

**CHESHIRE TOWNSHIP  
ALLEGAN COUNTY, MICHIGAN**

**CHESHIRE TOWNSHIP ZONING ORDINANCE**

(Ordinance No. 425, as amended)

Current through Ordinance No. 429  
October 2007

CESHIRE TOWNSHIP ZONING ORDINANCE

ORDINANCE NO. 425

ADOPTED: June 7, 2004

EFFECTIVE: June 25, 2004

An ordinance to establish zoning districts, provisions and regulations for the Township of Cheshire pursuant to the provisions of Act 184 of the Public Acts of 1943, as amended (the Township Zoning Act), Act 110 of the Public Acts of 2006 (the Michigan Zoning Enabling Act), as may be amended, and any other applicable laws; to set forth regulations and minimum standards for the use and protection of lands and structures within each district; to establish provisions for the administration, enforcement and amendment of this ordinance; to establish a Zoning Board and Zoning Board of Appeals; to prescribe sanctions for the violation of the provisions herein; and to repeal all ordinances or parts of ordinances in conflict herewith.

THE TOWNSHIP OF CESHIRE,  
ALLEGAN COUNTY, MICHIGAN,

ORDAINS:

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## ARTICLE I

### SHORT TITLE AND PURPOSE

1.1 SHORT TITLE: This ordinance shall be known as the Cheshire Township Zoning Ordinance.

1.2 PURPOSE: The Zoning Districts established by the ordinance and the regulations specified for each such district have been developed in accordance with the continuing formulation of a comprehensive plan for the physical development of Cheshire Township as a part of Allegan County. In their application and interpretation the provisions of this ordinance shall be held to be minimum requirements adopted to promote the public safety, health, and general welfare. Among other purposes, these provisions are designed to conserve and protect lands, water and other natural resources in the Township for their most suitable purposes; to protect productive agricultural lands for agricultural uses; to reduce hazards to life and property; to secure safety from fire and other dangers of excessive public costs which result from unguided community development; to avoid undue concentration of population by regulating and limiting the density of use of land; to lessen congestion in the public highways and streets; to facilitate the economical provision of adequate streets and highways, educational and recreational facilities, sewerage, drainage and water supply systems while avoiding the installation of such utility services to illogical locations; and to enhance the social and economic stability of Cheshire Township.

1.3 SCOPE: It is not intended by this ordinance to repeal, abrogate, annul or interfere with existing provisions of other laws or ordinances except those specifically or impliedly repealed by this ordinance, or with any private restrictions placed upon property by covenant, deed or other private agreement unless repugnant hereto. Where this ordinance imposes a greater restriction than is imposed or required by such rules, regulations or private restrictions, the provisions of this ordinance shall control.



## ARTICLE II

### INTERPRETATION OF LANGUAGE

2.1 RULES OF INTERPRETATION OF ZONING ORDINANCE TEXT: The following rules of construction apply to the text of this ordinance:

1. The particular shall control the general.
2. In the case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
3. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. A “building” or “structure” includes any part thereof.
6. The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for”, or “occupied for”.
7. The word “person” includes an individual, corporation, partnership, incorporated association, trust, joint venture, or any other similar entity, or a combination thereof.
8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and” or “or”, the conjunction shall be interpreted as follows:
  - a. “and” indicates that all the connected items, conditions, provisions or events shall apply; and,
  - b. “or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
9. Any word or term not herein specifically defined shall be considered to be defined in accordance with its customary or common meaning.

10. The word “he” shall mean he or she.

ARTICLE III  
DEFINITIONS

3.1 DEFINITIONS: For the purpose of this ordinance the following terms and words are herein defined, and these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated:

1. Accessory Building or Structure: A subordinate building or structure, on the same premises with a main building, occupied or devoted to an accessory use. Where an accessory building or structure is attached to a main building such accessory building or structure shall be considered part of the main building. This definition shall include satellite/cable television dish antennas and related apparatus, and conventional television antenna towers and related apparatus.
2. Accessory Use: A use naturally and normally incidental and subordinate to a principal use on the same premises.
3. Agricultural Production: The production for commercial purposes and sale for the purpose of obtaining a profit in money by the raising, harvesting, and selling of crops and forage; by feeding or breeding or management and sale of, or the produce of livestock, poultry, fur-bearing animals, or honey bees; or for dairying and the sale of dairy products of animal husbandry, or riding stable or any combination thereof; or any other agricultural, horticultural or floricultural use such as fruits, plants, ornamental trees, timber, shrubs, nursery stock, and vegetables.
4. Alteration of Building: A change in the supporting members of a building, or an addition, diminution, change in use or conversion of a building, or the removal of a building from one location to another.
5. Automotive Sales Area: An area used for the display, sale or rental, but not for the repair, of new or used motor vehicles, boats, trailers, farm equipment or similar equipment.
6. Automotive Service Station: A building or structure designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for facilities for storage, minor repair,

or servicing; but not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rust proofing, or high-speed washing thereof, or sales of used cars, new cars, used trucks, new trucks, motorcycles or other land vehicle type, or sales unrelated to service station use.

7. Basement: A portion of a building which is partially or wholly below grade; provided that where the vertical distance from the average finished grade to the ceiling of said area is greater than one-half of the total height of the area, said area shall not be considered a basement.
8. Bed & Breakfast: A use which is subordinate to the principal use of a single family dwelling in which transient guests are provided a sleeping room and board in return for compensation for a period of time not to exceed seven (7) days.
9. Building: An independent structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons, animals or property of any kind. When any portion thereof is completely separated from every other part by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.
10. Building Code/Township Building Code: The building, mechanical, plumbing and electrical code(s) in effect in Cheshire Township.
11. Building Height: The vertical distance measured from the average grade of a building to the highest point of the roof.
12. Building Line: The line adjacent to a building and parallel to the front lot line, formed by the junction of the outer surface of the building or enclosure wall with the finish grade or surface of the adjacent ground.
13. Building, Main or Principal: A building in which is conducted the principal use of the lot or parcel upon which it is situated.
14. Building, Occupancy and Use Permit: The written authority issued by the Building Inspector/Zoning Administrator of the Township, permitting the construction, removal, moving, alteration, or occupancy and use of a building.

15. Building Official/Inspector: The person or persons appointed by the Township Board or State to inspect buildings for conformance to the building codes and administer the building codes effective in this Township.
16. Child (Family) Day Care Home: A private home properly registered or licensed under 1973 Public Act 116, as amended (MCLA 722.111 et seq.) in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. This term shall include a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
17. Child (Group) Day Care Home: A private home properly registered or licensed under 1973 Public Act 116, as amended, (MCLA 722.111 et seq.) in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty four (24) hours a day unattended by a parent or legal guardian, except children related by blood, marriage, or adoption. This term shall include a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
18. Church: A building whose primary purpose is to provide a place where persons regularly assemble for religious worship which is maintained and controlled by a religious body organized to sustain a public worship for a local congregation.
19. Convalescent or Nursing Home: A home for the care of children or the aged or the infirmed, or a place of rest for those suffering serious bodily disorders, wherein three (3) or more persons are cared for.
20. County Planning Commission: The Allegan County Planning Commission.
21. Dwelling or Residence: A building, mobile home, pre-manufactured or pre-cut dwelling structure designed and used for the complete living accommodations of a single family. In no case shall a recreational vehicle, automobile chassis, tent or portable building be

considered as a dwelling. In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this ordinance and shall comply with the provisions hereof relative to dwellings. Garage space, whether in an attached or unattached garage shall not be deemed a dwelling for the purposes of complying with the area requirements in this ordinance. This definition shall also include energy-saving earth sheltered homes which contain at least one exposed vertical exterior elevation not less than seven and one-half feet in height by 24 feet in width and without any accommodation for any dwelling units above ground, and which are either constructed with a completely earth-covered roof having a structural roof system with a slope of not less than one-half inch of rise per foot of run or constructed with a roof which is not completely earth-covered having a slope with at least a five inch rise for each 2 inches of run.

All dwellings shall comply with the standards in Section 12.5 of this ordinance.

- a. Dwelling, Multiple-Family: A building containing two or more separate dwelling units designed for residential use.
  - b. Dwelling, Single-Family: A detached building containing only one dwelling unit designed for residential use.
  - c. Dwelling Unit: A building or portion thereof arranged or designed to provide permanent living facilities for not more than one family.
22. Earth Removal: Removal of any kind of soil or earth matter, including topsoil, sand, gravel, clay or similar materials, or combination thereof; but not including common household gardening and general farm care.
23. Essential Services: The erection, construction, alteration or maintenance by public utilities or public authorities, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wire mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in

connection therewith, as shall be reasonably necessary for the furnishing of adequate services by public utilities, or public authorities, including buildings which are primarily enclosures or shelters of the above essential service equipment; but not including other buildings, or “public utility service facilities” as defined in this Ordinance.

24. Family: One or more persons related by blood, marriage, or adoption, including those related as foster children or servants, occupying a dwelling unit and living as a single, nonprofit housekeeping unit; or, a collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single housekeeping unit, but not including any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or other organization which is not a recognized religious order, and also not including a group of individuals whose association is temporary and resort-seasonal in character or nature.
25. Family Business: An occupation, business or activity which is incidental to the principal residential use of the property (but which is not a home occupation), and subject to the conditions and limitations set forth at Section 13.7 of this ordinance.
26. Farm Accessory Building: Any building or structure other than a dwelling, moved upon, maintained, used or built on a farm, which is essential to and customarily used on farms of that type for the pursuit of their agriculture activities.
27. Filling: The depositing or dumping of any matter onto or into the ground, except residuals from common household gardening and general farm care.
28. Floor Area, Gross: The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. This definition shall include the basement floor area when more than one-half (1/2) of the basement height is above the established curb level or finished lot grade, whichever is higher (see “Basement” definition), but shall not include any space devoted to off-street parking or loading, or areas of utility rooms, breezeways,

unfinished attics, porches (enclosed or unenclosed), attached garages, or basements, except as indicated above.

29. Foster Care Facility: A residential facility, other than a child or adult day care home, licensed by the state pursuant to 1979 Public Act 218, as amended (MCLA 400.701 et seq.), or 1973 Public Act 116, as amended (MCLA 722.111 et seq.), which provides resident services for 6 or less persons under 24 hour supervision or care for persons in need of that supervision or care.
30. Golf Course: A comparatively large area of land laid out for the game of golf, which may include a club/pro shop providing locker facilities and the sale of food/beverages and golf related merchandise.
31. Grade: Any building grade shall, in the case of fairly level ground conditions, be the level of the ground adjacent to the walls. For substantially unlevel ground, the grade shall be the average elevation of the ground adjacent to the walls.
32. Health Department: The Allegan County Health Department.
33. Home Occupation: Any occupation or activity carried out for gain and conducted as an accessory use in a residential dwelling-unit, and subject to the conditions and limitations set forth in Section 12.21 of this ordinance.
34. Institutional or Public Use: Churches; schools teaching academic subjects; hospitals; public parks and recreation areas, civic centers, libraries and other public or semi-public uses, including governmental administration or service buildings.
35. Junk: Any motor vehicles, machinery, appliances, products, merchandise with parts missing, or scrap metals or other scrap materials that are damaged, deteriorated, or otherwise in such a condition as to be practicably unusable for the purposes for which the product was manufactured or designed.
36. Junk/Salvage Yard: Any place where the storing, dismantling, wrecking, and disposition of junk is carried on, including automobile wrecking yards and salvage areas used for the storage, keeping or abandonment of junk and scrap materials. This term does not



include uses established entirely within enclosed buildings in conformance with all other provisions of the Zoning Ordinance, and also does not include the non-commercial storage of inoperable vehicles and farm equipment in accordance with all applicable ordinances.

37. Kennel: Any lot or premises on which more than five (5) dogs are kept either permanently, or temporarily boarded for persons other than the owner, or on which more than five (5) dogs are kept for commercial breeding purposes. All kennels shall comply with all applicable Township, County and State regulations.
38. Lot: A parcel of land adjoining a dedicated public street, or adjoining a lawful private road within an approved planned unit development, and separated from other parcels by legal description, deed or subdivision plot; provided that the owner of contiguous lots or portions of contiguous lots in single ownership may elect to group such lots together for zoning purposes into a “zoning lot”. See definition of “Lot, Zoning” herein.
  - a. Lot, Area: The total horizontal area within the lot lines of a lot, including the area of the adjoining street right-of-way within the boundaries of the lot.
  - b. Lot, Depth: The average horizontal distance from the front lot line to the rear lot line.
  - c. Lot, Corner: A lot situated at the intersection of two (2) or more streets.
  - d. Lot, Double Frontage: A lot other than a corner lot having frontage on two (2) more or less parallel streets.
  - e. Lot, Frontage: The length of the front lot line of a lot.
  - f. Lot, Interior: A lot other than a corner lot with one (1) lot line fronting on a street.
  - g. Lot, Waterfront: A lot having frontage directly upon a natural or man-made lake, river, stream, pond, or other waterway.

- h. Lot, Lines: Any line dividing one (1) lot from another or from the street right-of-way, and thus constituting property lines bounding a lot.
- i. Lot Line, Front: In the case of an interior lot abutting on (1) one public or private street, the front lot line shall mean the line separating the lot from the street right-of way. In the case of a corner or double frontage lot, the front lot line shall be that line separating the lot from that street which is designated as the front street in the plat and/or in the request for a building or zoning compliance permit.
- j. Lot Line, Rear: The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot. In any case when this definition does not apply the Zoning Board of Appeals shall designate the rear lot line.
- k. Lot Line, Side: Any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior lot line.
- l. Lot of Record: A lot the dimension and configuration of which are shown on a map recorded in the Office of the Register of Deeds for Allegan County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a professional engineer or land surveyor (so registered and licensed by the State of Michigan) and likewise so recorded with the county.
- m. Lot, Width: The horizontal distance between the side lot lines, measured at the two (2) points where the building line intersects the side lot lines.
- n. Lot, Zoning: Two or more contiguous lots or portions of lots in single ownership, where the grouping of such lots for zoning purposes is allowed by this Ordinance. In such instances the outside perimeter of the group of lots shall

constitute the front, rear and side lot lines of what may be referred to as a “zoning lot”.

39. Mini Storage: A facility with one (1) or more completely self-enclosed buildings containing separate and individualized units rented or leased solely for the storage of personal property.
40. Mobile Home: A portable vehicular unit primarily designed for year-round dwelling purposes, built upon a chassis, equaling or exceeding twelve (12) feet in width and sixty (60) feet in length, and not motorized or self-propelled. Modular, prefab, pre-cut or sectional dwelling units which require being transported to the site separately in two (2) or more sections, and to which such major elements as the heating system or a substantial portion of the siding are installed after transport, and which are non-movable after erection, shall not be considered a mobile home, if same complies with the Township Building Code and the provisions of this ordinance.
41. Mobile Home Park A specifically designated parcel of land designed and developed to accommodate three (3) or more mobile home sites for non-transient residential use.
42. Mobile Home Site: A plot of ground within a mobile home park designed to accommodate and support one (1) mobile home. It is not the same as a building lot.
43. Motel/Hotel: A group of attached or detached dwellings containing guest rooms which are provided for transient occupancy only, including motor lodges, tourists’ homes, and similar transient lodging facilities; but not including bed and breakfasts and boarding or rooming houses.
44. Non-Conforming Use, Building/Structure or Lot of Record:
  - a. Non-Conforming Use: A use which lawfully occupied a building or land at the enactment date of this ordinance or amendments thereto, and that does not conform to the use regulations of this ordinance for the zoning district in which it is located.
  - b. Non-Conforming Building/Structure: A building/structure or portion thereof lawfully existing at the enactment date of

this ordinance or amendments thereto, and which does not conform to the provisions (e.g. set-backs, height, lot coverage, parking) of this ordinance in the zoning district in which it is located.

