be placed upon a public right of way or other public property. All signs advertising such sales must be placed upon private property with the consent of the owner of the private property and must be removed within twenty-four (24) hours of the conclusion of the sale or similar activity.

Section 14. **Severability.** This Ordinance and its various parts are hereby declared to be severable. If any portion of this Ordinance is declared to be invalid such declaration shall not affect the validity of the remainder of this Ordinance.

Section 15. **Effective Date.** This amendment to the Park Township Zoning Ordinance was approved and adopted by the Township Board of Park Township, Ottawa County, Michigan on ________________, 2019, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended. This Ordinance shall be effective on ________________, 2019, which date is the eighth day after publication of the Zoning Text Amendment Ordinance in the ________________ as required by Section 401 of Act 110, as amended. However, this effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

__________________________________________  ________________________________
Gerald Hunsburger                          Skip Keeter
Township Supervisor                        Township Clerk
CERTIFICATE

I, Skip Keeter, the Clerk for the Township of Park, Ottawa County, Michigan, certify that the foregoing Park Township Zoning Text Amendment Ordinance was adopted at a regular meeting of the Township Board held on_______________, 2019. The following members of the Township Board were present at that meeting:

__________________________

_________________________. The following members of the Township Board were absent:

___________________________.

The Ordinance was adopted by the Township Board with members of the Board ________________ voting in favor and members of the Board ________________ voting in opposition. Notice of Adoption of the Ordinance was published in the ________________ on_______________, 2019.

__________________________

Skip Keeter, Township Clerk
Section 38-575 – Permitted signs in each zoning district

(a)(5) On farms, one (1) or more temporary seasonal signs advertising business operations such as being “open” or the sale of agricultural products sold at a roadside stand on the farm Lot where the sign is located. The collective total square footage of such signs shall not exceed an area of 64 square feet per farm Lot, provided, however, that the Lot shall meet the minimum Lot area for the district and no individual sign shall exceed an area of 32 square feet. All such signs shall be separated by no less than fifty (50) feet. Where temporary seasonal signs are located on one (1) or more legal non-conforming Lots advertising business operations, the collective total square footage of temporary seasonal signs throughout all of the Lots shall not exceed an area of 64 square feet and no individual sign shall exceed an area of 32 square feet. All such signs shall be separated by no less than fifty (50) feet.

(b)(b) In the R-1 Rural Estates Residence District, one or more temporary seasonal signs advertising business operations such as being “open” or the sale of products on the Lot where the sign is located. The collective total square footage of such signs shall not exceed an area of 64 square feet per Lot, provided, however, that the Lot shall meet the minimum Lot area for the district and no individual sign shall exceed an area of 32 square feet. All such signs shall be separated by no less than fifty (50) feet. Where temporary seasonal signs are located on one (1) or more legal non-conforming Lots advertising business operations, the collective total square footage of temporary seasonal signs throughout all of the Lots shall not exceed an area of 64 square feet and no individual sign shall exceed an area of 32 square feet. All such signs shall be separated by no less than fifty (50) feet.

Section 38-575(c)(1)

In all “C” designated commercial zoning districts, signs shall be permitted only as follows:

(1) All signs permitted in the R-1 Rural Estate Residence District, subject to the same conditions, restrictions, and requirements as provided in the R-1 Rural Estate Residence District, except that political signs and real estate signs may be larger than permitted in the R-1 Rural Estate Residence District, but shall not be greater than 32 square feet in area, signs permitted by Section 38-575(b)(b) shall not exceed fifty percent (50%) of the dimensional provisions therein but may be permitted per business on a Lot, and home occupation signs are prohibited.

Section 38-367 – Development requirements for PUDs with residential uses

For planned unit developments which will devote all or a portion of the site to residential use, the following requirements shall apply, in addition to the requirements of Section 38-366:

(1) Number of dwellings permitted. An area which is requested for approval to a PUD shall only be developed in accordance with the density determined by using the minimum lot size required by the current zoning district for the area for residential uses according to the requirements of Section 38-367(2).

(2) Formula to determine number of dwellings on net buildable acreage. The number of dwellings which may be constructed within a PUD shall be determined as follows:
   a. Determine gross site acreage. The gross site acreage may include the public road right-of-way(s) to which the site abuts only if the legal description for the land includes the road right-of-way(s).
   b. Subtract all the areas of existing wetlands, creeks, streams, ponds, lakes, or other water bodies, floodplains, critical dunes, and slopes of 20% or greater.
c. If requested by the Planning Commission or the Township Board, the determination of the existence of wetlands or floodplain areas on a parcel shall be demonstrated through a written determination by the Michigan Department of Natural Resources, or by a professional biologist, ecologist, environmental engineer or similar professional person deemed acceptable to the Planning Commission or the Township Board and in compliance with the standards for wetlands or floodplains established by the Michigan Department of Natural Resources at the time of the review.

