Bengal Township Zoning Ordinance

BENGAL TOWNSHIP, CLINTON COUNTY, MICHIGAN

ADOPTED:	**December 11, 2019**
EFFECTIVE:	**December 28, 2019**
AS AMENDED:	**February 10, 2021 (Effective February 26, 2021)**
	April 13, 2022 (Effective May 8, 2022)
	December 14, 2022 (Effective February 1, 2023)
	May 14, 2025 (Effective May 25, 2025)
	August 12, 2026 (Effective August 26, 2026)

Summary Table of Amendments

Effective Date	Amended Section(s)	Description
2-26-21	2.02	Add Definitions of Civil Infractions Acts, Code Enforcement Officer, Municipal Civil Infraction, Municipal Civil Infraction Action, Municipal Civil Infraction Citation, and Swimming Pool
2-26-21	4.33	Revise Manmade Ponds regulations to add slope requirements (4.33.B.3), clarify approval process, and exempt ponds under 1,000 square feet.
2-26-21	4.39	Add regulations on Swimming Pools
2-26-21	6.03	Establish 20-foot setback requirement for small freestanding solar arrays.
2-26-21	14.04	Allow the Zoning Administrator to require a signed and sealed survey with a Zoning Compliance Permit application.
2-26-21	18.02	Establish a Civil Infractions Bureau and a process for prosecuting Civil Infractions under the Zoning Ordinance.
5-8-22	2.02	Add Definition of “Inoperable Vehicle”
5-8-22	2.02	Revise Definition of “Junk”
5-8-22	2.02	Add Definition of “Nuisance”
5-8-22	4.36	Revise Junk Prohibition
5-8-22	6.02.D	Require a registered Professional Engineer to draw freestanding solar array plans.
2-1-23	2.02	Remove definition of “cabin” and all references to cabins throughout the Ordinance.
2-1-23	2.02	Add definitions of “Enclosed Structure” and “Footcandle”
2-1-23	4.13	Revise regulations for Temporary Dwellings.
2-1-23	Article 6	Revise regulations for Solar Energy Facilities.
2-1-23	10.03	Allow Solar Community Gardens by Special Use in the A-1 District.
2-1-23	18.02	Clarify Civil Infractions system.
5-25-25	Article 7, 3.05, 4.12	Added Article for Battery Energy Storage Systems, Amended Lot Coverage, and Amended Accessory Buildings.
7-8-26	3.05	Amended lot width requirement for the A-1 District.
8-26-26	2.02, 4.40, 11.02, 12.02, 12.03	Added new section for Data Centers and amended definitions and permitted uses.

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Article 1
Short Title

Section 1.01 Title

The title of this Ordinance is “Bengal Township Zoning Ordinance”, and it will be referred to herein as “this Ordinance”.

Article 2
Definitions

Section 2.01 Rules Applying to the Text

A. Words used in the present tense include the future tense and the singular includes the plural unless the context clearly indicates the contrary.

B. The word “person” includes a legal entity as well as an individual.

C. The word “building” includes the word “structure”.

D. The word “lot” includes the words “plot”, “tract”, or “parcel”.

E. The term “shall” is always mandatory and not discretionary; the word “may” is permissive.

F. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”

G. Any word or term not interpreted or defined by this article shall used with a meaning of a common or standard usage.

Section 2.02 Definitions

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Accessory Building means a building or structure used for the storage of accessories that are customary and incidental to the land use district applicable, not including structures used for agricultural purposes where that is the principal use of the land.

Accessory Lot means a small lot or parcel of land, often separated from the primary residential lot by a road, without any structures that contain sanitary facilities.

The Act shall mean the State Land Division Act.

Administrator means such person as may be designated as the “administrator” by the Township Board.

Agriculture means the art and science of cultivating the ground for the production of crops (including forestry) and livestock.

Applicant means a legal entity or individual that holds an ownership interest in land, whether recorded or not.

Background sound means the sound level that exists in the absence of and unrelated to wind turbine sound being evaluated for compliance with this ordinance and includes sounds that would normally be present at least 90 percent of the time. Intermittent noise events such as from aircraft flying over, dogs barking, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road are all part of the ambient noise environment but would not be considered part of the background sound unless they were present for at least 90 percent of the time. In terms of sound measurements, background sound is defined as being the sound level exceeded 90 percent of the time, and it is statistically referred to L90. Background sound shall not be measured during sporadic noise events such as seasonal farming activities, traffic or weather events that would distort the establishment of a baseline level representative of the L90 rural environment.

Basement means the lowest level of a building or the one just below the main floor, usually wholly or partially lower than the surface of the ground.

Battery means a container, containing one or more cells, that furnishes and/or stores electric current.

Battery Energy Storage System (BESS) means one or more modules, assembled together, capable of storing energy in order to supply electrical energy at a future time that is equipped with cooling, ventilation, fire suppression, and a battery management system that produces an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

Battery Management System (BMS) means an electronic regulator that manages a Utility-Scale Battery Energy Storage System by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault, and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.

Blade Glint means the intermittent reflection of the sun off the surface of the blades of a single or multiple wind energy system.

Building means any structure either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, chattels, or property of any kind. This shall include vehicles, whether mounted or not on wheels and situated on private property and used for the purposed of a building.

Cell means a receptacle containing electrodes and an electrolyte for generating electricity by chemical action or electrolysis.

Civil Infractions Acts: Public Act 236 of 1961, as amended, and Public Act 12 of 1994, as amended.

Clinic means an establishment where patients who are not lodged overnight are admitted for examination and treatment by a physician or a group of physicians practicing medicine, dentistry, veterinary medicine, or osteopathy together.