- c. Non-Conforming Lot of Record: A lot or parcel lawfully existing of record at the enactment date of this ordinance and which does not conform to the provisions of this ordinance (i.e. area, width, etc.).
- 45. Occupied: The word “occupied” includes the terms arranged, designed, built, altered, converted to, rented, leased, or intended to be inhabited, not necessarily for dwelling purposes.
- 46. Parking Area, Off-Street: An area (not utilizing any portion of a public street right-of-way) providing vehicular parking spaces along with adequate drives and aisles.
- 47. Permitted Use: A use listed as a “permitted use” in Article V through and including Article IX is recognized as a use of land and buildings in certain zoning districts which is harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the various applicable provisions of this Ordinance, but otherwise it is considered to be a lawful use not requiring special or extraordinary controls or conditions. See Sections 5.2, 6.2, 7.2, 8.2 and 9.2 of this Ordinance.
- 48. Principal Use: The main, primary or predominant use of a lot.
- 49. Public Utility: Any person, firm, corporation, municipal department or board duly authorized under municipal or state regulation to furnish to the public either transportation, water, gas, electricity, telephone, telegraph, cable television, steam, or sewage disposal services.
- 50. Public Utility Service Facilities: Gas or electric substations, regulator stations, including buildings accessory thereto, and other public utility service buildings or structures not constituting “essential services” as defined in this Ordinance.
- 51. Recreational Vehicle: A portable vehicular unit primarily designed for travel and/or recreational usage, which also contain facilities for overnight lodging. This term includes folding campers, truck-

mounted campers, and motor homes, but does not include mobile homes.

52. Recreational Vehicle Campground: A recreational oriented facility for the overnight or short term use of recreational vehicles; may also be known as a recreational vehicle park.
53. Retaining Wall: A permanent solid barrier of brick, stone, wood or other opaque material approved per the building code, intended to enclose or screen an area.
54. Roadside Stand: A temporary or permanent building or structure used by the residents of the property for the purpose of selling produce grown on the premises, together with incidental related products.
55. Single Ownership: Ownership by the same individual(s) or entity; provided that property owned by one or both spouses, and corporations or other entities in which two or more individuals are directors of each entity (or their spouses) shall be considered to have the same ownership for purposes of this ordinance.
56. Setback (Building or Structure): See definition of “Building/Structure Setback Line (Minimum)”.
57. Sign: Any device other than billboards using words, numerals, figures, designs or trademarks designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included:
  - a. Signs not exceeding one (1) foot square in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
  - b. Flags and insignia of any government, except when displayed in connection with commercial promotion;
  - c. Legal notices, identification, informational, or directional signs erected or required by governmental bodies;
  - d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;

- e. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
58. Sign, Area: The entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of sign area.
59. Special Land Use: A use listed as a “special land use” in Article V through and including Article IX is recognized as possessing characteristics of such unique and special nature (relative to location, design, size, public utilities needs, and other similar characteristics) as necessitating prior Zoning Board authorization and individual standards and conditions in order to safeguard the general health, safety and welfare of the community. See Sections 5.3, 6.3, 7.3, 8.3 and 9.3 of this Ordinance.
60. Street: A dedicated public right-of-way, other than an alley, over which the public has a right of vehicular access.
- a. Street, County Primary: A street or highway so designated on the Allegan County Road Commission Map and which is designed and intended to carry heavy traffic volumes.
  - b. Street, Township or Local: A dedicated public way (other than a county primary street) or recorded private street affording access to abutting properties, and designed primarily to serve immediate neighborhood needs.
61. Structure: Anything except a building, constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.
62. Township Board: The Cheshire Township Board.
63. Variance: A modification of the literal provisions of a dimension requirement, as opposed to the use of the property, which is granted when strict enforcement would cause practical difficulties because of circumstances unique to the individual property on which the variance is granted.

64. Yard, Side-Rear-Front: A general term applied to the space on a lot or parcel, which contains a building or group of buildings, lying between the building or group of buildings and the nearest respective lot or property line facing each building (see Appendix A illustration entitled “Lot Terminology”).
65. Yard, Required Side-Rear-Front: An open space of prescribed width or depth, adjacent to a lot or property line, on the same land with a building or group of buildings, lying in the area between the building or group of buildings and the nearest lot line, and which is unoccupied and unobstructed from the ground upward, except for plants, trees, shrubs, fences, and as otherwise provided herein. This regulation shall not include eaves provided that an eight (8) foot height clearance is provided above the adjacent ground level (see Appendix A illustration entitled “Yard Requirements”).
- a. Front: An open space extending across the full width of a lot between the front lot line and the building setback line. The depth of such yard shall be the shortest horizontal distance between the front lot line and the building setback line, measured at right angles.
  - b. Rear: An open space extending across the full width of a lot between the rear lot line and the nearest line of a building, porch or projection thereof. The depth of such yard shall be the shortest horizontal distance between the rear lot line and the nearest point of the building, porch or projection thereof.
  - c. Side: An open space extending on each side of the lot from the required front yard to the required rear yard. The width of such yard shall be the shortest distance between the side lot lines and the nearest point of a building, porch or projection thereof.
66. Zoning Administrator: The person or persons appointed by the Township Board to administer and enforce this ordinance; may also be known as the Zoning Ordinance Enforcement Officer.
67. Zoning Board: The statutory Zoning Board established pursuant to 1943 Public Act 184, as amended; provided that the Cheshire Township Zoning Board in existence on July 1, 2006 shall thereafter continue and be known as the Cheshire Township Zoning Commission, and shall continue to

perform its duties and exercise its powers and jurisdiction as provided by law and this Ordinance until such time as the Cheshire Township Board creates a Planning Commission and transfers the powers and duties of the Zoning Board/Zoning Commission to the Planning Commission under applicable law. The term "Zoning Board" wherever it is used in this Ordinance shall therefore mean "Zoning Commission" beginning July 1, 2006.

68. Zoning Board of Appeals: The Cheshire Township Zoning Board of Appeals.
69. Zoning Compliance Permit: An authorization issued by the Zoning Administrator indicating that the proposed use and location of a building or structure conforms with the pertinent provisions of this ordinance.



ARTICLE IV  
CLASSIFICATION AND USE DISTRICTS

4.1 ZONING DISTRICTS: For the purpose of this Ordinance, Cheshire Township is hereby divided into the following zoning districts to be known as:

- R-1 RURAL RESIDENTIAL DISTRICT
- R-2 RESIDENTIAL DISTRICT
- RMH MOBILE HOME PARK RESIDENTIAL DISTRICT
- C-1 LOCAL COMMERCIAL DISTRICT
- I-1 LIGHT INDUSTRIAL DISTRICT

4.2 ZONING MAP AND ZONING DISTRICT BOUNDARIES: The locations and boundaries of the zoning districts are hereby established as shown on the official Zoning Map of Cheshire Township, as may be amended from time to time, which accompanies and is hereby made a part of this ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of interpretation shall apply.

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following township boundaries shall be construed as following township boundaries.
4. Boundaries indicated as approximately following shorelines or lake or stream beds shall be construed as following such shorelines or lake or stream beds, and in the event of change in the location of shorelines or lake or stream beds shall be construed as moving with the shoreline or lake or stream bed.
5. Boundaries indicated as approximately following property lines, section lines, or other lines of a government survey shall be construed as following such property lines, section lines, or other lines of a government survey as they exist as of the date of enactment of this ordinance or applicable amendment thereto.

4.3 PERMISSIVE ZONING CONCEPT: Land uses are allowed in the various zoning districts by express specific designation in this Ordinance. Where a use is not so designated it is prohibited, unless construed by the Zoning Board of Appeals to be sufficiently similar to a use expressly allowed. No land contained within any zoning district within Cheshire Township shall be used for any purpose other than those uses

specifically allowed in the district in which the building or land is located, except as otherwise provided herein.

## ARTICLE V

### R-1 RURAL RESIDENTIAL DISTRICT

5.1 STATEMENT OF PURPOSE: This district classification is designed to permit low density residential uses on moderately large lots, and other related developments which do not require public utility services. This residential district is intended to meet the needs of those persons who wish to live in a rural environment.

5.2 PERMITTED USES:

1. Accessory buildings and uses.
2. Agricultural production.
3. Child (family) day care home.
4. Essential services, in accordance with Section 12.17.
5. Foster care facility.
6. Home occupation, in accordance with Section 12.21.
7. Kennel.
8. Roadside stand.
9. Signs, in accordance with Section 17.1.
10. Single-family dwelling.

5.3 SPECIAL LAND USES:

1. Bed and breakfast.
2. Boarding or rooming house.
3. Cemetery.
4. Child (group) day care home.
5. Commercial wildlife or hunting preserve.
6. Communication tower.
7. Convalescent or nursing home.
8. Earth removal operations (over 20,000 cubic yards), including quarrying, and on-site processing.
9. Family business.

10. Farm/construction equipment sales, storage or repair.
  11. Flea market and auction house.
  12. Golf course.
  13. Institutional or public use.
  14. Local service billboard, in accordance with Section 17.2.
  15. Medical office and clinic
  16. Mini storage facility.
  17. Music and dance school.
  18. Planned unit development (PUD).
  19. Private landing field, with FAA approval.
  20. Public utility service facilities.
  21. Radio and television station.
  22. Recreational vehicle campground.
  23. Sawmill.
- 5.4 DENSITY, AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS: In accordance with Article X.
- 5.5 SITE PLAN REVIEW : In accordance with Article XIV.
- 5.6 OFF-STREET PARKING REQUIREMENTS: In accordance with Article XVI.

ARTICLE VI  
R-2 RESIDENTIAL DISTRICT

6.1 STATEMENT OF PURPOSE: This district classification is designed to permit the greatest density of residential uses allowed within the Township, together with other residentially related facilities designed to service the inhabitants of the area.

6.2 PERMITTED USES:

1. Accessory buildings and uses.
2. Child (family) day care home.
3. Essential services, in accordance with Section 12.17.
4. Foster care facility
5. Home Occupation, in accordance with Section 12.21.
6. Multiple family dwelling.
7. Signs, in accordance with Section 17.1.
8. Single-family dwelling

6.3 SPECIAL LAND USES:

1. Bed & breakfast.
2. Child (group) day care home.
3. Convalescent and nursing home.
4. Family business.
5. Institutional or public use.
6. Medical office & clinic.
7. Private club, fraternity and lodge.
8. Public utility service facilities.
9. Recreational vehicle campground.

- 6.4 DENSITY, AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS: In accordance with Article X.
- 6.5 SITE PLAN REVIEW: In accordance with Article XIV.
- 6.6 OFF-STREET PARKING REQUIREMENTS: In accordance with Article XVI.

## ARTICLE VII

### RMH MOBILE HOME PARK RESIDENTIAL DISTRICT

7.1 STATEMENT OF PURPOSE: In recognition of the growing trend toward mobile homes and mobile home parks and the need for well located and properly developed areas to accommodate them, this district is designed to provide for such use under appropriate construction and development standards to promote the health, safety, and general welfare of the residents of such areas, as well as the residents of adjoining premises. The area zoned for such purposes should be able to accommodate the increasing traffic generated from such developments and the requirements of same. Such areas should also be suitable for residential use and should be so located as not to impede other more conventional residential developments in the vicinity.

7.2 PERMITTED USES:

1. Accessory buildings and uses incidental to a mobile home park, such as recreational buildings and facilities, laundry facilities, maintenance garage and storage facilities.
2. Child (family) day care home.
3. Essential services, in accordance with Section 12.17.
4. Home occupation, in accordance with Section 12.21.
5. Mobile home park, including a residence for the mobile home park owner or operator and his family, but excluding any retail sales of mobile homes, unless the same are located upon a developed mobile home site, subject, however, to the following conditions and limitations:
  - a. All mobile home parks shall comply with the requirements imposed by Michigan Public Act 96 of 1987 and all amendments thereto, and with all regulations promulgated thereunder.
6. Signs, in accordance with Section 17.3.

7.3 SPECIAL LAND USES:

1. Child (group) day care home.
2. Public utility service facilities.

7.4 DENSITY, AREA, HEIGHT, BULK AND PLACEMENT REGULATIONS: In accordance with Article X.

7.5 SITE PLAN REVIEW: In accordance with Article XIV.

7.6 OFF-STREET PARKING REQUIREMENTS: In accordance with Article XVI.



## ARTICLE VIII

### C-1 LOCAL COMMERCIAL DISTRICT

8.1 STATEMENT OF PURPOSE: This district is designed to provide retail sales and commercial service uses catering to the needs of local residents and the general public, along with opportunities for single family dwellings.

8.2 PERMITTED USES:

1. Accessory buildings and uses (not including any manufacturing or treatment activities).
2. Bank, savings and loan association, and other lending institutions.
3. Barber shop and beauty parlor.
4. Child (family) day care home (only with single family dwelling).
5. Cleaning and laundry service drop-off station.
6. Essential services, in accordance with Section 12.17.
7. Home occupation (only with single family dwelling), in accordance with Section 12.21.
8. Indoor theater.
9. Kennel.
10. Mini storage facility.
11. Motel/hotel.
12. Office.
13. Restaurant.
14. Retail sales or repair business where no assembling, treatment or manufacturing is required.
15. Signs, in accordance with Section 17.4 (subsections 1-6).
16. Single family dwelling.

8.3 SPECIAL LAND USES:

1. Animal hospital.
2. Automotive and machinery repair shop.
3. Automotive sales area, including recreational vehicles.

4. Automotive service station.
5. Bar.
6. Billboards, in accordance with Sections 17.2 and 17.4 (subsection 7).
7. Child (group) day care home (only with single family dwelling).
8. Child day care center.
9. Commercial recreation facility.
10. Earth removal operations (over 20,000 cubic yards) including quarrying and on-site processing.
11. Family business (only with single family dwelling).
12. Funeral home
13. Junk/salvage yard.
14. Laundromat and on-site dry cleaning facility.
15. Mobile home sales.
16. Public utility service facilities.
17. Any other retail business or service establishment of the same general character as the above enumerated uses, as determined, if necessary, by the Zoning Board of Appeals.

8.4 DENSITY, AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS: In accordance with Article X.

8.5 SITE PLAN REVIEW: In accordance with Article XIV.

8.6 OFF-STREET PARKING REQUIREMENTS: In accordance with Article XVI.

## ARTICLE IX

### I-1 LIGHT INDUSTRIAL DISTRICT

9.1 STATEMENT OF PURPOSE: This district is designed for manufacturing, assembling and fabricating businesses and commercial activities which cause a minimum of adverse affect beyond the boundaries of the site upon which they are located.

9.2 PERMITTED USES:

1. Any “permitted use” in the C-1 Local Commercial District, except for single-family dwelling.
2. Accessory buildings and uses.
3. Essential services.
4. Grain equipment and processing operation.
5. Industrial manufacturing and warehousing operations and operations for the servicing, compounding, assembling or treatment of articles or merchandise which do not emanate noise, smoke, odors, dust, dirt, noxious gases, glare, heat, vibration or psychological ill effects which would be a nuisance or annoyance to owners or occupants of surrounding premises and which are wholly contained within fully enclosed buildings.
6. Outdoor storage in the rear yard area of an allowable activity, not exceeding 50% of the square foot area of the principal building upon the premises, and which is screened from adjoining premises of a higher use district classification and from public streets by a solid fence, wall, or natural screening adequate for the purpose.
7. Signs, in accordance with Section 17.5.

9.3 SPECIAL LAND USES:

1. Automotive and machinery repair shop.
2. Earth removal operations (over 20,000 cubic yards), including quarrying and on-site processing.
3. Feed mill.
4. Gasoline and petroleum storage yard.

5. Junk/salvage yard.
  6. Lumber yard.
  7. Motor freight warehousing business or terminal.
  8. Public utility service facilities.
  9. Ready-mix concrete and asphalt plant.
  10. Slaughterhouse and/or meat processing facility.
  11. Any industrial use which meets the intent and purpose of this district, which does not emanate noise, vibration, odor, smoke, liquid waste or light to such an extent as to be objectionable to surrounding properties. A determination of the Zoning Board shall be conclusive as to any business or operation under the terms of this section.
- 9.4 DENSITY, AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS: In accordance with Article X.
- 9.5 SITE PLAN REVIEW: In accordance with Article XIV.
- 9.6 OFF-STREET PARKING REQUIREMENTS: In accordance with Article XVI.