d. Subtract acreage proposed to be devoted to nonresidential uses, except those areas proposed for, but not limited to, parks, playgrounds, and dedicated open space, which shall not be subtracted.

d1. Facilities proposed for, but not limited to, community buildings, indoor recreational facilities, and similar facilities shall be considered nonresidential uses and shall be subtracted to determine net buildable acreage.

d2. Streets, alleys, drives, or similar improvements internal to the site designed for the circulation of traffic, with or without a right-of-way, shall be subtracted to determine net buildable acreage. The area for these improvements shall be calculated using a width of no less than 66 feet by their total length. Driveways generally perpendicular to the Street, alley, drive, or similar improvement shall not be included within this calculation.

e. The number of acres remaining shall be the net buildable acreage.

f. Multiply the net buildable acreage by the number of dwelling units per acre that results using the minimum residential lot size required by the current zoning district.

(3) Additional dwellings. Additional dwellings above those authorized by Section 38-367(1) and (2) may be allowed at the discretion of the Township Board following a recommendation by the Planning Commission if the development provides additional amenities or preserves additional dedicated open space, beyond that required by Section 38-368, which would result in a significant recognizable benefit to the Township and residents of the PUD. In considering whether the PUD will result in a significant recognizable benefit to the Township and the residents of the PUD, the Planning Commission and Board shall consider whether the PUD includes one or more of the following items as well as similar items:

a. Recreational facilities such as playground areas with play equipment, ball fields, bike paths, constructed lake, community building or similar recreation facilities, with the exception of golf courses.

b. Additional landscaping to preserve or enhance the views along the roadway.

c. Enhancement of existing wetlands, or creation of lakes or ponds which are not designed solely to function as retention or detention facilities, but are designed primarily as recreational or visual amenities, subject to applicable regulations.

d. Provision of additional unique dedicated open space or mature stands of trees which would be of recognizable benefit to Township residents and residents of the PUD.

e. Provision of a public or private community water and/or sanitary sewer system.

f. If additional dwelling units are to be allowed, the maximum number of dwelling units shall be determined according to the formula in Section 38-367(2)a and f by utilizing the gross site acreage. In no case shall the number of dwelling units exceed that allowed by this subsection.

(4) Mixed-use developments.

a. Where a mix of commercial, residential, or other combinations of land uses are proposed for one PUD, the density of the residential portion of the PUD site shall be calculated based upon the net buildable acreage of only that portion of the site where residential uses are permitted by the underlying zoning district.
b. The formula to determine additional dwellings for a mixed-use PUD shall be based upon the gross site acreage of only that portion of the PUD site where residential uses are permitted by the underlying zoning district.

Section 38-368 – Dedicated open space requirements

(a) A PUD with residential uses shall provide and maintain the following minimum amount of dedicated open space in accordance with the standards of this article. The Planning Commission shall have the discretion to recommend to the Township Board more than the minimum amount of dedicated open space required by the following, if such recommendation is made pursuant to the Planning Commission finding that the purpose and the objectives of the PUD District as required by Section 38-363 are met.

(1) For land zoned AG, a minimum of 40% of the gross site area devoted to residential use shall be permanently preserved as dedicated open space.

(2) For land zoned R-1, R-2 or R-3, a minimum of 20% of the gross site area devoted to residential use shall be permanently preserved as dedicated open space.

(3) For land zoned R-4 or R-5 and not served with public or private sewer, a minimum of 20% of the gross site area devoted to residential use shall permanently be preserved as dedicated open space. For land zoned R-4 or R-5 and served with public or private sewer, and for those uses proposed for multifamily development, a minimum of 15% of the gross site area devoted to residential use shall be permanently preserved as dedicated open space.

(4) For land zoned R-4 or R-5 and proposed for manufactured housing community, the regulations of Article IX of this chapter regarding minimum dedicated open space shall apply.

(b) Areas not considered dedicated open space. The following land areas shall not be considered, allowed, or approved as dedicated open space for the purposes of this section:

(1) The area within any public or private road easement or right-of-way or within streets, alleys, drives, or similar improvements pursuant to Section 38-367(2)d.i of this Ordinance.

(2) Any easement for overhead utility lines, unless adjacent to qualified dedicated open space.

(3) Only 50% of the area of any existing floodplain, streams, wetlands, lakes, ponds, and slopes which are 20% or greater shall be counted as dedicated open space.

(4) The area within a platted lot or site condominium lot.

(5) The area of required setbacks or required distances between buildings.

(6) Proposed detention and retention ponds. Stormwater management facilities such as rain gardens, bioswales, vegetated filter strips, constructed wetlands, and similar facilities may be considered, allowed, or approved as dedicated open space upon recommendation of the Planning Commission and approval by the Township Board based upon a review of the purpose and objectives in Section 38-373 and the standards in Section 38-373(i).