Closed-Loop Cooling System means a sealed system where coolant circulates continuously, absorbing heat from a source, and then transfers that heat to a heat exchanger for removal, without the coolant ever being exposed to the environment.

Code Enforcement Officer means one or more persons authorized by the Township Board to issue municipal civil infraction citations.

Colocation Data Center means a data center that is rented out by the owner to provide space to other businesses for their servers and other computing hardware. In addition to providing physical space, colocation facilities may offer additional services including maintenance, backup power systems, and multiple network connections. A colocation data center may be a small-scale, medium-scale or hyperscale data center.

Commercial Garage means a building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor driven vehicles.

Commercial Wind Energy System means a wind energy system that exceeds the maximum thirty (30) kilowatt generator size limit allowed for net metering by the public utility.

Concentrated Livestock Operations means a farm operation which exceeds the confinement of livestock or poultry in excess of fifty (50) animal units per confined acre, or where the confinement area accumulates manure that must be removed, or a sustained ground cover (crops, vegetation, forage growth or post-harvest residue) cannot be maintained over the normal growing season throughout the area where the animals are confined.

Data Center means a use involving a building or other structure that is primarily occupied by computers and/or telecommunications equipment and related equipment, including supporting equipment, where information is processed, transferred, or stored. A data center use shall not include a digital mining use. A data center use shall not include on-site solar or wind energy generation facilities used or intended to be used to supply power to the data center.

Data Center, Accessory means a data center that is ancillary to the principal use of a lot of parcel, which is typically used solely to store or otherwise support an individual business's data and information technology needs. A data center is not considered an accessory data center if it requires more than one hundred kilowatts (100 kW) of power to operate.

Data Center, Small-Scale means a principal use data center that requires less than one megawatt (1 MW) of power to operate.

Data Center, Medium-Scale means a principal use data center that requires between one megawatt (1 MW) and ten megawatts (10 MW) of power to operate.

Data Center, Hyperscale means a principal use data center that requires more than ten megawatts (10 MW) of power to operate.

Dedicated Use Building means a building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the International Building Code, and complies with the following:

A. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.

B. No other occupancy types are permitted in the building.

C. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.

D. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:

E. The areas do not occupy more than 10 percent of the building area of the story in which they are located.

F. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

Development means a planning or construction project involving property improvement and usually a change in land use character within the site. This includes the act of using land for building or extractive purposes.

Digital Currency means a currency in a digital format that involves the use of encryption techniques to regulate the generation of units of the digital currency and verify the transfer of funds, operating independently from a central bank.

Digital Mining means the process whereby computers (also referred to as “nodes” or “mining rigs”) validate blockchain transactions for a specific item of digital currency (commonly known as “bitcoin” or “cryptocurrency”) for a financial benefit. A “Digital Mining Use” shall be defined as a use involving a building or structure that is primarily occupied by computers used for digital currency mining purposes.

Districts shall mean a portion of the Township of Bengal for which the Zoning regulations governing the use of building and premises, the height and size of buildings, size of yards, and the intensity of use are uniform.

Divide or Division or Land Division means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one (1) year, or of building development that results in one or more parcels of less than twenty (20) acres and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. “Divide” and “Division” does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act, this Ordinance and other applicable Ordinances.

Driveway means an access serving four or fewer residential units or lots, or a maximum of one commercial or industrial use.

Drone means an unmanned aircraft or unmanned aircraft system (UAS) that can fly under the control of a remote pilot or by a global positioning system (GPS) guided autopilot mechanism.

Dwelling means any building or part thereof, occupied as the home, residence, or sleeping place of one or more persons either permanently or transiently.

Easement means an interest in or right over the land of another.

Enclosed Structure means a structure with walls that completely enclose indoor space, plus a roof, regardless of whether there are doors and windows, and regardless of whether the windows or doors are open.

Erected means built, constructed, reconstructed, moved upon or any physical operations on the land required for the building. Excavations, fill, drainage, and the like shall be considered a part of erection.

Exempt Split or **Exempt Division** means the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns that does not result in one or more parcels of less than 20 acres.

Family means any number of individuals living together and cooking together on the premises as a single non-profit housekeeping unit, as distinguished from a group occupying a hotel, club or similar structure, together with all necessary employees of the family.

Farm. A tract of land of 10 acres or more in gross lot area devoted to agriculture for the production, use, and/or sale of crops; for raising and/or sale of livestock and their products; for processing and/or sale of forestry products; for grazing and for other things and/or uses not named for which such lands are generally used.

Farm Buildings means any and all buildings, structures, or land uses required for the operation of a farm, including dwelling units used exclusively for residential purposes, barns, poultry houses, silos, storage structures for hay, grains, vegetables, dairy products, fruit and other products produced, machinery, tools, and other accessory structures not specifically mentioned but needed for the proper and efficient operation of a farm.

Floodplain means the low and generally flat land areas adjoining a body of water that often flood or have the potential for flooding.

Footcandle means a unit of light measurement equal to one lumen per square foot.

Governing Body means the Bengal Township Board.

Hardship means unnecessary and illogical deprivation of an individual's property rights as enjoyed by others in the same Zoning District.

Height means the vertical distance from the average of the highest and lowest finished grade along the perimeter wall of the building to the highest point of the roof surface. For a commercial wind energy system, height is defined as: the distance between the ground at the base of the wind energy system and the highest point of the wind energy system with the blade in the uppermost vertical position.