ARTICLE X

SCHEDULE OF LOT, YARD AND AREA REQUIREMENTS

<b>*****PRINCIPAL BUILDING OR STRUCTURE *****</b>	R-1	R-2	RMH	C-1	I-1
Minimum Lot Frontage (feet)	200	100	200	100	200
Minimum Lot Width (feet)	200	100	(fn5)	200	200
Minimum Lot Area	2 Ac	1 Ac	(fn5)	----	80,000 sq. ft.
Maximum Building Structure Height (feet) (fn1)	35	35	(fn5)	35	35
Minimum Gross Floor Area Per Dwelling Unit (feet) (fn3) Single Family	960	650	(fn5)	960	----
Multiple Family	----	650	(fn5)	----	----
Minimum Front Yard Setback (feet) (fn2) Non-waterfront lot	50	50	(fn5)	50	50
Waterfront lot	20	20	(fn5)	50	50(fn4)
Minimum Side Yard (feet)	20	10	(fn5)	30	30(fn4)
Minimum Rear Yard (feet) Non-waterfront lot	20	20	(fn5)	50	50(fn4)
Waterfront lot	50	50	(fn5)	50	50
<b>*****ACCESSORY BUILDINGS AND STRUCTURES*****</b>					
Minimum Front Yard Setback (feet) (fn2) (fn6)	50	50	(fn5)	50	50
Minimum Side Yard (feet)	20	10	(fn5)	50	50
Minimum Rear Yard (feet) (fn2) Non-waterfront lot	10	10	(fn5)	50	50
Waterfront lot	50	50	50	50	50
Maximum Building Structure Height (feet) (fn1)	35	35	(fn5)	35	35

FOOTNOTES:

1. See Section 12.15 for exceptions.
2. In all residential and industrial districts, the required front yard setback shall not be used for off-street parking, loading or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives. Industrial parcels five acres or larger may erect a protective fence within the required front yard area. All yards abutting upon a public street shall be considered as front yards for setback purposes.
3. See definition of gross floor area in Section 3.1.32.
4. No building shall be located closer than 100 feet to a perimeter property line which abuts a residential district.
5. All area, bulk and placement requirements shall be in accordance with the standards set by the Michigan Mobile Home Commission.
6. Permissible roadside stands are not required to comply with the generally applicable front yard setback requirement, but shall not be located within any public or private road right-of-way.

ARTICLE XI  
PLANNED UNIT DEVELOPMENT (PUD)

11.1 STATEMENT OF INTENT AND PURPOSE.

1. The purpose of this Article of the Zoning Ordinance is to establish requirements which permit flexibility in regulation of land development for purposes of a Planned Unit Development (PUD) as regulated herein; to encourage innovation in land use and variety in design, layout, and type of structures within such a development; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities within such a development; to encourage useful common open space within such a development; and to better provide housing opportunities particularly suited to the residents of the Township and surrounding area. The provisions of this Article are not intended as a device for ignoring the otherwise applicable provisions of the Zoning Ordinance, but are instead intended to provide the Zoning Board with the discretion to facilitate innovative development with reasonable modifications of the generally applicable requirements, in accordance with Sections 501-504 of the Michigan Zoning Enabling Act (2006 PA 110) and the substantive and procedural requirements herein.
2. It is not the intent of this Article or any other provision of the Zoning Ordinance to discriminate on the basis of the form of ownership of property. Accordingly, land may be proposed for development as a PUD regardless of whether it is proposed to consist of unplatted or platted lots in fee simple ownership, or property with a condominium form of ownership. The requirements of this Article shall in no event be construed to abrogate the necessity of compliance with the requirements of any applicable state statute, including but not limited to the Land Division Act (1967 PA 288, as amended), and the Condominium Act (1978 PA 159, as amended); and shall similarly not be construed to abrogate the necessity of compliance with all other Township ordinances, including but not limited to the Land Division Ordinance and all other applicable ordinances.

11.2 RELATIONSHIP TO OTHER ZONING ORDINANCE REQUIREMENTS.

Because of the special characteristics of a PUD, special provisions governing the development of land for such purposes are required to accomplish the objectives of the Zoning Ordinance through a review process and substantive requirements intended to integrate a proposed project with the specific characteristics of the project area. These special provisions are set forth in this Article. Whenever there is a conflict or difference between the provisions of this Article and other provisions of the Zoning Ordinance, the provisions of this Article shall prevail, unless specifically stated to the contrary herein. Subjects not covered by the provisions of this Article shall be governed by the applicable provisions found elsewhere in the Zoning Ordinance.

11.3 DEFINITIONS OF TERMS. Chapter III of this Ordinance pertaining to definitions shall fully apply to this Chapter.

11.4 PUD AS OVERLAY SPECIAL LAND USE IN DESIGNATED ZONING DISTRICT  
A PUD shall be approvable as a special land use in only the R-1 Rural Estate Residential District, pursuant to the substantive and procedural requirements of this Article and all other applicable provisions of the Zoning Ordinance.

11.5 ALLOWABLE USES AND STRUCTURES IN A PUD. No portion of a PUD shall be used, and no building or structure shall be erected, altered or used within such a development, except as designated herein:

1. Single-family dwelling is the only approvable principle use in a PUD. Accessory uses/buildings/structures and home occupations are also permissible, accessory to approved family dwellings in an approved PUD, in accordance with applicable provisions of the Zoning Ordinance.
2. A PUD is encouraged to include common open space and recreational areas appropriate for the particular PUD.

11.6 GENERAL PROJECT AREA REQUIREMENTS.

1. Minimum Area. A PUD shall encompass at least 20 contiguous acres of land.
2. Ownership. Land proposed for a PUD shall be in single ownership; provided that land held in joint or multiple ownership shall not be disqualified from PUD consideration if all of the owners jointly make application for approval of such a development. For purposes of this requirement the holder of a written option to purchase land or the holder of an executory land contract shall be deemed an owner of land, along with the deed holder of the land.

11.7 LOT AND DWELLING UNIT DENSITY REQUIREMENTS.

1. Residential Lot Area. Residential lots within a PUD shall not be subject to the minimum lot area requirements for the zoning district in which the property is located. Instead, the Zoning Board shall determine the approvable area of lots within a PUD in accordance with the dwelling unit density requirements in Section 11.7.4 of this Ordinance and based on the standards for approval of a PUD set forth in this Article.
2. Residential Lot Frontage/Lot Width. Residential lots within a PUD shall not be subject to the minimum lot frontage/lot width requirements for the zoning district in which the property located. Instead, the Zoning Board shall determine the approvable frontage/width of lots within a PUD in accordance with the dwelling unit density requirements in Section 11.7.3 of this Ordinance and based on the standards for approval of a PUD set forth in this Article.



3. Dwelling Unit Density. The density of residential dwelling units allowable within a PUD shall not exceed one dwelling unit per 2.0 acres of net buildable land within the project area, plus such bonus densities, if any, as may be awarded pursuant to subsection 4 herein (Dwelling unit fractions of less than .5 shall be rounded down; dwelling unit fractions of .5 and above shall rounded up). For purposes of this provision, net buildable land is the total gross acreage of the project area minus the aggregate acreage of the following:
- a. Lakes and other navigable waterways.
  - b. Floodplain and floodway regulated by state and/or federal law.
  - c. Wetland regulated by state and/or federal law.

Example: an 80-acre parcel with 60 acres of net buildable area will have 30 allowable dwelling units ( $60 \text{ acres} \div 2.0 = 30$ ); plus any bonus dwelling unit density.

4. Bonus Densities for Dwelling Units. The Zoning Board may approve an increase in the dwelling unit density allowable pursuant to subsection 3, above, based on the percentage of the total project acreage set aside as common open space. The potentially allowable number of dwelling units, including bonus dwelling units, shall be determined by multiplying the number of dwelling units allowable pursuant to subsection 3, above, by the applicable bonus density factor, pursuant to the following sliding scale:

% OF TOTAL PROJECT ACREAGE IN COMMON OPEN SPACE	BONUS DENSITY FACTOR
Less than 10%	None
10% - 19.9%	1.10
10% - 29.9%	1.15
30% - 39.9%	1.20
40% - 49.9%	1.25
50% or more	1.30

Example: using the 80-acre parcel illustrated in subsection 3, with 60 acres of net buildable area, if 40 acres of the total project acreage is approved as common open space, 50% of the total project acreage is in common open space, which results in a corresponding Bonus Density Factor of  $30 \text{ dwelling units} \times 1.30 = 39 \text{ total dwelling units allowable}$ , including 9 bonus dwelling units.

For purposes of this provision common open space shall be subject to the following requirements:

- a. Common Open Space Defined. Common open space may include land areas, floodplain/floodway areas, wetland areas, and waterways (except lakes) within the project area which are intended for the use and enjoyment of all the owners of property within the PUD and permanently protected for such purposes. Common open space is encouraged to include attractive and diverse features of a site, but shall not include street/road rights-of-way, or parking areas. Common open space shall remain undeveloped, except to the extent the Zoning Board may determine buildings or structures to be necessary or desirable to properly facilitate non-commercial recreational or cultural activities occurring on the common open space.
  - b. Location and Arrangement of Common Open Space. All common open space shall be in a location and configuration approved by the Zoning Board. Consolidated common open space of a usable size is encouraged. Separate common open space areas shall have adequate access from at least one point along a public street or private road within the development.
  - c. Conveyance and Maintenance of Common Open Space. All common open space shall be reserved by lease or conveyance of title to a corporation, association, or other legal entity, or by means of a restrictive covenant guaranteeing the permanent use of such areas for the intended purposes and the continuity of proper maintenance of such areas. The developer shall file with the Zoning Board appropriate legal documents embodying the prescribed guarantees in a recordable form, and the developer shall record such documents with the Allegan County Register of Deeds contemporaneous with approval of a PUD.
5. Standards for Determining Approved Dwelling Unit Density and Common Open Space. The Zoning Board shall determine whether to approve some or all of the dwelling unit density potentially allowable within a PUD, including bonus density, based on the standards for approval of a PUD set forth in this Article. The Zoning Board shall also determine the amount, location and arrangement of common open space to approve based on such standards, and all other applicable provisions of this Article.

#### 11.8 MINIMUM YARD/BUILDING SETBACK AND BUILDING HEIGHT REQUIREMENTS.

1. The generally applicable yard, setback and height requirements for the zoning district in which the property is located shall apply to property within a PUD, subject to the potential variations authorized in Article 11.8.2 of this Ordinance.

2. To encourage flexibility and creativity in development consistent with the objectives of this Article, the Zoning Board may approve specific deviations from the generally applicable dimensional requirements for the zoning district in which the property is located, as authorized below, pursuant to the standards for approval of a PUD set forth in this Article. Any such dimensional deviations shall not be subject to the Zoning Board of Appeals variance procedure.
  - a. Front yard setback: The minimum setback from an interior street or road may be reduced to not less than 30 feet from the right-of-way of the abutting street or road.
  - b. Rear yard setback: The minimum rear yard setback may be reduced to not less than 10 feet, where the rear yard does not abut a street or road.
  - c. Side yard setback: The minimum required side yard set back may be reduced to not less than 10 feet.
  - d. Special setback rule for all yards abutting a perimeter property line of the PUD: Notwithstanding the foregoing, with respect to yards abutting any perimeter property line of the PUD, the Zoning Board shall not have discretion to approve any deviations from the generally applicable setback requirements for the zoning district in which the property is located.

#### 11.9 GENERAL PROJECT DESIGN REQUIREMENTS.

1. Streets and Roads.
  - a. A PUD shall have direct access to a street that is part of the public road system of the Allegan County Road Commission and/or Michigan Department of Transportation.
  - b. A PUD shall be serviced by an interior street/road system. All lots within a PUD shall have driveway ingress/egress exclusively to an interior road within the PUD, and not on any public road abutting the perimeter of the PUD.
  - c. All streets within a PUD shall be public streets that are part of the public road system of the Allegan County Road Commission; or shall be private roads established in accordance with Section 11.9.2 of this Ordinance.
2. Construction and Maintenance Standards and Requirements for a Private Road Within a PUD.
  - a. Standards and Requirements for Private Road Within a PUD:

- i. The private road shall be constructed with a deeded and recorded easement or right-of-way width of at least 66 feet for its entire length.
- ii. The private road shall be designed and constructed to control storm water run-off and permit effective storm water drainage by means of sloping, ditches, or other acceptable methods. Side ditches shall have a three on one front slope and a one on two back slope at 0.5% grade minimum. Ditches shall outlet into a cross culvert or drainage course.
- iii. Culverts shall be placed at all natural drainage courses or other waterways. Culvert sizes, grades, materials and placement shall meet the requirements of the Allegan County Road Commission and the Allegan County Drain Commissioner.
- iv. The private road shall have a road bed of at least 20 feet in width (or 12 feet-14 feet for a single-loaded one-way road), plus a paved gravel or grass shoulder of at least 4 feet in width on each side of the required road bed. The roadway shall be constructed with a gravel base (MDSH 22A processed road gravel) of at least 6 inches, graded parallel to the road surface and extending into the front ditch slope. In impervious soils (clay or other unsuitable materials) the roadway shall also be constructed with a sand sub-base of at least 12 inches. The private road shall be paved with a bituminous asphalt surface with a depth of at least 2.0 inches. The roadway shall have a maximum grade of 10%. "T" intersections shall slope between -0.6% and -0.2% in a direction away from the intersecting public street for a distance of at least 50 feet from the centerline of the street.
- v. The end of a private road shall include a cul-de-sac with a minimum diameter of 100 feet constructed herein as required for the roadway, and incorporating a center island with a diameter of 40 feet; provided, however, that the Zoning Board may waive or modify this provision where the private road includes an alternate means of turnaround adequate for all vehicles potentially using the road, including emergency vehicles, such as a Y-style turnaround.
- vi. All permits required by the Allegan County Road Commission and any other County/State permits shall be obtained.

- vii. The private road shall be named and signed as requested by and in coordination with the Allegan County Road Commission and the Allegan County Sheriffs Department.
  - viii. Upon construction the private road shall be properly maintained as required herein.
- b. Additional Application Requirements Where a Private Road is Proposed. In addition to all other application requirements pertaining to a PUD, where a private road is proposed within a PUD the application shall also specifically include the following additional materials:
- i. A detailed construction plan including a diagram of the “Standard Cross Section and Layout” prepared and sealed by a registered civil engineer. The construction plan and/or site plan shall also specifically show the location of the private road, all existing or proposed lots adjoining any portion of the proposed private road, proposed grades, drainage systems, and signage, and shall otherwise evidence compliance with the private road construction standards and requirements set forth herein.
  - ii. A Maintenance Agreement with a detailed description of how and by whom the private road will be maintained and repaired, who will be financially responsible for extending and/or enlarging the private road to serve additional lots in the future, including provisions for the assessment of maintenance fees to be paid by the owners of benefited lots. Such property owner maintenance agreement, and any revised version of same required by the Zoning Board, shall be in recordable form and shall provide that the obligations thereunder run with the benefited lots.
  - iii. A written Waiver of Liability and Indemnification Agreement, on a form approved by the Township, releasing Cheshire Township from any liability for any claims of whatever nature resulting from or related to the construction, maintenance/repair, or use of the private road. Such agreement shall include the witnessed and notarized signatures of the owners of all lots adjoining any portion of the proposed private road, and shall extend to the successors and assigns of said lot owners.
- c. Certification of Construction/Inspection Fee: Upon completion of construction of the private road the applicant for special land use

approval shall submit to the Zoning Administrator the certification of a registered civil engineer stating that the private road has been completed in accordance with the approved site plan and construction plan, and the tentative approval of the Zoning Board. The certification shall be accompanied by such reasonable inspection fee as may be established by the Township Board. The Zoning Administrator shall review the certification and inspect the constructed private road with such assistance from an engineering consultant as may be necessary. The Zoning Administrator shall identify any deficiencies therein and inform the applicant of same. The Zoning Board's tentative approval of the private road shall be considered final upon the Zoning Administrator's verification of the following:

- i. The completion of the private road as required, including the correction of any deficiencies identified by the Zoning Administrator.
  - ii. Proof of recording in the records of the Allegan County Register of Deeds of the fully executed Maintenance Agreement and the fully executed Waiver of Liability and Indemnification Agreement.
  - iii. Proof that the applicant has furnished the location and description of the completed road to the Allegan County Sheriffs Department to be coordinated with the 911 emergency services network serving the area.
  - d. Issuance of Building Permits: Final approval of the private road by the Zoning Administrator shall be required before a building permit is issued for any construction on lots served by the private road.
  - e. Maintenance and Repair Responsibility: All maintenance, repair and responsibility for a private road shall belong exclusively to the right-of-way owner/owners of benefited lots, and in no circumstances shall the Township have any responsibility or liability therefore. Further, the Allegan County Road Commission shall have no responsibility for an approved private road, unless and until such private road is constructed to the standards of the Allegan County Road Commission and accepted by said Commission as a dedicated public street.
3. Water Drainage and Retention. A PUD shall provide water drainage and retention systems sufficient to insure proper drainage from all lots and streets or roads within the development, and sufficient to retain all such water drainage within the land area of the development, or through connection with a storm water sewer system, where feasible. The

development of retention basins and/or turf areas for runoff infiltration is encouraged and shall be required where appropriate and necessary to properly manage storm water in a particular development.