(7) Community drain fields if such areas are not completely underground.

(8) Any area devoted to a golf course.

(9) Landscaping buffers and greenbelts as required by ordinance.

Section 38-504 – Outdoor Ponds

(a) Required authorization. No outdoor pond shall be constructed, erected, installed, located, deepened, expanded, reconstructed, or widened unless it has first been authorized, as is provided in this section, by either the Zoning Administrator or by the Zoning Board of Appeals, as a matter for Zoning Board of Appeals decision pursuant to Section 603 of the Zoning Act (MCL § 125.3603) Planning Commission. If an existing outdoor pond is to be expanded or widened beyond its existing footprint, the outdoor pond shall be brought into full compliance with all requirements of this section. If an existing outdoor pond is...
pond is to be reconstructed within its existing footprint (e.g., deepened, cleaned out, etc., but not expanded or widened), the outdoor pond shall not be required to be brought into full compliance with all requirements of this section; provided, however, that an existing outdoor pond that is reconstructed within its existing footprint shall have a slope no steeper than 1:3. For purposes of this subsection, the term “existing outdoor pond” means an outdoor pond that was constructed, erected, installed, or otherwise located on a lot prior to February 10, 2000. All ponds that are constructed, erected, installed, or otherwise located on a lot on or after February 28, 2000, must, at all times, comply fully with all requirements of this section, including, without limitation, if and when the pond is deepened, expanded, reconstructed, or widened.

(b) Application. An application for authorization of an outdoor pond shall be made to the Township. The application shall include the following:

(1) The name of the person who will be the owner of the outdoor pond. If the owner of the outdoor pond will be someone other than a natural person, the application shall indicate the name of the president/chief executive officer of the firm, association, partnership, joint venture, corporation, limited liability company, or other equivalent entity that will be the owner of the outdoor pond. If the owner of the outdoor pond will be a trust or an estate, the application shall indicate the name of the trustee or personal representative.

(2) The location of the proposed outdoor pond or the existing outdoor pond that is to be deepened, expanded, reconstructed, or widened.

(3) A statement of purpose or use of the outdoor pond.

(4) The safety precautions to be taken to protect those persons making use of the outdoor pond or who might be in danger thereby. These safety precautions shall address not only those persons who are anticipated to utilize the outdoor pond and its adjoining lands but also any third parties who may elect to utilize the outdoor pond and its adjoining lands without authorization from the owner.

(5) A survey prepared pursuant to the survey requirements of Public Act No. 132 of 1970 (MCL § 54.211), by a land surveyor licensed by the state. The survey map shall contain the following:

a. The dimensions of the outdoor pond.

b. The distances from the outdoor pond to the parcel’s boundaries, to any existing or proposed structures on the parcel, to any septic system, to any existing outdoor ponds, lakes, streams or other watercourses located within the parcel and/or on adjacent properties, and to any buildings and structures on adjacent parcels.

c. The depth of the outdoor pond.

d. The surface area of the outdoor pond at the normal water elevation.

e. The area of the pond that meets the minimum depth requirement contained in Subsection (d)(6)b of this section.

f. The contour of the outdoor pond’s side slopes and of the area in the general vicinity of the outdoor pond.

g. The volume of soil to be excavated for the outdoor pond and the volume of that soil which will be kept on the site of the outdoor pond.

h. Plans regarding excavation for the outdoor pond, including equipment access and the placement of soil on the parcel, if applicable.

i. Landscaping to be installed around the outdoor pond, including any berms, fencing or screening.

j. The effect of the outdoor pond on the water table of the parcel to be occupied by the outdoor pond, the water table of parcels in the vicinity of the outdoor pond, and on the quality and quantity of water available from wells on parcels in the vicinity of the outdoor pond. This information and analysis shall specifically address the consequences of any
ponds and restrictions and requirements. The following procedures shall apply to applications for outdoor ponds.

1. Provisions for maintenance of the outdoor pond, including equipment such as bubblers, aerators, fountains, etc., and the method of filtration and treatment of the outdoor pond water, if applicable.

2. A soil borings report showing soil borings on the proposed site of the outdoor pond. There shall be a minimum of one soil boring for each full pond acre for the first five acres of pond coverage and, thereafter, one additional soil boring for each additional five acres or fraction thereof of pond coverage, i.e., six borings for a pond with coverage of more than five acres but no more than 10 acres, seven borings for a pond with coverage of more than 10 acres but no more than 15 acres, etc. All soil borings shall be reasonably distributed so as to give comprehensive coverage of the proposed pond area and shall be at least to the anticipated depth of the pond in the vicinity where the soil boring is taken. A geotechnical engineer licensed by the state shall prepare the soil borings report.