Home-based business means an occupation, profession, activity, or use that is clearly incidental and secondary and adjoining but integrated and connected into a dwelling unit. The work space that can accompany a home business under this definition must be one that may employ up to four nonresidents of the dwelling unit.

Home Occupation means a gainful occupation conducted by members of the family only, within its place of residence, provided that space used is incidental to residential use and that no article is sold or offered for sale except such as is produced by such occupation.

Impulsive Noise, see **Noise, Impulsive**

Industrial means a building or structure housing a manufacturing process.

Infrasound means sound frequency less than twenty (20) Hz.

Inoperable Vehicle means any motor vehicle or other conveyance which is wrecked, disabled, partially dismantled, junked, or abandoned, OR any motor vehicle that is unable to move under its own power.

Institution means a building occupied by a municipal or non-profit corporation or non-profit establishment for public use.

Joule means a unit of work or energy in the International System of Units (SI) equal to work done by a force of one newton acting through one meter.

Junk means any, refuse, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured. Motor vehicles shall also be considered “junk” if they meet the definition of “inoperable vehicle” in this Ordinance and are not stored in one of the following locations:

- Inside a structure
- In a location that is not visible from any adjacent lot or roadway
- On a paved or gravel surface free from unmaintained vegetation

Kennel means a lot or premises on which four (4) or more dogs, cats, or other domestic pets, six (6) months of age or older, are kept, either permanently or temporarily, for the purposes of breeding, boarding, training, sale, or transfer.

Land Application of Septage Waste means the disposal of Septage Waste by applying the septage to the surface of the land or by injecting the septage into the ground.

Light Fixture means a permanently installed lighting device.

Lighting, Security means fixtures and/or practices intended to discourage or make visible intrusions on the premises.

Lot means the parcel of land on which one (1) principal building and its accessories are placed, together with the open space required by This Ordinance.

Lot of Record means the map of which has been recorded in the office of the Register of Deeds of Clinton County; or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Clinton County.

Low Frequency (Sound) means sound frequency range from twenty (20) Hz to two hundred (200) Hz.

Mobile Home shall mean any portable structure used for living purposes, mounted on jacks, blocks or foundation with or without skirting.

Module means multiple cells wired together to form a battery energy storage system.

Municipal Civil Infraction: A civil action in which the defendant is alleged to be responsible for a violation of a municipal ordinance.

Municipal Civil Infraction Action: A civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

Municipal Civil Infraction Citation: A written complaint prepared by an authorized Township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Noise means any sound that would be unwanted by a reasonable person.

Noise, Impulsive means short acoustical impulses or thumping sounds, which vary in amplitude. Impulsive noise may be a single noise event or an intermittent repetitive noise event with an impulse rate of one or more per second.

Non-Commercial Wind Energy System means a wind energy system that does not exceed the maximum thirty (30) kilowatt generator size limit allowed.

Non-conforming Use means any building or land lawfully occupied by a use at the effective date of this Ordinance or amendment thereof, which does not conform after passage of this Ordinance or amendment thereto with the requirements of the district in which it is situated.

Nuisance means an unreasonable, unexpected, and unacceptable (in a rural context) interference with a common right enjoyed by the general public through an offensive, annoying, unpleasant or obnoxious practice, activity, or land use, especially a continuing or repeated sensory invasion across a property line which can be perceived by or affects a human being. Nuisances may include, but are not limited to: noise (especially at night); dust; smoke; odor; glare; fumes; flashes; vibration; shock waves; heat; electronic or atomic radiation; objectionable effluent; congregation of people; excessive automobile traffic; and other specific situations described by this ordinance.

Parcel means a contiguous area of land which can be described as stated in Section 102(g) of the Act.

Parent Parcel means a parcel or tract lawfully in existence on the effective date of this ordinance.

Park means any non-commercial recreational area.

Private Garage means an enclosed building or semi-open carport designed for storing automobiles together with garden tools and equipment, etc.

Private Road means any access whether they be easements, ways, private drives common areas or otherwise by which more than four (4) lots or residential units are bounded by common motor vehicle assess, or through which common motor vehicles access passes to the nearest public road.

Private Wind Energy System means wind energy system that is used to generate electricity or produce mechanical energy for use on the property where located. A wind energy system that does not exceed the maximum thirty (30) kilowatt generator size and the sale of excess electric power is allowed only via net metering.

Public Gathering Space means a social space that is generally open and accessible to people.

Public Utility means any person, firm, corporation, municipal department, or board duly authorized to furnish and furnishing, under government regulation, to the public, transportation, water, gas, electricity, telephone, steam, telegraph or sewage disposal and other services.

Recreation Facility means a privately or publicly owned facility, including buildings and property used for the purpose of recreation. Including but not limited to: golf courses, skiing operations, swimming pools, athletic fields, riding stables, health and fitness centers, tennis courts etc.

Restaurant means a business located in a building where, in consideration of the payment of money, meals are habitually prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith containing conveniences for cooking an assortment of foods which may be required for ordinary meals, and deriving a portion of the receipts from the sale of food.

Resulting Parcel or Resulting Parcels means one or more parcels which are created from an authorized land division.

Retail Store means a store, market or shop in which commodities are sold, or offered for sale, in small or large quantities to the retail trade.

Road Authority means the governmental authority having jurisdiction over a public road or public street.

Roadside Stands means any accessory structure or building, but expressly prohibits vehicles, located along the highway, used or intended to be used solely for the purpose of the sale of seasonal farm products, situated upon or adjacent to lands used for farming in conjunction with a single-family residence.