4. Landscaping. The appeal and character of property proposed for PUD approval shall be preserved by retaining and protecting existing trees and other natural site features where feasible.
5. Signage and Parking. Signage and parking in a PUD shall be governed by the applicable provisions of the Zoning Ordinance.

#### 11.10 PUD APPLICATION AND REVIEW PROCESS.

1. Pre-Construction Approval Requirements. All zoning approvals shall be obtained, in accordance with this Article and all other applicable provisions of the Zoning Ordinance, before any site improvement is commenced and before any building permit is granted for any part of a PUD. The steps of the zoning review and approval process are, in summary:
  - a. Pre-application conference.
  - b. Special land use approval.
  - c. Preliminary PUD plan approval.
  - d. Final PUD plan approval.
2. Pre-Application Conference. Prior to submitting an application for approval of a PUD a potential applicant or designee shall request a pre-application conference with the Zoning Board. This request shall be filed with the Township Clerk or with the chairperson of the Zoning Board. Upon receipt of such a request the chairperson of the Zoning Board shall establish a mutually convenient date for a pre-application conference and so inform the requesting person and appropriate Township officials. The purpose of the pre-application conference is to generally inform the Zoning Board and other interested officials of the concept of the potential development, and to generally orient the potential applicant to the substantive and procedural requirements applicable to the design, review and approval of a PUD. A potential applicant for PUD approval is therefore encouraged to present such schematic plans, site data and other information as may be of assistance to generally inform the Zoning Board of the potential development concept. There shall be no fee for such a pre-application conference.
3. Special Land Use Approval Requirement and Review Procedure.

- a. Application Submission. An applicant for special land use approval of a PUD shall submit an application to the Township Clerk in accordance with applicable provisions of the Zoning Ordinance.
- b. Special Land Use Procedure. When the Township Clerk or the Clerk's designee determines that an application is administratively complete the application shall be processed in accordance with the provisions of the Zoning Ordinance applicable to special land uses, generally, and applicable statutory requirements.
- c. Special Land Use Review and Approval Standards. The Zoning Board shall review and make a decision on a special land use application for a PUD pursuant to Article XIII of the Zoning Ordinance, including the special land use standards therein, the requirements in this Article, and the following additional standards:
  - i. The development contains a housing type or types and number of housing units sufficient to maintain a harmonious relationship with important site features, structures and adjacent land uses.
  - ii. The development provides a safe, well-designed circulation system with internal and external connections for pedestrians as well as vehicles. Points of conflict within the system shall be minimized and special provisions for pedestrian safety are provided where necessary.
  - iii. The development utilizes natural characteristics, such as vegetative or topographical features, to protect dwelling units from prevailing winds, provides visual variety, on-site water drainage, and other similar benefits.
  - iv. The development enhances and preserves identifiable significant natural assets and features such as wetlands, swales, ponds, woodlots, orchards, or wildlife habitat areas.
  - v. The development provides for passive and/or active recreation activities consistent with the character of the development and the open spaces provided therein.
  - vi. The development provides for buffering between any internal conflicting elements, and also adjoining residential uses and on-site features, by the use of vegetative plantings, attractively landscaped earth berms, or distance.
- d. In each case the granting of special land use approval for a PUD shall be deemed wholly conditioned on the applicant subsequently



obtaining approval of a preliminary PUD plan and thereafter a final PUD plan as required herein.

4. Preliminary PUD Review and Approval. In conjunction with a request for special land use approval of a PUD the applicant shall also submit a preliminary PUD plan for review in accordance with the following procedures.
  - a. Submission of Preliminary Plan. An applicant for approval of a preliminary PUD plan shall submit the plan and all supporting data to the Township in accordance with this Ordinance. The applicant shall also submit copies of the preliminary PUD plan to the Township Fire Department, the County Road Commission and the County Drain Commissioner, accompanied by a request to submit any comments on the plan to the Township Clerk.
  - b. Content of Preliminary Plan. The proposed preliminary PUD plan and supporting data shall contain, at a minimum, the information required to be included in formal site plan review applications pursuant to this Ordinance, and the following additional information:
    - i. The manner of, and calculations for, determining the total land area involved with the application, the maximum allowable density of dwelling units, bonus densities, common open space proposed to be provided, and all other requirements of this Ordinance involving calculations.
    - ii. A separate schematic site plan for the total land area indicating the type and location of all proposed dwelling types and other uses, common open space, the system of traffic circulation, including pedestrian walks and pathways, and utilities.
    - iii. A written statement explaining the full intent of the applicant with respect to the type and number of dwelling units contemplated, the resultant population of the development, and the details of any phasing program for the entire development including the intended completion dates for such phases.
    - iv. A written analysis identifying the principal factors influencing design decisions impacting on the proposed plan, including such factors as topography, soils, vegetation, views, adjoining land uses, and the surrounding circulation system, where applicable.
  - c. Public Hearing on Preliminary PUD Plan. After adequate review of a preliminary PUD plan, the Zoning Board shall hold a public

hearing on the plan prior to making a decision on the plan. This public hearing shall be noticed to the public and property owners in the same manner used by the Township for noticing a public hearing on a special land use application. The public hearing on the preliminary PUD plan may be noticed and conducted in conjunction with the public hearing on the applicant's request for special land use approval of the development.

- d. **Criteria for Preliminary PUD Plan Review and Approval.** The Zoning Board shall review and either disapprove, approve, or approve with conditions, the preliminary PUD plan based on compliance with all applicable requirements of the Zoning Ordinance, including, but limited to, those requirements set forth in this Article which are specifically applicable to a PUD.
- e. **Zoning Board Decision on Preliminary Plan.** The Zoning Board shall make a decision on a preliminary PUD plan within 60 days after the public hearing thereon, and so notify the applicant of the decision.
- f. **Significance of Preliminary PUD Plan Approval.** Zoning Board approval of a preliminary PUD plan shall be deemed an expression of preliminary approval of the development layout, as a guide to the preparation of a final PUD plan.

5. Final PUD Plan Review and Approval.

- a. **Submission of Final Plan.** An applicant for approval of a final PUD plan shall submit the proposed final plan and all supporting data to the Township in accordance with the submittal procedures required herein for a preliminary PUD plan.
- b. **Content of Final PUD Plan.** A proposed final PUD plan shall contain, at a minimum, the following:
  - i. The information required to be included in a preliminary PUD plan.
  - ii. All such information as is necessary to demonstrate conformance with the preliminary plan as approved by the Zoning Board.
  - iii. All such information as may be necessary to document compliance with the applicable portions of the Zoning Ordinance.
  - iv. Letters from the Township Fire Department, the County Road Commission and the County Drain Commissioner,

explicitly indicating that the proposed final plan satisfies all requirements within their jurisdiction, or indicating which requirements the plan does not meet.

- c. **Criteria for Final PUD Plan Review and Approval.** The Zoning Board shall review and disapprove, approve, or approve with conditions, a final PUD plan based on the following standards and criteria:
  - i. Compliance with all the standards and criteria set forth in this Ordinance for approval of a preliminary PUD plan.
  - ii. Compliance with all conditions imposed by the Zoning Board on approval of the preliminary PUD plan.
  - iii. Written approval of the proposed final plan by all governmental entities to which the proposed final plan was required to be submitted.
- d. **Zoning Board Decision on Final PUD Plan.** The Zoning Board shall make its decision on a final PUD plan within 60 days after the filing of same with the Township, and so notify the applicant of its decision. The applicant may request and the Zoning Board may grant final PUD plan approval for individual phases of a project.
- e. **Binding Significance of Final PUD Plan Approval.** An approved PUD shall be constructed and used in strict conformity with the final PUD plan approved by the Zoning Board. All requests for amendments or modifications of an approved final PUD plan shall be processed in the manner required in this Ordinance for the original approval. An approved final PUD plan shall be valid for a period of one year, and in any case where construction has not lawfully commenced within one year from the date of approval, the approved plan shall be deemed to have expired and be null and void.

ARTICLE XII  
GENERAL PROVISIONS

These general provisions shall apply to all zoning districts unless specifically stated otherwise.

12.1 ZONING AFFECTS ALL STRUCTURES AND LAND AND THE USE THEREOF. No structure, land or premises shall hereafter be used or occupied and no building shall be erected, moved, removed, reconstructed, extended or altered, except in conformity with the regulations set forth herein and the Township Building Code.

12.2 RESTORING UNSAFE BUILDINGS: Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any legally rebuildable structure declared unsafe by the Building Inspector, in accordance with the Building Code.

12.3 BUILDING PERMITS AND PLANS: No building or structure shall hereafter be constructed, erected, enlarged, altered, moved or reconstructed until a building permit has been obtained in accordance with the Township Building Code.

12.4 ZONING COMPLIANCE PERMITS: No building or structure which is exempt from a building permit requirement pursuant to the Township Building Code shall be constructed, enlarged or relocated upon any premises until a zoning compliance permit has first been obtained by the property owner from the Zoning Administrator. Fees for zoning compliance permits shall be as established by the Township Board.

12.5 MINIMUM STANDARDS FOR DWELLINGS: A dwelling shall comply with the following standards:

1. It shall have a minimum width along each exterior front, side or rear wall elevation of 24 feet with at least one-third of each front, side or rear elevation also having a depth of 24 feet. The word "elevation" shall mean the total length of the front, side or rear wall of a dwelling facing in the same general direction regardless of whether the wall is designed with projections, indentations, or other irregular configurations
2. It shall have a minimum gross floor area in accordance with the requirements of Article X for the applicable zoning district, and shall have a minimum floor to ceiling height of 7.5 feet.
3. It shall be permanently attached to a solid foundation constructed on the site in accordance with the Township Building Code and having the same perimeter dimensions as the dwelling, which attachment shall also meet all building codes or other applicable state regulations. In the case of a mobile home, the mobile home shall be secured to the premises by an anchoring system or device compatible with those required by the Michigan Mobile Home Commission pursuant to regulations promulgated under Act 96 of the Public Acts of 1987, as amended. All construction

required herein shall be commenced only after a building permit has been obtained in accordance with the Township Building Code;

4. No exposed wheels, towing mechanisms, undercarriage, or chassis shall be permitted. Any space that may exist between the foundation and the ground floor of the dwelling shall be fully enclosed by an extension of the foundation wall along the perimeter of the dwelling. If the dwelling is on a slab-type foundation the slab shall consist of approved materials and shall be at least four (4) inches in thickness;
5. The dwelling shall be connected to a public sewer and water supply or to private sewer and water facilities approved by the County Health Department;
6. The dwelling shall contain steps connected to exterior door areas or to porches connected to said door areas where a difference in elevation requires the same;
7. All additions of rooms or other areas shall be constructed with an appropriate foundation and permanent attachment to the principal structure and shall be aesthetically compatible with the principle structure;
8. The dwelling shall comply with all pertinent building and fire codes including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards", effective June 15, 1976, promulgated at 24 CFR 3280, and in compliance with such amended standards as from time to time be promulgated. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations allow standards of construction which are less stringent than those imposed by the Township Building Code, then, and only in that event, the less stringent federal or state standards or regulations shall apply. In addition, all dwellings shall meet or exceed applicable roof snow load and strength requirements.

The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent allowed or required by state law.

**12.6 BASEMENT DWELLING:** The use of a basement of a partially built building as a dwelling is prohibited in all zones. The use of a basement more than four (4) feet below grade in a completed building for sleeping quarters or a dwelling unit is prohibited unless there are two means of direct access to the outside; provided that where one wall is entirely above grade level of the yard adjacent to said wall and access or egress to the out-of-doors is provided through said wall, the structure is not a basement dwelling. It is not the intent of this ordinance to prevent the construction or occupancy of earth sheltered housing complying with all applicable requirements.

12.7 PRINCIPAL BUILDING/USE: No lot shall contain more than one principal building or use, provided that groups of apartment buildings or retail business buildings under single ownership on the same lot shall be deemed a principal use collectively.

12.8 ACCESSORY BUILDINGS: No accessory building shall be built upon any lot on which there is no principal building, but the following shall be exempt from this restriction:

1. Farm accessory buildings.
2. Accessory buildings for the storage of building materials and equipment, where a building permit has been obtained for the construction of a principal building on the lot.
3. Accessory buildings on adjoining lots in single ownership.

12.9 KEEPING OF ANIMALS:

1. Animals prohibited except as allowed: The keeping of animals in the various zoning districts is regulated by the applicable provisions of this Article, and except as specifically allowed herein animals shall not be possessed, kept or raised on any premises in Cheshire Township for any hobby, pleasure, commercial, or other purpose.
2. Definitions: For purposes of this Article the following words and terms shall have the designated meanings:
  - a. Animal: Any live non-human species of mammal, and any species of reptile, amphibian, insect or bird.
  - b. Domestic Animal: Any live animal of a species indigenous to the State of Michigan and not a wild animal or farm animal, including dogs and cats, and also including birds, non-poisonous snakes and lizards, non-poisonous insects, and rabbits, kept as household pets.
  - c. Exotic Animal: Any live animal of a species not indigenous to the State of Michigan and not a domestic animal or a farm animal, including any hybrid animal which is part exotic animal.
  - d. Farm Animal: Any live animal (other than a domestic animal) of a species customarily and normally kept as livestock on a farm; and also any other animal other than dogs, cats, exotic animals and wild animals, raised for commercial profit or slaughter.
  - e. Wild Animal: Any live animal of a species indigenous to the State of Michigan and not a domestic animal or a farm animal, including any hybrid animal which is part wild animal.

3. Exotic Animals: Exotic animals are not allowed upon any premises in any zoning district, except in the following situations:
  - a. A public zoo, or educational exhibition sponsored by a governmental entity.
  - b. A bona fide licensed circus.
4. Wild Animals: Wild animals are not allowed to be kept or raised in confinement upon any premises in any zoning district, except in the following situations:
  - a. A public zoo, or educational exhibition sponsored by a governmental entity.
  - b. A bona fide licensed circus.
  - c. A veterinary clinic lawfully providing professional veterinarian services to a wild animal in need of those services.
  - d. Pursuant to a possession permit issued by the Michigan Department of Natural Resources authorizing temporary non-commercial shelter and/or treatment for an injured or abandoned wild animal until the animal can feasibly be released from captivity.
5. Domestic Animals:
  - a. R-1 District: In this zoning district domestic animals are allowed as follows:
    - (1) Not more than a total of 5 domestic dogs, cats or rabbits are allowed as an accessory use to a dwelling on the premises; plus the litters of same in excess of the limit, for not more than 9 months after birth.
    - (2) Caged domestic birds, caged non-poisonous snakes and lizards, caged insects, and other caged small domestic animals (such as hamsters, mice and guinea pigs) are also allowed as an accessory use to a dwelling on the premises.
    - (3) A Kennel involving more than 5 dogs or cats is allowed as a permitted use (Section 5.2).
    - (4) Domestic animals are also allowed in the same situations designated for wild animals in Section 12.9, subsection 4 of this Ordinance.
  - b. R-2 and RMH Districts: In these zoning districts domestic animals are allowed as follows:
    - (1) Not more than a total of 5 domestic dogs, cats or rabbits are

allowed as an accessory use to a dwelling on the premises; plus the litters of same in excess of the limit, for not more than 9 months after birth.

(2) Caged domestic birds, caged non-poisonous snakes and lizards, caged insects, and other caged small domestic animals (such as hamsters, mice and guinea pigs) are also allowed as an accessory use to a dwelling on the premises.

c. C-1 and I-1 Districts: In these zoning districts domestic animals shall not be kept on any premises, except as follows:

(1) Not more than 3 confined guard dogs are allowed on any non-residentially used premises.

(2) Domestic animals are allowed as an accessory use to a dwelling on any premises lawfully used for residential purposes, as designated in Section 12.9, subsection 5b of this Ordinance.

(3) Domestic animals are also allowed in the same situations designated for wild animals in Section 12.9, subsection 4 of this Ordinance.

(4) A Kennel is allowed in the C-1 District as a special exception use (Section 8.2).

6. Farm Animals:

a. R-1 District: In this zoning district farm animals are allowed pursuant to Agricultural Production as a permitted use (Section 5.2), as defined in Section 3.1 of this ordinance, including such activities as a riding stable.

b. R-2, RMH, C-1 and I-1 Districts: In these zoning districts farm animals are not allowed; except in conjunction with an Animal Hospital in the C-1 District as a special exception use (Section 8.3), and also except in conjunction with a slaughterhouse and/or meat processing facility in the I-1 District as a special exception use (Section 9.3).