3. A statement concerning the hours of operation relating to the construction of the outdoor pond and the duration of the outdoor pond construction project.

4. Drawings showing the low water clearance level over stumps and other materials constituting an underwater hazard.

5. Such additional information as the Zoning Administrator or the Zoning Board of Appeals may require in order to evaluate the application.

6. Procedure. The following procedures shall apply to applications for outdoor ponds.

1. An application for outdoor pond approval for an outdoor pond that is less than 1 1/2 acres in size, covers less than 25% of the area of the lot on which it is to be located, and is the only outdoor pond on the lot shall be considered and decided by the Zoning Administrator. In considering the approval of such a pond, the Zoning Administrator may, in his discretion, waive any of the application requirements contained in Subsection (b)(6) and/or (b)(7) of this section. The Zoning Administrator may, in his discretion, decline to make a decision on a pond approval application and refer the decision thereon to the Zoning Board of Appeals as a matter referred to the Zoning Board of Appeals decision pursuant to Section 603 of the Zoning Act (MCL § 125.3603). Planning Commission. No pond shall be approved pursuant to this subsection unless the pond meets all of the restrictions and requirements contained in Subsection (d) of this section.

2. An application for outdoor pond approval for an outdoor pond that is not subject to Zoning Administrator consideration and approval pursuant to Subsection (c)(1) of this section shall be heard and decided by the Zoning Board of Appeals as a matter referred to the Zoning Board of Appeals decision pursuant to Section 603 of the Zoning Act (MCL § 125.3603). Planning Commission as a special use. No pond shall be approved pursuant to this subsection unless the pond meets all of the restrictions and requirements contained in Subsection (d) of this section.

3. Restrictions and requirements. The following restrictions and requirements shall apply to all outdoor ponds and outdoor ponds may only be located as follows:

   1. Landscaping and visual enhancement of the parcel: all zoning districts.
   2. Recreation, swimming and boating: AG, R-1, R-2, R-3, R-4, R-5 and C-2 Zoning Districts only as an accessory use to a permitted principal use of the parcel.
   3. Livestock watering and fish production for commercial purpose: AG Zoning District only.
   4. Wildlife habitat, not used for any commercial purposes: all zoning districts.
   5. Source of water for irrigation, spraying or fire suppression: AG Zoning District and for a planned unit development if included as an approved accessory use in the planned unit development.
   6. Stormwater retention, detention, or drainage: all zoning districts.
(a) The outdoor pond shall comply with all of the yard requirements for the zoning district in which it is located. As part of the authorization of a pond, the Zoning Administrator or the Zoning Board of Appeals Planning Commission may approve the location of an outdoor pond in a front yard.

(b) Each outdoor pond shall have a required depth over a minimum of 15% of the area of the outdoor pond as follows:

<table>
<thead>
<tr>
<th>Pond Size</th>
<th>Required Depth</th>
</tr>
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<tbody>
<tr>
<td>(acres)</td>
<td>(feet)</td>
</tr>
<tr>
<td>1 or smaller</td>
<td>10 or more</td>
</tr>
<tr>
<td>Larger than 1</td>
<td>15 or more</td>
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</table>

(c) If the Zoning Board of Appeals Planning Commission determines that compliance with the required depth requirement of this subsection is not necessary to maintain acceptable water quality in the outdoor pond, then the Zoning Board of Appeals Planning Commission, in its discretion, may waive the required depth requirement of this subsection.

(d) The side slopes (contour) of an outdoor pond shall be constructed and maintained below normal water level with a slope no steeper than 1:6 until a depth of three feet and thereafter with a slope no steeper than 1:3.

(e) The side slopes (contour) of an outdoor pond shall be constructed and maintained above the normal water elevation with a slope no steeper than 1:6 for a minimum distance of 10 feet measured along the slope from the normal water elevation. This ten-foot area shall be maintained with stone, rock, sand, or other similar materials.

(f) All stumps and other materials that could constitute an underwater hazard shall be removed; provided, however, that stumps and other materials need not be removed if there is at least a ten-foot clearance between the stump or other underwater material and the normal water elevation of the pond.

(g) The discharge pipe from any outdoor pond without a direct outlet to an established drain shall have the drain size designed and engineered by an engineer licensed by the state and approved in writing by the Ottawa County Drain Commissioner. No outdoor pond shall be wholly or partially emptied in any manner that will cause water to flow upon the land of another and no outdoor pond shall be wholly or partially emptied upon any land if a storm drain is readily accessible to the premises on which the outdoor pond is located. Discharge into the public sanitary sewer is prohibited.

(h) No water drawn from a governmentally owned or operated water system shall be used in connection with the filling or operation of an outdoor pond.