Security Lighting, see **Lighting, Security**

Sensitive Areas means an identified habitat for threatened or endangered species, or other designated areas, including those with important natural resources, as identified by Bengal Township, Clinton County, state, or federal authorities such as:

- Floodplains
- Designated environmental areas, such as wetlands and migration routes
- High risk erosion areas
- Priority habitat areas (if any, from Michigan Natural Features Inventory)
- State/Federal/County/Township owned lands
- Known water well locations from the District Health Department
- Historic and other cultural resources

These sensitive areas do not dictate land use, but provide additional restrictions that must be considered prior to an appropriate use being developed. Some of the areas that are listed here are already under some degree of control by virtue of State or Local Governmental ownership, or the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended. Additionally, State Land Use legislation addresses areas of critical concern.

Sensitive Receiver(s) means places that are likely to be more sensitive to the exposure of the noise or vibration generated by wind energy system(s), including but not limited to schools, day-care centers, parks, residences, residential neighborhoods, churches, and elderly care facilities.

Service Institution means a store, market, or shop in which services are sold, or offered for sale, to the public such as gasoline stations, garages, repair shops, laundries, warehouses, printing houses, barber shops and beauty parlors, etc.

Setback Lines means lines established parallel to a property line along adjacent properties, roads or water's edge for the purpose of defining limits within which a building or structure or any part thereof (including eaves, chimneys, bay windows, decks, etc.) shall be erected or permanently maintained.

Sexually Oriented Businesses – any of the following:

A. **Adult Arcade** means any place to which the public is permitted or invited wherein coin operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc layers, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of 'specified sexual activities' or 'specified anatomical areas.'

B. **Adult Book Store, Adult Novelty Store, or Adult Video Store** means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

    1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or descriptions of "specified sexual activities" or "specified anatomical areas", or
    2. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
    3. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as Adult Bookstore, Adult Novelty Store, or Adult Video Store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an Adult Bookstore, Adult Novelty Store, or Adult Video Store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

C. **Adult Cabaret** means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

    1. Persons who appear in a state of nudity or semi-nude; or
    2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
    3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

D. **Adult Motel** means a hotel, motel, or similar commercial establishment which:

    1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions or;
    2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours or'

3. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

E. **Adult Motion Picture Theater** means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

F. **Adult Theater** means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

G. **Escort** means a person, who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

H. **Escort Agency** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

I. **Massage Parlor** means an establishment where a massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

J. **Nude, Model Studio** means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Michigan or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
2. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
3. Where no more than one nude or semi-nude model is on the premises at any one time

K. **Nudity, or a State of Nudity** means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernibly turgid state. Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

L. **Semi-Nude** or in a **Semi-Nude Condition** means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

M. **Sexual Encounter Center** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude

N. **Sexually Oriented Business** means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, massage parlor, nude model studio, or sexual encounter center.

O. **Specified Anatomical Area** means:

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
2. Less than completely and opaquely covered human genitals, public region, buttocks, or a female breast below a point immediately above the top of the areola.

P. **Specified Sexual Activities** means any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
3. Excretory functions as part of or in connection with any of the activities set forth in A through B above.

Shadow Flicker means the effect produced when the blades of an operating wind energy system pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment.

Shielding means the permanently installed shade, cowl, or baffle for the purpose of limiting or directing light from a lamp.

Sign means any device, structure, fixture, or placard which uses words, numbers, figures, graphic designs, logos or trademarks for the purpose of informing or attracting the attention of persons. Unless otherwise indicated, the definition of sign includes interior and exterior signs which are visible from any public street, sidewalk, alley, park, or public property, but not signs which are primarily directed at persons within the premises upon which the sign is located.

Single-Family Dwelling means a building or portion thereof containing one dwelling unit and designed for, or occupied by, only one family.

Site Plan means all documents pertinent to a development; including drawings, tables, surveys, testing data, etc. that may be evaluated to determine if a proposed development meets the requirements of this Ordinance.

Special Land Use, see **Use, Special**

Split means a division of a single parcel into two or more parcels.

Stable, Commercial means a structure and/or land use where horses are bred, reared, trained and/or boarded for remuneration.

Stable, Private means an accessory structure and/or land use where horses are kept for private use by the occupants of the parcel and are not for hire, remuneration or sale.

Street means a thoroughfare which affords a principal means of access to abutting property.

Structure means any production or pieces of material artificially built up or composed of parts joined together in some definite manner; any construction, including dwelling, garages, buildings, signs and signboards, towers, poles, antennas, standpipes, walls, fences, or other like objects.

Swimming Pool: A permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than 24 inches, intended for swimming or bathing. Below grade swimming pools must have a man-made bottom, such as concrete, or a rubber liner/fiberglass bottom. If they do not, they are considered “ponds.”

Tone means a single frequency or a combination of a single frequency and its harmonics. In the event that a perceptible noise contains a tone, such as a whine, whistle, screech, hum, buzz, grinding, roar or rumble, the tone(s) shall be mitigated. Tones shall be identified by means of narrow band analysis following the procedures outlined in ANSI S1.13 Measurement of Sound Pressure Levels in Air, Annex A, Identification and evaluation of prominent discrete tones, as appropriate for single or complex tones. It is not necessary for the tone to be pure, prominent, or discrete if it is perceptible and results in a complaint for the complaint to be validated. Perceptible tones are prohibited if they result in a complaint.

Tract means two or more parcels that share a common property line and are under the same ownership.

Trailer Home means any house car, house trailer or camper trailer or similar unit used or so constructed as to permit it to be used as a seasonal or vacation type home for sleeping or housekeeping by one (1) or more persons.