**12.10 REQUIRED LOT, YARD, AREA OR OTHER SPACES:** All lots, yards, areas or other spaces shall comply with the lot, front yard, rear yard, side yard, parking area and other space requirements of the zoning district in which they are located. No lot, yard, parking area or other space shall be so divided, altered or reduced as to make it less than the minimum required under this Ordinance; if already less than the minimum required, it shall not be further divided, altered or reduced. No yard or other open space provided about any building for the purpose of complying with the requirements of this Ordinance shall be considered as a yard or open space for any other building. (See



Article X of this Ordinance for the lot, yard and area requirements of the various zoning districts.)

12.11 CORNER LOTS: Where a lot is bounded by two intersecting streets, the front yard requirements shall be met on one abutting street only.

12.12 TRAFFIC VISIBILITY AND CORNER CLEARANCE: On any corner lot in any zone no solid fence, retaining wall or other structure, or planting (except deciduous trees) which is over 30 inches in height shall be erected or maintained within 20 feet of an intersection right-of-way, in order to prevent traffic hazards arising from inadequate visibility.

12.13 DOUBLE FRONTAGE LOTS: In the case of a row of double frontage lots, one street shall be designated as the front street for all lots in the development approval process and in requests for a building permit.

12.14 WALLS AND FENCES: Except as provided by Section 12.15, retaining walls and fences are permitted in the required yards of all zones. Walls and solid fences of not more than six (6) feet in height are permitted in side or rear yards in any zone. Well maintained wire protective fencing without height limitation is permitted in all yards in all zones.

12.15 HEIGHT EXCEPTIONS: The height limitations of all zoning districts may be exceeded by the following structures: flag poles, parapet walls, chimneys, silos, farm barns, television and radio antennas, monuments, cupolas, steeples, spires or other ornamental projections, water towers, and fire towers. In the I-1 Light Industrial zone, smokestacks, cooling and fire towers, elevator buildings and bulkheads, roof storage tanks and roof structures for other necessary appurtenances are also permitted above the height limitations provided they are located at least the same distance as their height from any adjoining property lines.

12.16 TEMPORARY PERMITS: The following temporary uses are allowed by special temporary permit from the Zoning Administrator, as regulated herein:

1. **Mobile Home While Dwelling Constructed.** A mobile home not complying with all the dwelling standards in Section 12.5 of this Ordinance may be used as temporary living or working quarters for up to 180 days while a dwelling is being constructed on the same premises; provided the dwelling shall be connected to a public sewer and water supply or to private sewer and water facilities approved by the County Health Department. A reasonable extension of the 180-day limit, not exceeding another 180 days, may be granted if substantial progress has been made towards completing the permanent dwelling and the dwelling can be completed with due diligence during the extension period.
2. **Construction Project Identification Signs and Storage Buildings.** The storage of building supplies and machinery, temporary storage buildings and customary trade, contractor, or architect identification signs in

connection with a construction project on the premises may be authorized by the Zoning Administrator for not more than 12 months.

3. Subdivision Office. A temporary occupancy of a dwelling in a new subdivision to be used as a sales and management office may be authorized by the Zoning Administrator for not more than 12 months.

All of the foregoing temporary uses shall be terminated within 30 days after expiration of the permit, except in the case of temporary structures for uses incidental to construction work, which shall be removed promptly upon completion or abandonment of work.

**12.17 ESSENTIAL SERVICES:** Essential services may be located in any zone following the review and approval of a site plan by the Zoning Administrator prior to installation, upon determining that all aspects therein conform to the requirements of this ordinance, and that the physical layout and relationship of improvements will provide for the convenience, safety and welfare of the general public and will not adversely affect existing or potential adjacent primary permitted uses; provided, however, that the repair, maintenance or replacement of existing essential services in residential zones shall not be subject to the site plan requirement, and essential services may be located in any non-residential zone without being subject to this provision.

**12.18 JUNK/REFUSE:** Nothing herein shall be construed to allow the storage, collection or placing of discarded materials, inoperable or unlicensed motor vehicles (or parts thereof), or junk or refuse, for purposes of operating a junk/salvage yard without complying with applicable provisions of this Ordinance and all other applicable laws and ordinances.

**12.19 EXCAVATION OF TOPSOIL:** Topsoil shall not be stripped, excavated or otherwise removed on any premises for sale or for use other than on the premises, except when in connection with construction and grading operations, the topsoil is in surplus amounts, as a product of authorized excavation of muck, peat, sand, gravel or other mineral deposits, or as otherwise provided by this Ordinance. All such activities shall conform to the sedimentation and erosion control regulations enforced by Allegan County, and shall be undertaken in compliance with Section 12.20 of this ordinance.

**12.20 EARTH REMOVAL AND FILLING:** Earth removal and filling shall be subject to the following regulations:

1. Zoning Approval Not Required. Zoning approval is not required for excavations or filling for building construction purposes pursuant to a building permit issued under the Township Building Code.
2. Zoning Approval Required by Zoning Administrator. Except as provided in subsection 1 above, earth removal and/or fill operations involving an area not exceeding 20,000 square feet shall not be initiated without administrative approval of a site plan by the Zoning Administrator. An applicant for such administrative site plan approval shall submit to the Zoning Administrator all of the following information with a site plan for the

property involved with the proposed earth removal and/or filling operations:

- a. The names and addresses of the parties of interest in the subject premises, setting forth their legal interest in the premises, and the names and addresses of the persons or contractors responsible for the earth removal and/or filling operations;
- b. The legal description of the property where operations are proposed;
- c. A detailed statement as to exactly what type of machinery and equipment will be used, and the estimated period of time that the proposed operations will take;
- d. A detailed statement as to exactly what type of material is proposed to be removed or deposited;
- e. The existing grades and final proposed post-operations grades;
- f. Such other information as may be reasonably required by the Zoning Administrator to make a determination as to whether a permit shall be issued or not.

Upon receipt of an administratively complete application, and payment of such application fee as may be established by the Township Board for such matters, the Zoning Administrator shall make an administrative determination on the site plan pursuant to the site plan approval criteria specified in Section 14.6 of this Ordinance. Administrative approval of a site plan under this provision shall be valid for six months.

3. Zoning Approval Required by Zoning Board. Earth removal and/or filling operations involving an area exceeding 20,000 square feet shall not be initiated unless the subject property is zoned for earth removal operations under this Ordinance, and all special land use permit and site plan approvals required by this Ordinance have been obtained from the Zoning Board.
4. Approved Fill Material; Site Reclamation. Only sand, soil, clay, dirt, stone, brick and concrete shall be used as fill, and all such materials shall be leveled off with a minimum of six (6) inches debris-free top cover suitable for the growing of turf within six (6) months of the permit issuance date.

**12.21 HOME OCCUPATIONS:** A home occupation, where allowed, shall comply with the following conditions and limitations:

1. It shall be operated in its entirety within a single dwelling unit, and not in a garage or accessory building, and only by the person or persons residing therein;
2. It shall not have any employees or regular assistants not residing in the dwelling, except for offices of doctors, dentists or other similar practitioners;
3. The dwelling shall not have any exterior evidence, other than a permissible sign, to indicate that the building is being utilized for any purpose other than that of a dwelling;
4. The occupation shall be clearly incidental and secondary to the residential use of the building;
5. Noise and other objectionable characteristics incident to the home occupation shall not be discernible beyond the boundaries of the lot;
6. The home occupation shall not utilize more than 35% of the gross floor area of the dwelling unit.

12.22 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION AND ODORS: Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located.

12.23 OPEN SPACE PRESERVATION/CLUSTERING. In order to comply with Section 506 of Public Act 110 of 2006, notwithstanding the generally applicable minimum lot frontage/lot width and minimum lot area per dwelling unit requirements of this Ordinance land may be developed, at the option of the landowner, with the same number of dwelling units that could otherwise be developed on the land under existing ordinances, laws, and rules, on not more than 50% of the land, if all of the following apply:

1. the land is located in the R-1 Rural Estate District or is otherwise zoned at a density equivalent to 2 or fewer dwelling units per acre; or, the land is served by a public sewer system and is located in the R-2 Low Density Residential District or is otherwise zoned at a density equivalent to 3 or fewer dwelling units per acre.
2. not less than 50% of the land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.
3. the development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the development option provided by this provision would also depend upon such an extension.

4. the development option provided pursuant to this Article has not previously been exercised with respect to the subject property.

The development of land under this section is subject to all other applicable ordinances, laws, and rules, including but not limited to:

- a. The provisions of the Zoning Ordinance that are not in conflict with and preempted by Section 506 of Public Act 110 of 2006 (MCL 125.3506)
- b. The Land Division Act/Subdivision Control Act (MCL 560.101 et seq.).
- c. The Land Division Ordinance (Ordinance No. 415), and any other ordinance regulating the division of land, the platting of land into subdivisions, or the creation of a site condominium.
- d. Rules relating to suitability of groundwater for on-site water supply for land not served by public water.
- e. Rules for on-site sewage disposal for land not served by public sewers.

As used in this section the term “undeveloped state” means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. This term does not include a golf course; but may include a recreational trail, picnic area, children’s play area, greenway, or linear park.

A residential development proposed pursuant to this section shall be submitted to the Zoning Board for review and a determination as to whether the development complies with the open space preservation/clustering provisions of PA 110 of 2006, and all other applicable laws and ordinances, including the applicable provisions of the Zoning Ordinance.

ARTICLE XIII  
SPECIAL LAND USES

13.1 EXPLANATION OF SPECIAL LAND USES: In order to make this Ordinance a flexible zoning control and still afford protection of property values and facilitate orderly and compatible development of property within the Township, the Township Zoning Board, in addition to its other functions, is authorized to approve the establishment of certain uses designated as special land uses within the various zoning classifications set forth in the ordinance.

Such special land uses have been selected because of the unique characteristic of the use which, in the particular zone involved, under certain physical circumstances and without property controls and limitations, might cause it to be incompatible with the other uses allowed in such zoning district and accordingly detrimental thereto.

13.2 SPECIAL LAND USE PROCEDURE:

1. All applications for special land use permits shall be filed with the Zoning Board and shall include all pertinent plans, specifications and other data upon which the applicant intends to rely for a special land use permit.
2. The Zoning Board shall, upon receipt of the application in proper form, schedule and hold a hearing upon the request preceded by notification, as required by law. The burden of proof for issuance of the special land use permit shall at all times be on the applicant.
3. Following such hearing the Zoning Board shall either grant or approve, deny, or approve with conditions a permit for such special land use and shall state its reasons for its decision in the matter. All conditions, limitations, and requirements upon which any such permit is granted shall be specified in detail by the Zoning Board in its decision and shall be filed with the Zoning Administrator and the Township Clerk.
4. All special land uses are also subject to site plan review pursuant to Article XIV of this Ordinance.

13.3 CRITERIA FOR DECISION: Special land uses are not allowed to be engaged in within a particular zone in which they are listed in this ordinance unless and until the Zoning Board approves or approves with conditions a special land use permit. Such approval shall be granted when the Zoning Board finds from the evidence produced at the hearing that:

1. The size, nature and character of the use will be compatible with the other uses expressly allowed within the zoning district, especially where the location of the use is adjacent to or in close proximity to residential dwellings, with the imposition of conditions if necessary; and

2. The proposed use will be compatible with the natural environment of the area, and with the capacities of public services and facilities affected by the land use; and
3. The proposed use is consistent with the land use plan for physical development of Cheshire Township, as embodied in this ordinance and in any master plan approved by the Township; and
4. The proposed use will not in any manner be detrimental or injurious to the use or development of adjacent properties and of the occupants thereof, or to the general neighborhood; and
5. The proposed use will not adversely affect the public health, safety and general welfare of the community; and
6. The proposed use will be in accordance with the character and adaptability of the land at issue; and accommodate all off-street parking requirements imposed by this Ordinance; and
7. The general standards hereinabove required for the allowance of such a special land use can and will be met at all times by the applicant; and
8. The specific standards as may be set forth in this ordinance for the particular use can and will be complied with at all times. (See Section 13.7.)

**13.4 CONDITIONS IMPOSED UPON APPROVED SPECIAL LAND USES:** Any conditions upon which approval is based shall be reasonable and necessary to insure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, or necessary to protect the natural environment and conserve natural resources and energy, or necessary to insure compatibility with adjacent uses of land, or necessary to promote the use of land in a socially and economically desirable manner. Any such conditions shall also meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Be related to the valid exercise of the police power, and purposes that are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

The Township Zoning Board have the right to limit the duration of a special land use where the same is of a temporary nature and reserve the right of periodic review of compliance with the conditions and limitations imposed upon such use.

**13.5 COMPLIANCE WITH APPROVAL:**

An approved special land use which at any time fails to comply with the terms of the permit, or any provision of this Ordinance, shall cease to be a lawful use and shall be subject to suspension and/or revocation in accordance with Section 13.6, in addition to the legal sanctions and remedies generally applicable to any violation of this Ordinance.

**13.6 SUSPENSION AND/OR REVOCATION OF SPECIAL LAND USE PERMITS:** All special land uses for which a permit has been approved by the Zoning Board shall be subject to the following provisions, as a condition upon every such approved special land use:

1. Suspension of special land use permit. Upon a finding by a Township official authorized to enforce this Ordinance, including the Township Supervisor, of a probable violation of the terms and conditions of the special land use permit, the ordinances of Cheshire Township, or the laws of the State of Michigan, the Township Supervisor may suspend the special land use permit and require the permit holder to immediately cease and suspend use of the property for the purposes for which the special land use permit was previously granted, pending a public hearing and further determination of the Zoning Board as provided herein below in subsection 2. Notice of the suspension shall be provided to the permit holder/property owner by personal delivery or by certified mail, return receipt requested.
2. Zoning Board Review of Suspension. The Zoning Board shall review the status of the suspension at the earliest feasible opportunity, after a public hearing before the Zoning Board has been held. Notice of the public hearing shall be provided in accordance with the statutory provisions governing special land use matters. A majority of the Zoning Board members present and voting may vacate the suspension upon a determination that the violations causing the suspension have been cured, or may modify or extend the suspension upon a finding that the violations causing the suspension have not been cured, but are reasonably likely to be cured in a further period of time to be specified by the Zoning Board.
3. Revocation of Special Land Use Permit. A majority of the Zoning Board members present and voting may, after notice and public hearing as provided herein, determine to revoke a special land use permit which has been suspended, upon a finding that the violations causing the suspension have not been cured within a reasonable period of time as established by the Zoning Board. Notification of a Zoning Board determination to revoke a special land use permit shall be provided to the permit holder and property owner by personal delivery or by certified mail,



return requested. A determination of the Zoning Board revoking a special land use permit may be appealed to the Township Zoning Board of Appeals within 21 days of the determination. Premises for which a special land use permit has been revoked by the Zoning Board shall be used only as allowed pursuant to the relevant sections of the Zoning Ordinance for the applicable use district.

**13.7 SPECIFIC STANDARDS REQUIRED OF PARTICULAR SPECIAL LAND USES:**

The following specific standards shall be required of the particular special land uses designated in this section pursuant to Section 13.3.9 of this Ordinance, in addition to the standards specified in Section 13.3.1-8 of this Ordinance:

SPECIAL LAND USE	MINIMUM REQUIRED STANDARDS*			
Animal Hospital	2	4	5b	
Asphalt & Concrete Ready-mix Plant	2	4	5d	
Automotive Repair Garage	2	4	5b	8
Automotive Service Station	2	4	5b	7
Automotive Sales Area (Outdoor)	2	4	5b	8
Bar	2	4	5b	
Bus or Truck Terminal	2	4	5c	
Cemetery	2	3	5a	
Child (Group) Day Care Home	11			
Church	1	5b		
Club, Private noncommercial	1	4	5b	
Drive-In Theater	2	5d	9	
Earth Removal Operations	2	5b	10	
Processing and Quarrying	2	4	5d	10
Family Business	5b	12		
Farm Equipment Repair Shop	3	5b	8	
Foster Care Facility	3	5a		
Hospital	2	3	5b	
Junk Yards, Building Material Salvage Yard	2	4	5d	9
Kennel	2	4	5d	
Medical Clinic	1	4	5b	
Mobile Home Sales	2	4	5b	
Public Utility Buildings & Structures	1	4	5a	6, 9
Recreation, Commercial; Outdoors	2	4	5b	
Race Track	2	4	5d	
School	1	5b		
Slaughterhouse and Meat Processing Facilities	2	4	5d	

\*The minimum required standards enumerated below are referred to by the numbers following each special land use.