(i) If any sand, topsoil, gravel, or other such material is to be removed from the parcel on which the pond will be located, all requirements of this article and all other Township ordinances, rules, and regulations shall be complied with as well as all requirements of all county, state, and federal ordinances, statutes, laws, rules, and regulations.

(j) No outdoor pond located on land that is not included in a subdivision, site condominium, or other residential development consisting of multiple building sites shall be located closer than 75 feet from the exterior boundary of the land on which it is located. No outdoor pond located inside a subdivision, site condominium, or other residential development consisting of multiple building sites shall be located closer than 75 feet from the outside boundary of the subdivision, site condominium, or other residential development, consisting of multiple building sites. However, if written consent is obtained and provided to the Township from the adjoining landowner, the Zoning Administrator (if he is considering and deciding on the outdoor pond application) or the Zoning Board of Appeals Planning Commission (if it is
considering and deciding on the outdoor pond application may, in approving an outdoor pond, permit a setback of less than 75 feet in either of the two situations described in this subsection, subject, however, to a minimum setback of 25 feet in any event.

(e) Standards. In considering approval of an outdoor pond, the Zoning Administrator and the Zoning Board of Appeals or Planning Commission shall consider the following standards:

(1) Whether all other permits or approvals from other governmental units or agencies have been obtained; for example, approval of the Ottawa County Drain Commissioner for any ponds that would come under the jurisdiction of that office and any approval/permit that may be under Part 301 of the Natural Resources and Environmental Protection Act (MCL § 324.30101 et seq.).

(2) The location of the outdoor pond on the parcel and its proximity to adjoining parcels.

(3) The potential for the outdoor pond to become a safety hazard for adjoining property or the public.

(4) The number of other outdoor ponds on the parcel or in the vicinity of the parcel.

(5) The character, nature and size of the outdoor pond and its effect on the parcel, including the effect on other appropriate uses of the parcel.

(6) The potential for the outdoor pond to result in stagnant water or insect breeding so as to become a nuisance.

(7) The effect of the outdoor pond on adjacent properties, on wells and the water table in the vicinity and on the health, safety and welfare of the public.

(f) Conditions for authorization. In giving its authorization, the Zoning Administrator or the Zoning Board of Appeals or Planning Commission may:

(1) Require financial assurance for the completion of the outdoor pond project within the time set in the issued building permit. The financial assurance shall be in the form of a bond or cash or a letter of credit acceptable to the Zoning Board of Appeals or Planning Commission and which shall permit the Township to access such funds to enable the Township to remedy a violation of the authorization and the issued building permit. The Zoning Board of Appeals or Planning Commission shall determine the amount of such bond or letter of credit at the time of authorization.

(2) Require proof of liability insurance in amounts acceptable to the Zoning Board of Appeals or Planning Commission, which shall be in place at the time the building permit is issued and shall be maintained until the pond construction project is completed.

(3) Require that the outdoor pond be enclosed with a wall, fence, or other type of enclosure. Such wall, fence, or other type of enclosure shall not be less than four feet above the grade line. The wall, fence, or other type of enclosure shall be designed so there are no openings of such a nature or size as to permit any child to pass through or under the fence, wall, or other type of enclosure except as a gate or door, and shall be of a type not readily climbable by children. All gates or doors leading to an outdoor pond, except a door in any building forming a part of the enclosure, shall be kept closed when no one is present on the lot on which the outdoor pond is located and such gates and doors shall be fitted with a positive latching device which will automatically latch them when said gate or door is in a closed position.

(4) Require the construction, installation, operation, maintenance, and repair of bubblers, aeration equipment, fountains, or similar devices intended to maintain and enhance the outdoor pond water quality.

(5) Impose such other conditions or require such modifications in the plans for the outdoor pond as are determined reasonable and necessary for the protection of the health, safety and welfare of the general public.

(g) Responsibility. By applying for approval of the outdoor pond, applicant shall be deemed to have consented to and agreed to all of the following:

(1) That the applicant and all parties at any time owning or having any interest in the premises on which the outdoor pond is located agree that they shall, at no time, petition for the establishment of a lake board pursuant to Part 309 of Public Act No. 451 of 1994 (MCL § 324.30901 et seq.), and
they shall, at no time, petition for or otherwise investigate any other legal proceeding under any federal or state statute or other provision of federal or state law which would result in the imposition of an assessment, charge or other financial responsibility on the Township in connection with the outdoor pond. Without limiting the generality of the immediately preceding sentence, applicant and all parties at any time owning or having any interest in the premises on which the outdoor pond is located shall at no time petition for the maintaining of normal height and level of waters, maintenance, improvement, or development of the outdoor pond for fishing, wildlife, boating, swimming, algae and other vegetative controls, or for any other recreational or agricultural use.