Unmanned Aircraft System (UAS), commonly known as a “drone,” means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to operate safely and efficiently in the national airspace system.

Use means the purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

Uses Permitted by Right means uses that are the primary uses and structures specified for which the zoning district has been established.

Used means and includes “arranged”, “designed” or “intended to be used”.

Use, Special means a use that would be inconsistent with or incompatible with other uses permitted in the same zoning district unless carefully controlled as to number, area, size, exterior design, location or relation to the adjacent properties and to the neighborhood. Such uses may be considered necessary or important to the public health, safety, and welfare of the neighborhood or county as a whole and may be permitted if proper safeguards are taken. Such uses may be permitted in such zoning district as a Special Land Use if specific provision for such Special Land Use is made in this Ordinance.

Utility-Scale Battery Energy Storage Facility means a facility comprised of one or more modules, assembled together, capable of storing energy in order to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a Utility-Scale Battery Energy Storage System with a sufficient battery management system.

Utility-Scale Battery Energy Storage System means one or more modules, assembled together, capable of storing energy in order to supply electrical energy at a future time providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a battery management system that is used for a Utility-Scale Battery Energy Storage Facility and features an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

Variance means modification of the literal provisions of This Ordinance granted when strict enforcement thereof would cause practical difficulties or undue hardship owing to circumstances unique to the specific property on which the modification is granted by the Board of Appeals on Zoning.

Watt (W) means a unit of power in the International System of Units (SI) equal to one joule of work performed per second, or 1/746 horsepower.

A. **Kilowatt (kW)** means a unit of power that is used for the measurement of bulk electricity and is equal to one thousand watts of power.

B. **Megawatt (MW)** means a unit of power that is used for the measurement of bulk electricity and is equal to one million watts of power.

Wetland means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh. Wetlands not protected by the Michigan Natural Resources Environmental Protection Act shall be regulated by Bengal Township and shall include isolated wetlands smaller than 5 acres that are not contiguous an inland lake or pond, or a river or stream.

Wind Energy System (WES) means a commercial wind energy system that converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

Yard means an open space on the same lot with a building, unoccupied from the ground upward, except as otherwise permitted in this Ordinance. The minimum required setback is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this Ordinance (see illustrations).

A. **Yard, Front** means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line or right-of-way line and the nearest line of a building structure. Unless otherwise specified on corner lots and through lots there shall be maintained a front yard along each street frontage.

B. **Yard, Rear** means an open space extending the full width of the lot the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest line on the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.

C. **Yard, side** means an open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point of the principal building.

Article 3
Land Use Districts

Section 3.01 Districts

For the purposes of This Ordinance, the Township of Bengal is divided into two (2) Land Use Districts, as follows:

A-1 Zoning District – General Agricultural

I-1 Zoning District – Light Industrial

Section 3.02 Intent of Districts

A. **A-1, General Agriculture District**. This district is established to support stable, viable agricultural operations. The primary use of the district area is considered to be agriculture. The regulations of this district are designed to conserve and protect farm operations, including dairy farming, pasturage, cash cropping, stables (public and private), orchards, as well as other agricultural and related uses. It is the intent of this district to encourage consolidation of commercial and industrial agricultural uses. It is further the intent of this district to accommodate some residential growth in a managed setting so as to efficiently and effectively utilize land and limit conflicts with agriculturally productive lands. The regulations of the district are designed to exclude or discourage uses and structures that demand substantial public services, such as major thoroughfares, public sewer or water facilities, and other public services.

B. **I-1, Light Industrial.** This district is established to make available resources and services essential to high quality light industrial development, including manufacturing, office/research, warehousing and distribution, and other similar light and low impact industrial uses, while also guarding against the encroachment of these uses into districts where they may be considered incompatible.

Section 3.03 Maps

The Land Use District into which each parcel of land in the Township is placed is shown on the map entitled "Bengal Township Zoning Map" which is attached as Appendix A and is hereby made a part of This Ordinance. Said Map, or an exact copy thereof, shall be available for examination at the office of the Township Clerk at all reasonable times, and shall be kept with the records of the Zoning Administrator. Unless otherwise stated, all Land Use District boundaries shown on said Map are intended to follow lot lines, or the center lines of roads or streets as they existed on the date of enactment of This Ordinance, or section or sub-section lines; but where residential uses within the agricultural district boundaries obviously are not intended to coincide with such lot lines, centerlines, or section or sub-section lines, and are not designated by dimensions, such boundaries shall be deemed to be one hundred sixty-five (165) feet away from the nearest road or street right-of-way parallel to which they are drawn. The map is for reference only; parties should check with the Zoning Administrator to confirm the zoning on any particular parcel.

Section 3.04 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the Districts indicated on the Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the street or highways, the center lines of such streets or highways shall be considered to be such boundaries.

B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following Township boundary lines shall be construed as following such Township boundary lines.

D. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the official Zoning Map.

E. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines; boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.

F. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts; the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Township Board of Appeals after recommendation from the Township Zoning Administrator.

Section 3.05 Schedule of Area, Height, and Placement Regulations

The following regulations regarding lot sizes, yards, setbacks, lot coverage, structure size and densities apply within the zoning districts as indicated, including those “additional regulations” referred herein.