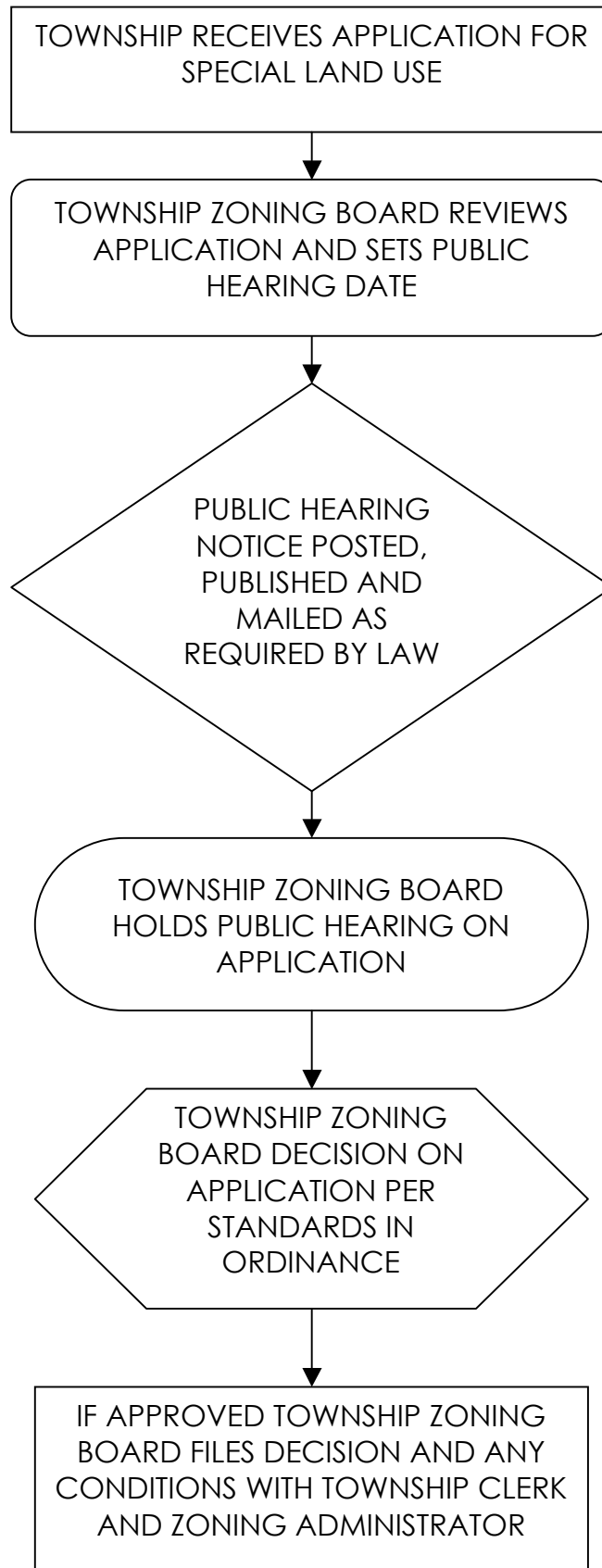
1. The use shall have frontage on an existing or officially proposed road having a primary classification.
2. The use shall have frontage on an existing or officially proposed road having a local or greater road classification.

3. The use shall have off-street parking facilities to satisfy average parking needs.
4. The use shall have off-street parking facilities to satisfy peak parking needs.
5. Buildings and activities shall not be closer than the specified number of feet to adjacent residentially used properties:
  - a. 30 feet
  - b. 50 feet
  - c. 100 feet
  - d. 200 feet
6. Public utility buildings shall, whenever practicable, have an exterior appearance similar to those buildings in the immediate area. The public utility buildings and structures shall have suitable landscaping, screen planting and fencing whenever deemed necessary by the Zoning Board.
7. Gasoline pumps or other service appliances shall be set back least 20 feet from the lot line.
8. No major repairs or dismantling shall be permitted outside of an enclosed structure.
9. The use shall be enclosed by a solid wall or compact screening of suitable material as determined by the Zoning Board and not less than six (6) feet in height.
10. Earth removal and quarrying activities which have the potential to reach or penetrate the groundwater table shall not be approved unless an environmental impact statement is submitted by the applicant demonstrating that such activities shall have no adverse affect on the groundwater table.
11. Child (Group) Day Care Home:
  - a. It is located not closer than 1,500 feet to any of the following facilities (measured along a road, street or other thoroughfare open to use by the public as a matter of right for the purpose of vehicular traffic, excluding an alley):
    - i. Another state licensed group day care home;
    - ii. Another adult foster care shall group home or large group home licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act (Public Act 218 of 1979, as amended MCLA 400.701 et seq.);

- iii. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed by the State of Michigan under Article 6 of the Michigan Public Health Code (Public Act 368 of 1978, as amended MCLA 333.6101 et seq.);
  - iv. A community correction center, resident home, half way house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
  - b. It has appropriate fencing enclosing all outdoor play areas, as determined by the Zoning Board. Such fencing shall be at least five (5) feet high and non-climbable in design.
  - c. It maintains the property consistent with the visible characteristics of the neighborhood.
  - d. It does not exceed 16 hours of operation during a 24 hour period, operating only between 6:00 a.m. and 10:00 p.m.
  - e. It meets all applicable sign regulations set forth in this ordinance.
  - f. It meets all applicable off-street parking requirements set forth in this ordinance.
12. Family Business:
- a. All work in connection with any family business permitted hereunder shall be conducted solely within an enclosed building;
  - b. No outdoor storage shall be allowed unless same can not be reasonably stored within a building or structure. Such outdoor storage area shall be located to the rear of the residence and shall be screened to effectively block all view from adjoining roads or properties;
  - c. There shall be no expansion of the physical area of the business without the further approval of the Zoning Board;
  - d. No services shall be sold or conducted upon or from the premises which shall constitute a nuisance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbance or lighting shall not be discernable beyond the boundaries of the property from which the activity is conducted;
  - e. There shall be a minimum distance of 150 feet between any existing residence on adjoining property and the building where the business is located;

- f. The business shall be located on the same parcel with the family's residence;
- g. In addition to those family members of a residence who reside on the parcel, no more than four other individuals may work on the premises in connection with the family business.
- h. The Zoning Board may limit the family business to a particular type of business and may impose additional conditions and regulations as it deems necessary to adequately protect adjoining residents and property owners and the values of adjoining properties, provided that any such additional conditions and regulations shall be consistent with and justified pursuant to the standards governing special land uses set forth in Article XIII of this Ordinance, or elsewhere.

## FLOW DIAGRAM FOR SPECIAL LAND USE REQUESTS



ARTICLE XIV  
SITE PLAN REVIEW

14.1 PURPOSE: The intent of this Article is to provide for consultation and cooperation between the land developer and the Zoning Board in order that the developer may accomplish his objectives in the utilization of his land in accordance with the regulations of this Zoning Ordinance and with minimum adverse effect on the use of adjacent streets and on existing and future land uses in the immediate area and vicinity.

14.2 USES SUBJECT TO SITE PLAN REVIEW: The following uses shall not be conducted upon any land or in any building/structure, nor shall a building permit be issued for the construction of a building/structure associated with such uses, until a site plan has been submitted to, reviewed, and approved by the Zoning Board in accordance with the provisions of this Ordinance pertaining to site plans:

1. Special land uses.
2. Mobile home parks.
3. Industrial buildings or developments.
4. Multiple-family dwellings.
5. All office and commercial buildings and developments.
6. Churches.
7. Planned unit developments, including site condominium projects.
8. Earth removal activities, where site plan approval is required pursuant to Section 12.20.

14.3 SKETCH PLAN REVIEW: Preliminary sketches of site and development plans may be submitted to the Zoning Board. The purpose of the sketch stage is to allow discussion between the developer and the Zoning Board as to site, building and general requirements, to allow the developer to become acquainted with proper procedure and to investigate the feasibility of the project prior to extensive engineering plans being prepared for the final site plan review procedure. All sketch plan stage applications shall include:

1. The name and address of applicant. If a corporation, the name and address of the officers thereof. If a partnership, the names and addresses of each partner.
2. Legal description of the property.
3. Drawings showing tentative plans.

14.4 FORMAL SITE PLAN APPLICATION CONTENT: All formal site plan review applications shall include, in addition to 1 and 2 above, the following:

1. The date, north arrow and scale.
2. All lot and/or property lines are to be shown and dimensioned, including building setback lines.
3. The location and height of all existing and proposed structures on and within one hundred (100) feet of the subject property.
4. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, parking spaces, loading and unloading areas, outdoor display and storage areas, and recreation areas, etc.
5. The location of the pavement and right-of-way width of all abutting roads, streets or alleys.
6. The name and firm address of the professional individual responsible for the preparation of the site plan (including imprint of professional seal, if any).
7. The name and address of the property owner or petitioner.
8. The location of all rubbish receptacles and landscaping and the location, height and type of fences and walls.
9. Size and location of existing and proposed utilities, including proposed connections to public sewer or water supply systems, if available.
10. Location of all fire hydrants.
11. Size and location of all surface drainage facilities.
12. Existing and proposed contour.
13. Elevations and floor plans for all buildings and the location of all buildings on the property.
14. A description of the operation proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, land pollution, fire or safety hazards, or the emission of potentially harmful or obnoxious matter or radiation.
15. Engineering and architectural plans for the treatment and disposal of sewage and industrial waste tailings and unusable by-products.

16. The proposed number of shifts to be worked and the maximum number of employees on each shift.
17. Any other information deemed necessary by the Zoning Board.
18. (For mobile home parks) lot size, setbacks, trailer pads, patios, and complete park layout.
19. The Zoning Board may waive any of the above enumerated requirements whenever it determines that such requirement is not necessary for a specific site plan due to the fact that:
  - a. The Zoning Board finds from the evidence presented that the condition does not apply and is therefore unnecessary to evaluate the use for which approval is sought; or
  - b. The Zoning Board finds from the evidence that the condition can be waived or modified because there are practical difficulties or unnecessary hardships of a non-monetary nature in carrying out the strict letter of the requirement, and that the waiver or modification is appropriate so that the spirit of the Ordinance is observed, public safety is secured, there is no detriment resulting therefrom, or a detriment is alleviated thereby.

14.5 FORMAL SITE PLAN SUBMITTAL AND REVIEW SCHEDULING PROCEDURES:

1. The applicant shall submit the site plan and all related information to the Zoning Administrator (or other designee of the Zoning Board) at least 14 days before the Zoning Board meeting at which the applicant would like to have the site plan reviewed.
2. The Zoning Administrator (or other designee of the Zoning Board) shall initially review the site plan and all related information submitted by the applicant for "administrative completeness", and shall identify all concerns relating to the ordinance criteria for approval of the site plan.
3. A site plan which is determined by the Zoning Administrator (or other designee of the Zoning Board) to be administratively incomplete shall not be distributed to the Zoning Board or placed on the agenda of a Zoning Board meeting, without the permission of the Chairperson of the Zoning Board.
4. When the Zoning Administrator (or other designee of the Zoning Board) has determined a site plan to be administratively complete the applicant shall supply the Zoning Administrator with a sufficient number of copies of the administratively complete site plan and all related information to enable the Zoning Administrator to distribute a copy of the site plan and all related information submitted by the applicant, and the Administrator's



report on same, to each member of the Zoning Board and to the Building Official no later than 7 days prior to the Zoning Board meeting at which the applicant would like to have the site plan reviewed. The Zoning Administrator shall retain 1 copy of the administratively complete site plan and all related information submitted by the applicant, and shall file 1 copy of same with the Township office to be available for public examination

**14.6 SITE PLAN APPROVAL:** The Zoning Board shall have the function, duty and power to approve or disapprove the site plan, or to approve subject to compliance with certain modifications, in accordance with the purpose and intent of this Ordinance and the criteria set forth in this Ordinance. Prior to reviewing or approving a site plan the Zoning Board may request comments and recommendations from such consultants or other parties as it deems advisable or necessary.

1. Criteria for Site Plan Review: The site plan shall be reviewed and approved by the Zoning Board upon a finding that:
  - a. The proposed use will not have a harmful effect on the surrounding neighborhood development.
  - b. There is a proper relationship between the major thoroughfares and proposed service drives, driveways and parking areas so as to insure the safety and convenience of pedestrian and vehicular traffic.
  - c. The adverse effects resulting from the locations of buildings and accessory structures will be minimized to the occupants of adjacent properties. Fencing, walls and/or landscaping may be required as a screening device to minimize adverse effects upon surrounding development.
  - d. The proper development of roads, easements and utilities has been provided to protect the general health, safety and welfare of the citizens of the Township.
  - e. The natural features of the landscape, such as ponds, streams, hills, wooded areas, etc. shall be retained where they afford a barrier or buffer between adjoining properties being put to different use.
  - f. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.

2. Security Deposit:

- a. To insure compliance with the zoning ordinance and conditions imposed at the time of site plan approval, the Zoning Board may require that a cash deposit, certified check, irrevocable bank letter of credit or surety bond acceptable to the Zoning Board, covering one hundred twenty-five percent (125%) of the estimated costs of improvements associated with a project for which the site plan approval is sought, be deposited with the clerk of the township to insure faithful completion of the improvements.
- b. The Zoning Board shall by resolution request the Township Clerk to rebate said security deposit in reasonable proportion to the ratio of work completed on the required improvements as the work progresses. The amount of rebate shall be determined from time to time at regular or special meetings of the Zoning Board based upon evidence presented by the applicant and/or appropriate township officials demonstrating the ratio of work completed on the required improvements.
- c. If any improvements are not constructed within the time limit established as part of the site plan approval or within any extension thereof approved by the Zoning Board, then the Zoning Board shall by resolution request the Township Board to take appropriate legal steps to insure completion using so much of the security deposit as is necessary for such purpose.
- d. As used herein "improvements" means those features and actions associated with a project which are considered necessary by the Zoning Board to protect natural resources, or the health, safety, and welfare of the residents of a Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project which is the subject of zoning approval.

14.7 MODIFICATIONS: Any modifications of the site plan desired by the Township shall be so stated in writing to the applicant. Site plan approval may then be granted contingent upon the revision of the site plan by the applicant to the satisfaction of the Zoning Board. The final approved site plan, with its modifications, shall be signed by the Zoning Board Chairman and shall be on record in the Township offices.

14.8 FEES: Any application for site plan review shall be accompanied by a fee as may be determined from time to time by the Township Board.

14.9 REVOCATION: The Zoning Board may revoke any site plan approval when the construction of the development is not in conformance with the approved site plan. The

Zoning Board shall give the applicant notice of intention to revoke such approval at least ten (10) days prior to review by the Zoning Board. After concluding such review the Zoning Board may revoke its approval of the development if the Board determines that a violation of the approved site plan exists and has not been remedied prior to such hearing.

14.10 TERM OF APPROVAL: Site plan approval shall be valid for a period of one (1) year. One (1) six-month extension may be granted after complete review of the application by the Zoning Board and the parties listed in Section 14.5 above. At the end of the six-month extension, if no building permit has been obtained and on-site development actually begun, the site plan approval becomes void, and the developer shall submit a new application for approval.

ARTICLE XV  
NONCONFORMING USES

15.1 CONTINUANCE OF NONCONFORMING USE OR STRUCTURE: Except where specifically provided to the contrary, and subject to the provisions of this Article, the lawful use of any land or structure which is existing and lawful on the date of enactment of this ordinance, or in the case of an amendment of this ordinance then on the date of enactment of such amendment, may be continued even though such use or structure does not conform with the provisions of this ordinance or applicable amendment thereto. A change in the ownership, tenancy, or occupancy of a lawful nonconforming use or structure shall not disrupt the continuance of its lawful nonconforming status.

15.2 EXPANSION OF NONCONFORMING USE OR STRUCTURE: No nonconforming use of any land or structure shall be enlarged or extended. The Zoning Board may permit a nonconforming building (with a conforming use) to be expanded by not more than 50% of its existing size on the same or contiguous land in the same ownership at the time of the passage of this ordinance. Any such expansion shall be subject to site plan review by the Zoning Board for landscaping, screening and traffic access. Structures or uses nonconforming only by reason of height and area or parking provisions may be extended, altered or modernized, if same does not result in any additional nonconformance with the height, area or parking provisions.

15.3 UNLAWFUL USE NOT AUTHORIZED: Nothing in this ordinance shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of regulations in effect immediately prior to the enactment date of this Ordinance.

15.4 CHANGE OF USE: The use of a nonconforming building may be changed to another nonconforming use if the Zoning Board finds that such new use would substantially decrease the degree of non-conformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to permit the conversion of a nonconforming use to a prior nonconforming use nor to waive the other provisions of this Article.