(2) That the applicant has designed and engineered the outdoor pond and applicant assumes all responsibility with respect to the adequacy of its design, the adequacy of any outlet, the safety of the outdoor pond with respect to adjoining landowners and the public generally, and all other aspects of the ponds’ construction, erection, installation, location, repair, maintenance, expansion, widening, reconstruction, or deepening.

(3) That the applicant shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the Township and its officers, board, Planning Commission, Zoning Board of Appeals, employees, and agents against any and all claims, damages, demands, expenses, liabilities, and losses of any character or nature whatsoever arising out of or resulting from the construction, erection, installation, location, maintenance, repair, reconstruction, deepening, expanding, or widening of the outdoor pond, including, but without limitation, any liability to third parties on account of any negative effect caused by the outdoor pond on the water table of parcels of land in the vicinity of the outdoor pond. The indemnification obligation provided in the preceding sentence shall include the payment of all reasonable attorneys’ fees and other expenses of defense.

The provisions of this subsection shall be included as part of the application for an outdoor pond and the applicant shall be required, as a condition of making an application for an outdoor pond, to accept and agree to all of the provisions of this subsection.

(h) Building permit. Upon authorization and compliance with all conditions, the Zoning Administrator shall issue a building permit for the pond construction project. The building permit shall be valid for a period of one year, provided that the permit may be renewed prior to its expiration date by the Zoning Administrator for a period not exceeding an additional six months.

(i) Garden/landscaping ponds. This section shall not apply to small garden and/or decorative landscaping ponds having a permanent liner with an aggregate surface area of 150 square feet or less.

(j) Verification of compliance. Upon completion of the outdoor pond, the engineer who prepared the drawings of the outdoor pond as required in Subsection (b)(6) of this section, unless that requirement has been waived by the Zoning Administrator pursuant to Subsection (c)(1) of this section, shall certify that the outdoor pond has been constructed, erected, installed, located, deepened, expanded, reconstructed, or widened in accordance with the application and the Zoning Administrator or the Zoning Board of Appeals/Planning Commission approval. The engineer’s certification shall be made within 30 days of the completion of the outdoor pond and prior to the utilization of the outdoor pond for its intended purposes. The Zoning Administrator may, in his discretion, require a review by the Township’s engineer, at the sole cost and expense of the applicant, to verify such compliance. In such circumstance, the applicant shall deposit with the Township a fee in the amount of the reasonable anticipated cost of the Township Engineer’s review. If the advanced payment of fees exceeds the actual expense of the Township Engineer’s review, the Township shall return the entire or unused portion of the deposit to the applicant. If the advanced payment is insufficient to pay the actual expense of the Township Engineer’s review, then the applicant shall promptly pay the Township the balance of the engineering expense.
Section 38-505. Earth change regulations and permits.

(a) Permit required. Except as exempted under Subsection (e) of this section, no earth change shall be conducted on any parcel of land unless such earth change has been authorized by and is in compliance with a permit issued pursuant to this section. For purposes of this section, the term "earth change" means a man-made change in the natural or existing cover or topography of land, including without limitation, the excavating, mining, removing, importing, moving, filling, stockpiling, depositing and/or storing of topsoil, subsoil, sand, gravel, clay, aggregate, stone, sludge, ash and/or any similar materials and resources.

(b) Application for permit. An application for an earth change permit shall be filed with the Zoning Administrator. An application fee, as established by the Township Board from time to time, shall be paid when the application is filed. Such application shall contain the following information and documentation:

(1) The name and address of the applicant. If the applicant is not an individual, the name and title of a contact person for the applicant shall be provided.

(2) If the applicant is not the owner of the parcel, the name and address of the holder of record title and the nature of applicant’s interest in the parcel shall be stated.

(3) A survey and legal description of the parcel for which the earth change permit is sought.

(4) A statement together with a map that details the specific nature and extent of the proposed earth change activity including the following:
   (a) The type of materials involved in the proposed earth change.
   (b) A fair and reasonable estimate of the number of cubic yards of materials involved and description as to what volume of materials are to be excavated from, removed from, imported onto, moved on and/or stored on the parcel as part of the proposed activities.
   (c) A map depicting the proposed contours of the parcel upon completion of the earth change activities and showing the location of the proposed earth change activities in relation to the boundaries of the parcel and to buildings, septic systems, existing bodies of water and watercourses, both on the parcel and on adjacent lands.
   (d) The location and type of any fencing or other screening to be located on the parcel during the earth change activities.
   (e) The proposed landscaping and/or revegetation to secure and stabilize the ground and any slopes during and at the completion of the earth change activities.
   (f) A description of the type and amount of equipment proposed to be employed in the earth change activities.
   (g) The points of ingress and egress for the parcel and the route the applicant intends to use in transporting materials to and/or from the parcel. The location and size of aprons and scrub pads, if any are proposed, shall be detailed, together with a cleaning and maintenance plan. Aprons and scrub pads may be required as a condition to issuance of the permit and, if so, they shall be constructed of concrete or asphalt with scrub pads having a minimum length of 100 feet from the road onto the parcel and a minimum width of 12 feet and with aprons having a minimum radius of 25 feet, unless the Planning Commission determines other dimensions under the circumstances of the project.
   (h) Any proposed road signage for “slow trucks,” “truck crossings,” etc.
   (i) Proposed hours of operation.
   (j) Duration of earth change activities.