	Minimum Acreage/Lot Size*		Maximum Building Height	Minimum Yard Setback Required			Maximum Coverage of Lot (%)
	Area	Width @ ROW	Feet	Front Yard	Side Yard	Rear Yard	
A-1	5 acres	250 ft.	35	50 ft.	20 ft.	50 ft.	10%
I-1	2 acres	150 ft.	50	75 ft.	20 ft.	50 ft.	55%

**Except as modified by the Regulations set forth below.*

A. No structure shall be erected, nor shall an existing structure be altered, enlarged, or rebuilt, nor shall any open space surrounding any structure be encroached upon or reduced in any manner, except in conformity with the regulations hereby established for the district in which such structure is located except as otherwise permitted under Article 13 of this Ordinance. No portion of a lot used in complying with the provisions of this Ordinance for yards, lot area, occupancy, in connection with an existing or projected structure, shall again be used to qualify or justify any other structure existing or intended to exist at the same time except as otherwise permitted under Article 13 of this Ordinance. Accessory structures shall conform to the provisions of Section 4.12 of this Ordinance.

B. In all districts, minimum lot widths (as referenced herein) are required along the street right-of-way upon which the lot fronts. In the case of corner lots, minimum lot widths must be met along both street frontages.

Where curvilinear street patterns or cul-de-sacs result in irregularly shaped lots with non-parallel side lot lines, no less than eighty (80) percent of the minimum lot width shall be required at the street right-of-way provided one hundred (100) percent of the minimum lot width is met at the building line.

C. Minimum lot size (as referenced above) includes right-of-way.

D. All parcels created within the zoning jurisdiction of Bengal Township, to be buildable, shall not exceed the minimum depth to width ratio of four (4) to (one) 1 unless granted a variance from the Board of Appeals.

E. **Homestead Division.** Notwithstanding the minimum lot size otherwise required for the General Agriculture District, a parcel containing a single-family residence that was constructed prior to the year 2017 must have a minimum lot size of 2 acres and a minimum lot width of one hundred and fifty (150) feet of frontage on a public road as measured at the right-of-way and must not exceed a lot width ratio of four (4) to one (1) so long as any remainder parcel conforms to all the requirements of the district.

F. **Accessory Lot.** Notwithstanding the minimum lot size otherwise required for the General Agriculture District, a parcel of a lesser lot size may be created strictly for agricultural purposes; provided, however, that no structure containing sanitary facilities may be erected on such an Accessory Lot.

G. Yard encroachments may be allowed only pursuant to Section 4.22 of this ordinance.

H. Supplementary height regulations are addressed in Section 4.23 of this ordinance.

Article 4
General Provisions

Section 4.01 Scope

Except as otherwise provided in This Ordinance, no lot or parcel of land, no existing building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, constructed, reconstructed, altered or used for purpose other than in conformity with the provisions of this Ordinance.

Any use of land not specifically permitted is prohibited, except that the Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district, if so petitioned and in accord with the requirements of Article 20. If the Zoning Board of Appeals finds no comparable uses based on an examination of the characteristics of the proposed use, it shall so state and the Planning Commission may be petitioned to initiate an amendment to the text of the Ordinance to establish the appropriate district(s) type of use (by right or special use), and criteria that will apply for that use. Once the Ordinance has been amended to include the new regulations, then an application can be processed to establish that use.

If any part of this ordinance is determined by a court of competent jurisdiction to be invalid, that judgment shall not affect the remainder of this Ordinance. The invalid part of the Ordinance shall be considered to be separated from the rest, which shall remain in effect.

Section 4.02 Essential Public Services

Existing utilities, communications towers and transmission lines may continue to be operated and maintained, but no new essential public service construction other than poles, wires, and the usual underground utilities shall be started without first obtaining the approval of the Township Board.

Section 4.03 Sanitation Permit Required

The placement of any residential sewage disposal system on any lot shall be such as not to endanger the domestic water supply of any neighboring property owners or otherwise be the cause of any contamination or pollution and therefore where a residential sewage disposal system is to be a part of the construction project, the Zoning Administrator may not issue a land use permit until a permit for the construction of the residential sewage disposal system and well has been issued by the Governing Health Department.

Section 4.04 Yard Area & Lot Relation

Every building or buildings hereafter erected shall be located on a lot or parcel of land the description of, and the deed to which, shall be on record in the office of the Register of Deeds of this County or on lots or parcels of land the description of which shall be contained in a bona fide land contract or land lease which is in full force and effect at the time of application for a permit under This Ordinance. In the event this proposed building is to be erected on a parcel of land which is proposed to be separated from a larger parcel, the area to be devoted to the use and necessary for compliance with the requirements of This Ordinance shall be designated by a legal description which shall be attached to the application for a land use permit.

Section 4.05 Permit Requirements

Subject to all other terms and conditions of This Ordinance, a Zoning Compliance Permit shall be required as set forth in Section 15.04, together with any other permits required by regulatory authorities.

Section 4.06 Fire Hazard Separation

To reduce fire hazards, no building or structure nor any part thereof, may be erected or maintained closer than ten (10) feet to any neighboring property line.

Section 4.07 Driveways & Private Roads

A. **Purpose.** The purpose of this ordinance is to facilitate safe and efficient traffic movement and vehicular access in the Township. The standards in this ordinance are intended to protect the public health, safety, and welfare, to minimize congestion and potential for accidents, and to ensure year-round access to property under emergency conditions. The regulations and standards of this ordinance apply to all properties in the Township. The requirements and standards of this ordinance shall be applied in addition to the requirements of the Michigan Department of Transportation and Clinton County Road Commission and other provisions of this ordinance.

B. **General Requirements.**

1. Approval under this ordinance shall be required prior to any and all of the following:

   (a) Construction of a new driveway;

   (b) Expansion or extension of an existing driveway;

   (c) Construction of a new private road;

   (d) Expansion or extension of an existing private road;

   (e) Creation or dedication of any non-public easement, right-of-way or access serving any land division or lot split.