15.5 RESTORATION AND REPAIRS: Such repairs and maintenance work as are required to keep a nonconforming building or structure in sound condition may be made provided that no such work shall include structural alterations which extend the natural life of the building or structure. If a non-conforming building or structure is damaged or destroyed to the extent of 50% or more of its value by fire, flood, wind or other calamity, its reconstruction shall be in accordance

with this ordinance; provided, however, that a dwelling structure occupied as a homestead which was not in conformance with the minimum gross floor area requirements of this ordinance at the time of the damage or destruction may be reconstructed to a size not less than the gross minimum floor area at the time prior to such calamity, and continue to be used as the homestead of the owners. A nonconforming use damaged to a lesser extent may be restored to its size at the time prior to such damage and its use resumed. Any restoration allowed by this ordinance shall be started within a period of one year of the time of such damage and diligently completed.

15.6 NONCONFORMING DUE TO RECLASSIFICATION: The foregoing provision of this Article shall also apply to buildings, land or uses which hereafter become nonconforming due to any reclassification of districts or any subsequent change in the regulations of this ordinance.

15.7 NONCONFORMING USE DISCONTINUED: No building or premises where a nonconforming use has ceased for more than 12 months may be devoted to a nonconforming use except as provided in Article 15.4.

15.8 EXISTING NONCONFORMING LOTS: Any lot of record created prior to the effective date of this Ordinance that fails to comply with the minimum requirements of its zoning district may be developed for a lawful conforming use if the lot conforms in all respects to the requirements of the Zoning Ordinance in effect as of the date of such recording, and complies with all other current requirements of this Ordinance. A nonconforming lot shall otherwise be buildable only pursuant to a variance approved by the Zoning Board of Appeals.

## ARTICLE XVI

### PARKING AND LOADING SPACES

16.1 MIXED OCCUPANCIES AND USES NOT SPECIFIED: In the case of mixed uses, the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately. Collective provision for off-street parking spaces shall not be less than the sum of the requirements for the various uses computed separately. Parking areas for churches, theaters or other uses in which the primary parking demand occurs out of normal work and business hours may be jointly used where arrangements are made to insure that adequate space is available for each function. The parking requirements for uses not specified in Section 16.6 shall be as required for an analogous specified use or a specified use with similar parking demands.

16.2 SIZE AND ACCESS: Each off-street parking space shall have an area for a single vehicle of not less than 170 square feet and nine (9) feet in width, exclusive of access drives or aisles. Handicapped parking spaces shall be required in compliance with state law. There shall be adequate provision for ingress and egress to all parking spaces. No ingress or egress to a parking area accessory to a commercial or industrial use shall utilize any residential street except a side street with no residential lots facing upon it. All parking areas with paved surfaces for more than three (3) vehicles shall have the individual parking spaces marked on the surface of the parking area.

16.3 UNITS OF MEASUREMENT: For the purpose of this Article "floor area" shall mean the gross floor area of all floors of a building or an addition to an existing building, excluding basements and those areas used exclusively for storage of goods or supplies. The total parking area excludes access drives within the parking area.

16.4 LOCATION OF OFF-STREET PARKING FACILITIES: Required off-street parking facilities shall be located on the same parcel as a principal use in residential zones. In commercial and industrial districts additional off-street parking is permitted as a principal use on a separate lot which is adjacent to the principal use.

16.5 STANDARDS FOR PARKING AREAS IN NON-RESIDENTIAL ZONES: Every parking area in a non-residential zone shall be developed and maintained in accordance with the following requirements:

1. Parking areas shall be effectively screened on any side which adjoins premises situated in a residential zone by a screening of evergreen hedge or other natural landscaping. If owners of adjacent residential properties agree, the screening may be a solid uniformly painted fence or retaining wall. No part of any parking area or access drive shall be closer than five (5) feet to any property line unless connected to another adjoining parking area by driveways. No access drive shall be less than 20 feet wide, nor closer than 25 feet to any residentially zoned lot or intersecting street right-of-way lines.

2. Adequate lighting shall be provided to protect the users of the parking area. Such lighting shall be arranged to reflect the light away from any adjoining residential buildings or streets.

16.6 **TABLE OF OFF-STREET PARKING REQUIREMENTS:** The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings shall be determined in accordance with the following table, and shall be irrevocably reserved for such use and shall comply with the requirements of this Article.

Note: Notwithstanding the following minimum parking space requirements designated for various land uses, every property owner shall provide and maintain at all times an adequate number of off-street parking spaces and, where applicable, the necessary loading and unloading facilities associated therewith, for all the occupants, employees and patrons of the property. Thus, depending upon individual circumstances a greater number of parking spaces may be required in order to comply with this overriding requirement.

1. Residential

	<u>USE</u>	<u>NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE</u>
a	Residential, one family and two family	Two (2) for each dwelling unit
b	Residential, multiple family	Two (2) for each dwelling unit
c	Mobile home park	Two (2) for each trailer or mobile home site and on 1 (1) for each employee
d	Boarding or rooming house	One (1) for each sleeping room
e	Child day care home, group or family; foster care facility	One (1) for each employee not residing in the facility

2. Institutional and Recreational

	<u>USE</u>	<u>NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE</u>
a	Church	One (1) for each three (3) seats based on maximum seating capacity in the main unit of worship
b	Hospital	One (1) for each 600 square feet of gross floor area
c	Convalescent or Nursing Home	One (1) for each 600 square feet of gross floor area
d	Elementary and Junior High School	One (1) for each employee, in addition to the requirements of the auditorium
e	Senior High School	One (1) for each employee and one (1) for each ten (10) students, in addition to the requirements of the auditorium
f	Private club or lodge hall	One (1) for each three (3) persons allowed within the maximum occupancy
g	Private golf club, swimming pool club, tennis club, or other similar uses	One (1) for each two (2) member families or individuals
h	Golf courses open to the general public, except for miniature or 3 par courses	Six (6) for each golf hole and one (1) for each employee
i	Auditorium, gymnasium, indoor theater, stadium, sports arena, or similar place of assembly	One (1) for each three (3) seats or six (6) feet of bench space



3. Business and Commercial

	<u>USE</u>	<u>NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE</u>
a	Automotive service station	Two (2) for each lubrication stall, rack or pit; and one (1) for each employee
b	Auto Wash	One (1) for each employee
c	Beauty parlor or barber shop	Three (3) spaces for each of the first 2 chairs and one (1) space for each additional chair
d	Drive-in establishment	One (1) for each 40 square feet of gross floor area, with a minimum of twenty-five (25) spaces
e	Establishment for sale and consumption, on the premises, of beverages, food or refreshments	One (1) for each 75 square feet of gross floor area, or one (1) for each three (3) persons of maximum capacity, which ever is greater
f	Furniture and appliance household equipment, repair shop, showroom for plumber, decorator, electrician or similar trade, show repair and other similar uses	One (1) for each 200 square feet of gross floor area
g	Laundromat and coin operated dry cleaner	One (1) for each two (2) washing machines
h	Miniature golf course	Three (3) for each golf hole and one (1) for each employee
i	Funeral home	One (1) for each 100 square feet of gross floor area
j	Motor vehicle sales and service establishment, trailer and boat sales and rental showrooms	One (1) for each 100 square feet of gross floor area
k	Open air business, except otherwise specified herein	One (1) for each 600 square feet of lot area
l	Retail store, except otherwise specified herein	One (1) for each 200 square feet of gross floor area

4. Offices

	<u>USE</u>	<u>NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE</u>
a	Bank, savings and loan	One (1) for each 100 square feet of gross floor area
b	Business or professional office, except as indicated in the following item (c)	One (1) for each 400 square feet of gross floor area
c	Professional offices of medical or dental, or similar professions	One (1) for each 100 square feet of gross floor area

5. Industrial

	<u>USE</u>	<u>NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE</u>
A	Industrial or research establishment	One (1) for every one and one-half (1 1/2) employees in the largest working shift
B	Wholesale or warehouse establishment	One (1) for every one and one-half (1 1/2) employees in the largest working shift, or one (1) for every 2000 square feet of gross floor area, whichever is greater

16.7 PARKING AREAS IN RESIDENTIAL ZONES: Any persons desiring to establish a parking area as an accessory use or a transitional use in a residential zone, other than for a one family structure or a farm use, shall submit plans showing the size, design, landscaping, curb cuts and other features of the parking lot. Such parking areas may be authorized, subject to the following conditions:

1. No part of a parking area shall extend into the required front yard. All areas not occupied by the parking area or access drive shall be landscaped to effectively screen the activity of the parking area from adjoining residential properties.
2. All parking areas shall be used solely for the parking of passenger automobiles, and no commercial work, sales or service of any kind shall be conducted thereon. No sign, other than entrance, exit, and condition-of-use signs, shall be maintained and the aggregate area of all such signs shall not exceed 12 square feet. The Zoning Administrator may establish conditions for screening or enclosure and permit noncommercial buses operated by public or semipublic bodies, provided that no such bus is parked within 60 feet of the street line.

3. Each entrance to and exit from a parking area shall be at least 25 feet distant from any adjacent property located in any residential zone and shall not be wider than 20 feet. The Zoning Administrator shall ascertain that the proposed parking area is safely related to traffic, street intersections, buildings and pedestrian walkways and that surrounding properties are fully protected from detrimental effects.
4. The Zoning Administrator shall issue a permit upon receipt of the approved plan. The permit may be revoked at any time that the requirements of the approved plan are not complied with.

**16.8 REQUIRED OFF-STREET LOADING AND UNLOADING SPACE:** In all districts every building erected which is to be occupied by manufacturing, storage, retail store, wholesale store, warehouse, market, hotel, hospital, mortuary, laundry or uses similarly requiring the receipt or distribution of materials or merchandise shall provide and maintain on the same premises off-street loading space. Each loading space shall be at least 12 feet in width, 22 feet in length and have a clearance of 14 feet above grade. Such space may occupy all or any part of the required side or rear yard, but shall comply with the provisions of Section 16.5 and 16.7 to prevent detrimental effects to adjoining properties.

**16.9 PARKING VARIATION:** Where it can be demonstrated that the parking requirements of this Article would provide an excessive amount of parking area for the needs of a particular use, a site plan with lesser parking area may be approved by the Zoning Board, provided all the following conditions are present:

1. The use does not provide on-site services to the general public.
2. The maximum number of employees and visitors during any one eight hour period can be demonstrated to be less than the parking space requirements this ordinance provides for.
3. An agreement to provide additional parking if an increase in employees or visitors shall occur at a future time is made part of the site plan.
4. An open landscaped area meeting the required area of this Article is shown reserved for future parking.
5. Site plan approval of lesser requirements shall be valid only for the stated use. An Occupancy Permit for a new use shall not be issued unless a new site plan is reviewed and parking arrangements are found to be in accordance with the requirements of this ordinance.

**16.10 BUILDING ADDITIONS:** Whenever an addition is made to an existing building, the parking area shall be increased sufficiently to meet the requirements of this Article.

## ARTICLE XVII

### SIGNS

17.1 SIGNS IN THE R-1 AND R-2 DISTRICTS: In the R-1 and R-2 Districts, the following signs only shall be permitted:

1. One non-illuminated or reflectorized professional or nameplate sign not more than 144 square inches in area.
2. One non-illuminated temporary sign pertaining to the lease or sale of the premises upon which it is placed, not to exceed eight (8) square feet in total area.
3. One sign placed at the primary entrance to a subdivision or planned unit development, not exceeding 32 square feet in area.
4. A sign or signs aggregating not more than 12 square feet in area for parking uses where permitted by Section 16.7 or which are deemed necessary to the public welfare by the Zoning Board (refer to parking areas in residential zones).
5. A sign of not more than 12 square feet in area identifying the name and activities of an allowed non-residential use, including a family business, on the premises.
6. Customary farm and farm crop signs on active farms.

17.2 LOCAL SERVICE BILLBOARDS IN THE R-1, C-1 and I-1 DISTRICTS: For the convenience of the traveling public and the preservation of values in community business areas, local service billboards are permitted on any road in the R-1, C-1, and I-1 Districts subject to the following provisions:

1. The billboard must serve to identify a County community or advertise a County community business.
2. The billboard shall not exceed 120 square feet in area.

17.3 SIGNS IN THE RMH DISTRICTS: In the RMH District the provisions of Section 17.1 shall apply (with the provision for a subdivision entrance sign also applicable to the entrance of a mobile home park).

17.4 SIGNS AND BILLBOARDS IN THE C-1 DISTRICT: In the C-1 District no sign shall be permitted which is not accessory to the business conducted on the property. Such sign may only be erected, painted or placed on any exterior wall providing all of the following requirements are met:

1. No business establishment shall have a total of more than three signs facing upon any one street, provided the total sign area for all signs permitted shall not exceed 15% of the area of the face of the building to which they are attached or stand in front of.
2. All signs attached to a building shall be flat signs, parallel to the face of the building wall. No sign shall extend farther than 15 inches from the face of the building upon which it is attached. Where a sign extends more than three inches from the face of the wall, the bottom of the sign shall not be closer than eight (8) feet from the ground level below the sign. The maximum width of any single sign shall not exceed 90% of the width of the wall to which the sign is attached or related.
3. Part or all of the total sign area computed within the maximum total area permitted under subsection 1 of this section may be a freestanding or pylon sign, not exceeding 80 square feet in area, placed at and behind the setback line where the principal building is located 50 feet or more from the front property line. The freestanding sign shall not exceed five (5) feet in height if located on the ground and shall be at least eight (8) feet from the ground if a pylon sign.
4. No sign shall be lighted by flashing or intermittent illumination. All light sources except for diffused lighting within translucent signs, used for the illumination of signs, business buildings or areas surrounding them shall be completely shielded from the view of vehicular traffic using the road or roads abutting such business properties.
5. Automotive service stations, automotive sales areas and automotive repair shops may display, in addition to the foregoing signs, the following signs which are deemed customary and necessary to their respective business:
  - a. One (1) freestanding or pylon sign, not exceeding 54 square feet in area on a side.
  - b. Two (2) temporary signs located inside the property line advertising special seasonal servicing, provided that each such sign does not exceed nine (9) square feet in area.
  - c. Directional signs or lettering displayed over individual entrance doors or bays.
  - d. Customary lettering insignia which are a structural part of a gasoline pump.
  - e. A non-illuminated credit card sign.
6. Directional signs designating entrances or exits to parking areas shall be in accordance with Section 17.1(4).

7. Billboards are permitted on unoccupied lots provided they shall not exceed 300 square feet in area. No billboard shall be erected on a lot with less than 100 feet of frontage. The yard requirements for a principal building shall be met, and no other use or accessory use shall be permitted on a lot with a billboard.

17.5 SIGNS AND BILLBOARDS IN THE I-1 DISTRICT: In the I-1 District the following signs only are permitted, provided that all of the requirements contained herein are complied with:

1. Signs as regulated in Section 17.4 (subsections 1-6) above.
2. Billboards as permitted in Section 17.4(7) above.
3. Directional signs designating entrances, exits, parking and loading areas, shipping docks or similar traffic control signs, located at least five feet from the road right-of-way.

ARTICLE XVIII  
ZONING BOARD MEMBERSHIP,  
ADMINISTRATION AND ENFORCEMENT OF ZONING ORDINANCE  
VIOLATION AND SANCTIONS

18.1 CREATION: There is hereby created a Zoning Board which shall perform its duties and exercise its powers and jurisdiction as provided by applicable laws, and by the provisions of this ordinance.

18.2 MEMBERSHIP AND OFFICERS: The Zoning Board shall be appointed by the Cheshire Township Board as prescribed by statute with all the powers and authority prescribed by law or delegated to it under specific provisions of this Ordinance. The Zoning Board shall consist of seven members, or such other membership of not less than four (4) and not more than seven (7) members as may be determined by Township Board resolution. Not less than once in every two (2) year period the Zoning Board shall elect from its members a chairperson, a secretary, and such other officers or committees as it considers necessary.

18.3 MEETINGS: Regularly scheduled meetings of the Zoning Board shall be held not less than two (2) times per year in the Cheshire Township Hall. All meetings shall be open to the public. Additional meetings shall be held at such other times as the Zoning Board may deem necessary for the efficient conduct of its business. The Zoning Board may engage employees, including technical assistance, as needed, within budgetary limits established by the Township Board.

18.4 MINUTES AND RECORDS: The secretary or acting secretary of the Zoning Board shall keep minutes of Zoning Board proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The secretary shall also keep records of all official actions of the Zoning Board. A copy of the minutes and records shall be filed with the Township Clerk and be a public record.