(5) Information regarding approvals and/or permits required under any other federal, state, local government or agency.

(6) Information regarding financial assurance (in the form of a bond or letter of credit) to be provided to the Township to ensure compliance with the permit.
(c) Action on application. If the Zoning Administrator determines the application to be complete, the application will be forwarded to the Zoning Board of Appeals for action as a matter of a Zoning Board of Appeals decision pursuant to Section 603 of the Zoning Act (MCL 125.3603) and Article II, Division 2, of this chapter.Planning Commission.

(1) In making its decision, the Zoning Board of Appeals Planning Commission shall consider the following standards:

(a) The nature of the proposed earth change, including without limitation, whether materials are to be excavated and removed from, or imported to, or moved upon the parcel and the purpose for the proposed earth change, together with the clearing of the land.

(b) The size of the parcel.

(c) The effect of such earth change on neighboring parcels and whether such earth change can be conducted in a manner harmonious with the neighboring uses.

(d) The potential of the earth change to create safety concerns or hazards, to cause problems with noise, fumes, dust, lights and vibrations, to create erosion problems, to alter the groundwater table in the vicinity, to cause flooding or diversion of water, to result in the creation of sand blows, stagnant water pools, bogs and other similar problems affecting the adjacent properties and environment in the vicinity.

(e) The change in the topography and loss of natural resources.

(f) The types of trucks and other equipment to be used and the potential for traffic congestion, damage to roads, noise and debris, and safety hazards resulting from trucks and equipment used in the earth change activities.

(g) Whether the earth change activities comply with all applicable federal, state, county and local laws, ordinances, rules, regulations permits and requirements.

(2) The Zoning Board of Appeals Planning Commission may approve, approve with appropriate conditions, or deny the application for an earth change permit and shall state the findings and conclusions for its decision. The Zoning Board of Appeals Planning Commission shall have the right subsequently to impose additional conditions of approval or to amend any conditions of approval if reasonably necessary to achieve the purposes of the zoning chapter and/or address any change in circumstances or problems; provided that, such action shall not be taken without notice to the applicant and a hearing pursuant to Section 38-36.

(3) If the Zoning Board of Appeals Planning Commission approves, with or without conditions, the issuance of the earth change permit, it shall also establish the appropriate amount and type of financial assurance to be provided by the applicant to ensure compliance with the permit and to make funds available to the Township to correct any noncompliance.

(d) Issuance of permit. Upon approval of the Zoning Board of Appeals Planning Commission, the Zoning Administrator at the request of the applicant shall issue an earth change permit. The issuance and the permit are subject to the following conditions:

(1) The applicant must request and obtain the permit within six months from the date of approval by the Zoning Board of Appeals Planning Commission; otherwise the approval is null and void and reapplication is required.

(2) At the time the permit is requested, the applicant shall provide the required financial assurance.

(3) At the time the permit is requested, the applicant shall provide proof of adequate comprehensive general liability insurance and such insurance shall be maintained during the earth change activities.

(4) The permit shall allow only those earth change activities specified in the terms and provisions of the application, as modified and/or supplemented by any conditions of approval made by the Zoning Board of Appeals Planning Commission, which terms, provisions and conditions shall be deemed included in the permit without further recitation.

(5) The permit issued shall not be transferable or assignable by the applicant, unless an application to approve such transfer or assignment is made and the Zoning Board of Appeals Planning Commission approves.
Commission, after a hearing, approves the transfer or assignment, which approval may be with appropriate conditions. The permit, including all terms, provisions and conditions, shall be binding upon the applicant, parties having an interest in the parcel and any successors or assigns.

(6) The permit shall be issued for the duration of the earth change activities as approved in the decision of the Zoning Board of Appeals/Planning Commission; provided, however, that no permit shall be issued for a period exceeding three years. Prior to expiration of the initial permit period, the applicant may request the Zoning Board of Appeals, in its discretion, to grant an extension of the permit not to exceed one year. Such request will be subject to the laws, ordinances, rules and regulations then in effect and, there is no assurance or commitment for approval of such request under the laws and circumstances that may exist.

(e) Exemptions from permit requirements.