2. The decision on such a request shall be made using the procedures and standards in this ordinance. The decision shall be made by the official or body who decides the application for the underlying land use approval. Stand-alone requests related to driveways, creation or dedication of any non-public easement, right-of-way or access serving any land division or lot split shall be made by way of an application for a Zoning Compliance Permit and reviewed by the Zoning Administrator. Stand-alone requests related to private roads shall be made by the Planning Commission by way of an application for Site Plan Review. Requests for variances shall be decided by the Zoning Board of Appeals. Approval of the governing agency for that portion of a driveway or private road that is located in a public road right-of-way shall be submitted with an application for approval of a new or modified driveway

3. With the exception of variances, a request for approval under this ordinance will be granted if it meets the requirements of this ordinance, other applicable ordinances, and state and federal statutes; and if it will protect the public health, safety, and welfare, minimize congestion and potential for accidents, and ensure year-round access to property under emergency conditions.

4. The approving body or official may approve or deny a request under this ordinance. The approving body or official may impose conditions that are related to the intent, requirements and standards in this ordinance.

C. **Driveways.** An access serving four or fewer residential units or lots, or a maximum of one commercial or industrial use, is a driveway. A driveway shall meet the following standards:

1. Culverts, if installed, shall be in line with and on the same grade as the road ditch with a minimum measurement of thirty (30) ft. in length and twelve (12) inches in diameter

2. Driveways within 20 feet of a public or private road shall be aligned to intersect perpendicular to the existing public or private road wherever practical, but in no case shall a driveway intersect with a public or private road at an angle greater than 110 degrees or less than 70 degrees.

3. No portion of the driveway entrance within the right-of-way shall have a grade of greater than ten percent (1-foot vertical rise in 10 feet of horizontal distance).

4. The driveway shall meet the clear vision standards of the Clinton County Road Commission.

5. Residential driveways serving single-family or two-family dwellings shall be a minimum of 50 feet from the nearest right-of-way line of an intersecting road or street

6. Vehicle ingress and egress points for commercial or industrial land uses shall not be closer than 100 feet to the intersection of any two public streets, or closer than 80 feet to an adjacent driveway within an Agricultural or Industrial district.

7. All driveways leading to dwellings shall have a compacted gravel or paved surface, and shall be designed to minimize erosion.

8. Driveways constructed after the effective date of this Ordinance along major and minor thoroughfares shall align with existing or planned driveways, crossovers, turn lanes or other access features where reasonably feasible. The resulting alignment shall provide safe access and meet all requirements of this Ordinance, the Clinton County Road Commission and the Michigan Department of Transportation

9. The location of new driveways shall conform to road improvement plans or corridor plans that have been adopted by the Township or Clinton County Road Commission or Michigan Department of Transportation. Each driveway must have a 20-foot right of way, a 12-foot clear zone and 12-foot width.

10. **Multiple Residence Drive.** A Multiple Residence Drive (MRD), herein defined, may be used for purposes of serving and providing access to and meeting frontage requirements for parcels created for the purpose of situating single-family dwellings based upon the following conditions:

    (a) A MRD is permitted only in the A-1 District and only applies to providing service and access to single-family residences

    (b) A MRD shall not serve or provide access to more than four (4) residential parcels. Also, only one (1) MRD shall be requested and applied for per parcel of land.

    (c) A MRD shall not extend more than 660’ from the public road right-of-way to the top of the approved turn-around, or cul-de-sac, unless the Planning Commission finds that additional drive length is necessary due to the size and shape of the site.

D. **Private Road Design Requirements.** Plan and profile drawings of a proposed private road shall be prepared by a Professional Engineer in detail complete enough to be used as construction plans. The drawings shall show the proposed gradients of such roads and the location of drainage facilities and structures, along with any other pertinent information. The maximum grade permitted shall be 12%, although shallower grades are required, dependent on length, according to the following:

Gradient	**Maximum Length**
Over 8% to 10%	900 feet
Over 10% to 12%	300 feet

Sight distance and horizontal and vertical alignment shall be based on a minimum design speed of 20 miles per hour and shall be in accordance with the American Association of State Highway and Transportation Officials' (AASHTO) "Policy of Geometric Design of Highways and Streets," under the designation of "Recreational Roads". The maximum grade at intersections and turnaround areas shall be 2%. The minimum radius for turnaround areas shall be 60 feet. Vertical and horizontal curves shall be used at all changes in grade or direction. Construction practices consistent with the standards of the Michigan Department of Transportation shall be specified

E. **Clearing and Grubbing.** All trees, stumps, brush and roots thereof shall be entirely removed from within the grading limits of a private road. All graded areas shall have topsoil replaced, be seeded, fertilized and mulched prior to final inspection.

F. **Grading.** The presence of anything other than granular materials in sub-grade soil shall require undercutting and full width placement of a minimum of 12 inches of granular sub-base under a private road. All peat and mulch shall be removed from the sub-grade. The level of the finished sub-grade shall be at least 2 ½ feet above the water table.

G. **Drainage.** The drainage plan shall meet the requirements of the Clinton County Drain Commissioner's Office

H. **Gravel.** A six-inch aggregate finish course of 23A processed road gravel (Michigan Department of Transportation Standard Specifications) shall be placed and compacted for gravel drives leading to a dwelling.

I. **Shoulders.** Shoulder material shall be compacted so as not to rut or displace under traffic. Shoulder design and ditch construction shall meet all other recommendations of the County Drain Commission Offices.