18.5 FEES: Upon filing an application for a special exception use permit, or for a rezoning or amendment to the text of the Zoning Ordinance, Zoning Map or Land Use Plan, or other matter properly heard by the Zoning Board, the applicant shall pay a fee as set by the Township Board. Said fee shall be paid to the Township Treasurer before any action is taken on the application. Fees may be changed by the Township Board at any regular meeting, which change shall take effect 30 days after adoption of such change.

18.6 ADMINISTRATION: The Office of Zoning Administrator is hereby established. The Township Board shall designate a Zoning Administrator to act as its officer to effect proper administration of this ordinance in accordance with Article 18.7. The Township Board shall establish the Zoning Administrator's terms of employment and rate of compensation. For the purpose of this ordinance, the Zoning Administrator shall have the power of a Zoning Enforcement Officer.

**18.7 DUTIES OF THE ZONING ADMINISTRATOR:** Except as may be provided to the contrary in this Ordinance, this Ordinance shall be administered and enforced by the Zoning Administrator, who shall in no case issue any permit or give any approval where the proposed building, alteration or use would be in violation of any provision of this ordinance. The Zoning Administrator shall have the following duties and responsibilities:

1. **Investigation of Violations:** The Zoning Administrator shall investigate any alleged violation of the Zoning Ordinance coming to his or her attention. If a violation is found to exist, the Zoning Administrator shall proceed in accordance with policies established by the Township Board and as otherwise provided by law.
2. **Inspections:** The Zoning Administrator shall make periodic inspections of property subject to an approved site plan and/or special land use permit approval to ascertain that the requirements of this ordinance are being complied with during the construction/implementation of the approved development.
3. **Records:** The Zoning Administrator shall keep records of all inspections, applications and permits issued, with a notation of all special conditions involved. He shall file and safely keep copies of all plans, and a record of all fees submitted with applications. The same shall form a part of the records of his office and shall be readily available.
4. **Meeting Attendance:** The Township Board may require the Zoning Administrator to attend meetings of the Township Board, Zoning Board, and Zoning Board of Appeals, and keep the members of same informed of matters pertaining to zoning.
5. **Administrative Review of Applications:** The Zoning Administrator shall review site plan applications and related materials as specified in Section 14.5 of this Ordinance. The Zoning Administrator shall also administratively review such other applications as may be required by the Township Board.
6. **Other Duties:** The Zoning Administrator shall perform such additional duties related to administration and enforcement of the Zoning Ordinance as may from time to time be assigned by the Township Board.

**18.8 NUISANCE PER SE; VIOLATION AND SANCTIONS:**

1. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, maintained or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.



2. Any person who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance.

Any person responsible for a violation of this Ordinance, whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

Any violation of this Ordinance shall constitute a basis for injunctive relief to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.

A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine
--- 1st offense within 3-year period*	\$150.00
--- 2nd offense within 3-year period*	300.00
--- 3rd or more offense within 3-year period*	500.00

\*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction.

- 18.9 AUTHORITY TO COMMENCE LEGAL ACTION: The Township Supervisor, the Zoning Administrator, and such other persons as the Township Board may properly designate, may institute such legal actions or proceedings as may be appropriate to prevent, enjoin, abate, remove or penalize any violation of this Ordinance; provided that actions in the Circuit Court shall be authorized by the Township Board.

## ARTICLE XIX

### ZONING BOARD OF APPEALS

19.1 CREATION: There is hereby created a Zoning Board of Appeals (ZBA), which shall perform its duties and exercise its powers and jurisdiction as provided by applicable laws, and by the provisions of this ordinance.

19.2 MEMBERSHIP: The ZBA shall be appointed by the Township Board as prescribed by statute, and shall consist of five (5) members, or such other membership of not less than three and not more than five members as may be determined by Township Board resolution. One member shall be a member of the Township Zoning Board. A member of the Township Board shall not serve as Chair of the Zoning Board of Appeals. An employee or contractor of the Township Board shall not serve as a member of the Zoning Board of Appeals.

The Township Board may also appoint not more than two (2) alternate members of the ZBA for the same term as regular members. An alternate member may be called to sit as a regular member in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. In such situations the alternate member shall serve until a final decision has been made. An alternate member of the ZBA shall have the same voting rights, when called to serve, as a regular member.

19.3 TERM: The term of each member shall be three (3) years and until a successor has been appointed and qualified; such successor must be appointed not more than one (1) month after the expiration of the preceding term. Staggered terms shall be effected by one or more of the first appointed members serving for less than three (3) years. Members from the Township Board and from the Zoning Board shall have terms limited to their respective other official terms or to such lesser period determined by resolution of the Township Board.

19.4 JURISDICTION AND DUTIES: The ZBA shall perform all the duties and have all the jurisdiction and powers prescribed by applicable laws, and by the provisions of this ordinance, including, the following:

1. Acting upon all questions as they may arise in the administration and enforcement of the Zoning Ordinance, including interpretation of the ordinance and the Zoning Map.
2. Hearing and deciding appeals from and reviewing any order, requirement, decision, or determination made by the Zoning Administrator. The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be done, and to that end shall have all the powers of the officer from whom the appeal was taken, and may issue or direct the issuance of a permit.

3. Hearing and deciding, subject to Sections 19.8-19.9 of this Article, requests for a nonuse variance relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the Zoning Ordinance, or to any other nonuse-related requirement in the Ordinance, if there are practical difficulties in the way of carrying out the strict letter of the Zoning Ordinance, so that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done.

19.5 EMPLOYEES: The ZBA may employ clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount made available for that purpose by the Township Board.

19.6 MEETINGS/RULES OF PROCEDURE: Meetings of the ZBA shall be held at the call of the chairman and at such other times as the ZBA shall determine for the efficient conduct of its business. All meetings shall be open to the public. The ZBA shall adopt such rules of procedure consistent with the provisions of said Act, this zoning ordinance, and other local ordinances, as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.

19.7 APPEALS: Appeals to the ZBA pursuant to Section 19.4.2 may be taken by any party aggrieved or affected by a decision or order of the Zoning Administrator or by an officer or board of the Township. A notice of appeal specifying the grounds thereof shall be filed with the ZBA within 30 days after the date of the action appealed. A copy of the notice shall promptly be served upon the officer or board from whose decision or order the appeal is taken, who shall forthwith transmit to the ZBA all records pertaining to the action appealed from. An appeal shall stay all proceedings, decisions or orders unless said officer certifies to the ZBA that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except upon a restraining order by the ZBA or by the circuit court.

19.8 VARIANCE STANDARDS AND CONDITIONS:

1. Standards: No variance in the provision or requirements of this ordinance shall be authorized by the ZBA unless the ZBA finds from reasonable evidence that:
  - By reason of the exceptional narrowness, shallowness, or shape of the property in question, or by reason of exceptional topographic conditions or other extraordinary conditions of the property in question, there are practical difficulties preventing compliance with the strict letter of the Ordinance.
  - Such variance will not be of substantial detriment to adjoining property.
  - Such variance will not materially impair the intent and purpose of this ordinance or of the public health, safety and welfare.

If the ZBA finds all of the preceding standards to be satisfied, to grant variance relief the ZBA must further find that two (2) of the following facts and circumstances exist:

- a. That the exceptional or extraordinary circumstances or conditions applying to the specific property do not apply generally to other properties in the same zone; or,
- b. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the zone; or,
- c. That the condition or situation of the specific property or the intended use is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this zoning ordinance.

In determining whether the standards for variance relief have been shown to be satisfied the ZBA shall be governed by the following additional legal principles:

- The circumstances or conditions submitted by the applicant to justify the variance relief must pertain to the property at issue, and not the personal circumstances of the applicant and/or other occupants or users of the property.
  - The circumstances or conditions submitted by the applicant to justify the variance relief must not have been self-created by the applicant or some other person under the control of the applicant or for whose conduct the applicant is responsible.
  - Increased costs associated with complying with the strict letter of the ordinance are not a basis for variance relief.
  - Increased financial return if variance relief is granted is not a basis for variance relief.
  - The ZBA may find the standards for relief from the strict letter of the ordinance have been shown to be satisfied, but not to the extent of the variance requested by the applicant, and in such circumstances the ZBA shall grant only such lesser variance relief as is necessary.
2. Conditions: The ZBA may attach conditions or limitations upon a variance, where such are necessary to insure that public services and facilities affected by a requested variance and associated land use or activity will be capable of accommodating increased service and facility loads caused by the variance and associated land use or activity, and to protect the natural environment and conserve natural resources and

energy, and to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

Prior to attaching a condition or limitation to a variance, the ZBA shall also specifically determine the following:

- a. That the condition or limitation is designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity associated with the variance under consideration, residents and land owners immediately adjacent to the land use or activity, and the community as a whole; and,
- b. That the condition or limitation is related to the valid exercise of the police power, and purposes which are effected by the proposed variance; and,
- c. That the condition or limitation is necessary to meet the intent and purpose of the zoning ordinance, is related to the standards established in the ordinance for the variance under consideration and associated land use or activity, and is necessary to insure compliance with those standards.

19.9 LAND USE VARIANCE: The ZBA shall not act on a request for a land use variance (for a use not allowed in a zone).

19.10 FEES: Upon filing of any appeal or application to the ZBA, the applicant shall pay a fee as set by the Township Board. The fee shall be paid to the Township Treasurer before any action is taken on the application. Fees may be changed by the Township Board at any regular meeting, which change shall take effect 30 days after adoption of such change.

19.11 PUBLIC HEARINGS: Upon the filing of any appeal or other matter over which the ZBA has jurisdiction, the ZBA shall hold a public hearing on such matter preceded by notice as required by law.

19.12 DECISIONS: The ZBA shall render its decision upon such application within 60 days after the hearing thereon and notify the applicant of its decision.

19.13 TIME LIMIT: If the variance is granted or other action by the applicant is authorized, the necessary permit shall be secured and the authorized action begun within three (3) months after the date the variance is granted, and the structure or alteration shall be completed within 12 months, or the variance shall be deemed abandoned and withdrawn.

19.14 VOTE NECESSARY FOR DECISION: The final decision of the ZBA on any matter shall require the concurring vote of a majority of its members.

19.15 MINUTES AND RECORDS: The secretary shall keep minutes of the ZBA

proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The secretary shall keep records of the ZBA examinations and official actions; all of which shall be filed with the Township Clerk and be a public record.

19.16 LIMITATION OF BOARD ACTION: Except as authorized in this Article, the ZBA may not, through any decision, interpretation or action, alter, vary or otherwise negate any provisions of this ordinance, and where the ZBA considers that any specific provision is inappropriate it shall submit to the Township Zoning Board a request for review of the provision.

## ARTICLE XX

### AMENDMENTS AND DISTRICT CHANGES

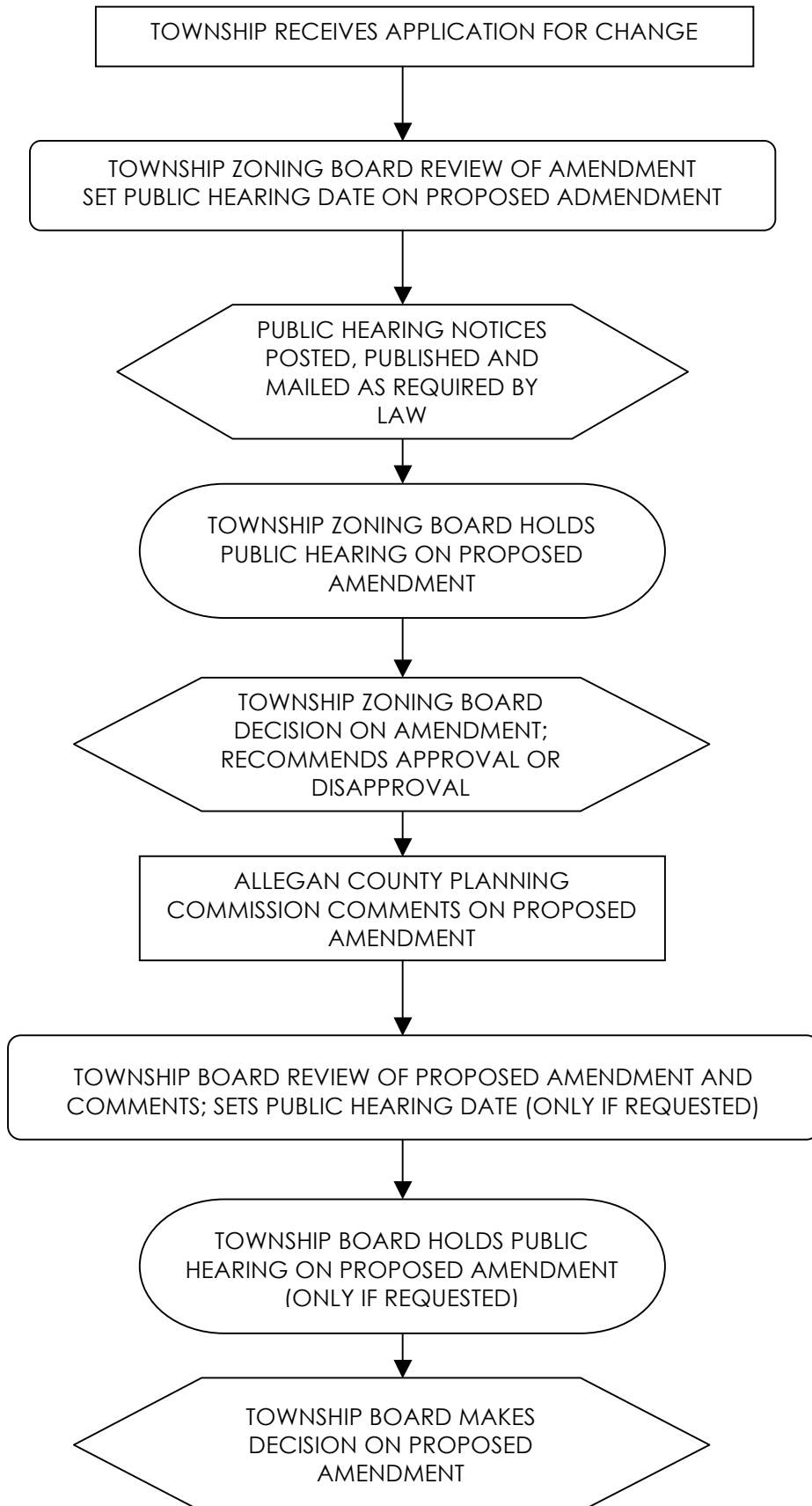
20.1 ADOPTION: Amendments and supplements to this ordinance may be adopted as provided by law.

20.2 NOTIFICATION: If a property is proposed for rezoning, notice shall be given as provided by law.

20.3 PROCEDURE: The procedure for making amendments shall be as follows, unless otherwise provided by law.

1. Each proposal not originated by the Township Zoning Board shall initially be submitted to the Zoning Board for its consideration and advice.
2. Following its deliberations, the proposal, including any changes thereto, which the Township Zoning Board deems advisable, shall be submitted to at least one public hearing as provided by applicable laws.
3. Following such hearing, the Zoning Board recommendation on the proposal shall be submitted to the County Planning Commission for its non-binding advisory comment. The County Planning Commission shall be conclusively presumed to have waived its right of review if any recommendation of the County Planning Commission is not received by the Township within 30 days after receipt of the Zoning Board recommendation by the County Planning Commission.
4. The proposal shall be submitted to and acted upon by the Township Board in accordance with the provisions of applicable laws.

**FLOW DIAGRAM FOR AMENDMENTS OF ZONING ORDINANCE TEXT OR ZONING MAP (REZONING)**





## ARTICLE XXI

### SEVERABILITY/REPEAL/EFFECTIVE DATE

21.1 SEVERABILITY: In case any article, section or provision of this ordinance shall be held invalid in any court, the same shall not affect any other article, section or provision of this ordinance, except so far as the article, section or provision declared invalid shall be inseparable from the remainder or any part thereof.

21.2 REPEALING PRIOR ZONING ORDINANCE: The prior Cheshire Township Zoning Ordinance adopted July 7, 1975 and all amendments thereto are hereby repealed in their entirety and replaced by this Ordinance; provided, however, that the adoption of this ordinance shall not prevent or bar the continuance or institution of proceedings for offenses committed in violation of the existing Zoning Ordinance before the effective date of this Ordinance.

21.3 EFFECTIVE DATE: This ordinance shall take effect on the eighth day after publication or on such later date as may be required by law.

APPENDIX A  
ILLUSTRATIONS OF ORDINANCE TERMINOLOGY

(illustrations not presently available electronically)