(1) The following earth change activities do not require a permit, but are subject to the provisions of Subsection (e)(2) of this section:
   a. Up to 2,500 cubic yards of topsoil, subsoil and sand may be removed from or imported to a parcel for purposes of the construction of a building or structure on the parcel.
   b. Topsoil or sand may be moved from one part of a parcel to another area of the same parcel.

(2) Exempted earth changes shall comply with the following standards:
   a. The earth change shall not create or cause a safety hazard, erosion by wind or water, alteration of groundwater tables and other similar problems.
   b. The earth change shall not cause or create sand blows, stagnant water pools, bogs or any similar type circumstances that cause injury to adjoining properties.
   c. The earth change shall not cause a significant change in the natural topography or have an adverse or destructive impact on the environment or a natural resource.
   d. The earth change shall not result in traffic congestion, road safety hazards or other similar problems.

(f) Violations. A violation of this section or of any term, provision or condition of an approval granted and/or permit issued under this section shall constitute a violation of this chapter, and in addition to the remedies provided in this chapter, the Zoning Administrator may issue a stop work order and/or may revoke or cancel any permit in the manner provided in Section 38-33(f).

(g) Relation to ponds. The requirements of this section are in addition to and separate from any requirements, approvals and permits relating to the creation of ponds under Section 38-504.

Section 38-184 – Use regulations

(8) Removal and processing of top soil, sand, gravel, or other such minerals when authorized by the Zoning Board of Appeals as a matter for Zoning Board of Appeals decision pursuant to Section 603 of the Zoning Act (MCL S125.3603) Planning Commission in accordance with Section 38-505.

Section 38-214 – Use regulations

(6) Removal and processing of top soil, sand, gravel, or other such minerals when authorized by the Zoning Board of Appeals as a matter for Zoning Board of Appeals decision pursuant to Section 603 of the Zoning Act (MCL S125.3603) Planning Commission in accordance with Section 38-505.

Section 38-33(e) – Expiration of permits

Expiration of permits. A permit for any building or structure for which construction work has not begun within six months from the date of its issuance, or for which all construction work has not been completed within one year from the date of its issuance, shall expire automatically. A permit expiring automatically pursuant to this subsection shall, upon reapplication, be renewable once only upon payment of an additional fee.
1/2 of the original permit fee as established by Township Board resolution. A renewed permit shall automatically expire if construction work has not begun within one year from the date of issuance of the original permit and shall also expire automatically if all construction work has not been completed within two years from the date of issuance of the original permit.

Section 38-492 – Swimming pools

(a) No swimming pool (referred to as "pool" in this section) shall be constructed, erected or installed on any lands in the Township unless a permit therefor has first been obtained from the Zoning Administrator.
(b) The outside edge of the pool wall shall not be located nearer than four feet to any lot line; provided, however, that if any part of the pool wall is more than two feet above the surrounding grade level, then the outside edge of the pool wall shall not be placed nearer than 10 feet to any lot line.
(c) A pool of which any wall, including retaining walls designed to structurally support the pool, is greater than 30 inches above grade shall not be located in the required rear yard of a waterfront lot. Any fence used as a barrier for a pool located in the rear yard of a waterfront lot shall be glass, or other see-through material approved by the Zoning Administrator, which results in minimal visual obstruction. Any retaining walls that structurally support a pool shall result in minimal visual obstruction of waterfront lots.

Section 38-516 – Firewood Sales

The sale of firewood is considered a seasonal temporary use within any zoning district and is subject to the following conditions.

A. All firewood sales are limited to firewood that has been cut from the parcel or lot where the firewood is to be sold.
B. Firewood sales must be conducted in a manner that does not create a traffic hazard or nuisance to neighboring properties.
C. Firewood must be stacked in a neat, compact and orderly manner to avoid creating a harborage for animals, rodents or other pest infestation or other hazard to the public safety and welfare. Firewood must be stored as a face cord in one (1) or more structures or racks that are at least three (3") inches above the ground, not more than forty-eight (48") inches in height, and not more than eight (8') feet in length.
D. Any signs advertising the sale of firewood must conform to the signage provisions of the zoning district in which the property is located.

Section 38-517 – Garage Sales

Garage sales, rummage sales, yard sales, moving sales, and similar activities are considered temporary accessory uses within any residential zoning district and are subject to the following conditions.

A. Any garage sale, rummage sale or similar activity will be allowed without a temporary Zoning Permit for a period not to exceed four (4) days within a three (3) month period. Any such activities operating for a period of time in excess of four (4) days will require a temporary Zoning Permit from the Zoning Administrator.
B. All such sales must be conducted a minimum of thirty (30') feet from the front lot line and a minimum of fifteen (15') feet from the side lot lines.
C. No signs advertising such sales may be placed upon a public right of way or other public property. All signs advertising such sales must be placed upon private property with the consent of the owner of the private property and must be removed within twenty-four (24) hours of the conclusion of the sale or similar activity.