J. **Surfacing.** If hot mix asphalt (HMA) paving is used on a private access road, it shall be placed on at least six inches of compacted 22A aggregate. The HMA course shall be laid by a MDOT – prequalified contractor at a

rate of at least 200 pounds per square yard of Coarse Aggregate Top Course (CATC) (Clinton County Road Commission special provisions) and may be applied in one course.

K. **Private Road Names.** Private roads shall be named and designed in the manner determined by the Township Planning Commission. The applicant shall place private road name signs at all intersections of the private road and any other private or public road. The Planning Commission may approve private roads without names, provided all parcels taking access from the private road have been approved for addresses along a nearby public road.

L. **Private Road Alignment.** Private roads shall intersect with all other roads as closely to 90 degrees as practical, and in no case at less than 80 degrees. Where the proposed continuation of an access road at an intersection is not in safe alignment with the opposing road, it must not intersect the crossroad closer than 175 feet from the opposite road, as measured from the centerline of each road. The end of any private road must provide for turn-around of large vehicles, with a loop, a cul-de- sac, a wye or a rectangular area of sufficient length, width and radius to accommodate a 40-foot-long single-unit vehicle such as a fire truck.

M. **Access Other Property.** This Ordinance applies to the entire length of a private road, even if it crosses property owned by others.

N. **Maximum Number of Lots.** No private road may provide access to more than eight lots. No private road that does not connect directly to a public road may provide access to more than four lots. Lots that have access to a public road in addition to their access to the private road shall count toward the maximum number of lots.

O. **Materials.** All materials incorporated in the work shall meet the specifications called for, or be approved by, a Professional Engineer.

P. **Maintenance Agreement.** An application for approval of a driveway serving more than one (1) property or a private road shall include a proposed maintenance agreement. The maintenance agreement shall be in recordable form and shall bind all future owners of property along the private road or the extension of the private road, as applicable. Neither the division of lots nor the construction of the private road shall occur until the maintenance agreement has been approved and has been recorded with the Register of Deeds. At a minimum, the maintenance agreement shall include these requirements:

1. All decisions about improvements and maintenance are to be approved by a majority vote of property owners served by the private road with each occupied lot receiving one vote.

2. The owner of each property served by the road shall be responsible for payment of costs apportioned to his or her property.

3. Other owners of property served by the road have the right to bring an action against any delinquent property owner to foreclose a lien or otherwise collect sums owed after they are more than ninety (90) days delinquent.

4. The owners of property served by the road are responsible to maintain the road and drainage easement in compliance with this ordinance.

5. The road shall be maintained year-round.

Q. **Traffic Signs, Speed Limits, and Non-Motorized Uses.**

1. The road designer shall specify traffic control signs consistent with the requirements of the Michigan Manual for Uniform Traffic Control Devices, and as necessary to fulfill the intent and requirements of this ordinance, and to protect public safety and welfare, including the safety and welfare of pedestrians and non- motorized users.

2. The designer shall specify speed limits, including the posting of speed limit signs, appropriate for the design of the road and as necessary to fulfill the intent and requirements of this ordinance, and to protect public safety and welfare, including the safety and welfare of pedestrians and non-motorized users.

R. **Non-Conforming Private Roads.** Existing private roads at the time this ordinance becomes effective that do not meet all design requirements may continue to be used provided that the safety features necessary for passage of emergency vehicles are met prior to the issuing of any new land use permit for property to be served by the road. Verification of safety adequacy by the Fire Official for the Township, or designee, is required in such cases before land use permits are issued. If the Fire Chief or designee determines the road is not adequate for passage of emergency vehicles, approval of a site plan for necessary upgrades is required. Any required upgrades shall be made in the entire stretch of private road between the property where the land use permit is issued and the public road. Any applicant for a land use permit who claims hardship as a result of this provision may request a variance under Article 20.

S. **Enforcement.**

1. A violation of this ordinance is a civil infraction. If the Township requires that a person correct a violation, each day that the violation is not corrected is a separate infraction.

2. A violation of this ordinance is also a nuisance per se. The Township may bring an action for injunctive relief to correct the violation, as well as to seek any other relief that is appropriate under the circumstances.

3. The remedies in this section are cumulative.

T. **Variances.**

1. A person may apply to the Zoning Board of Appeals (ZBA) for a variance from one or more requirements of this ordinance.

2. A variance may only be granted upon finding that at least one of the two following conditions have been met:

   (a) A variance or exemption is required in order to comply with a conflicting State Law, ordinance or regulation.

   (b) A practical difficulty will result from the strict application of the requirement.

3. In addition to the findings in (2), in order to grant a variance, the ZBA must also find that all of the following are met:

   (a) The variance will not be detrimental to the public health, safety, or welfare;

   (b) The variance will not be injurious to other property;

   (c) The variance will not nullify the intent of this ordinance or the Master Plan;

   (d) The variance will not conflict with the general character, use, and enjoyment of other properties in the vicinity.

4. The ZBA may impose any and all conditions on the granting of a variance that are reasonably related to the intent, requirements, and standards in this ordinance.

Section 4.08 Signs

To discourage and restrict the use of signs, the following requirements apply to the erection and maintenance of signs:

A. No sign shall be erected without first obtaining a permit from the Zoning Administrator.

B. Signs of not more than 50 square feet in area shall be permitted in the A-1 Agricultural District, provided they are located not less than five hundred (500) feet from any existing residence. Such signs shall be permitted in the I-1 Light Industrial District. No business shall be entitled to more than three (3) roadside signs in the Township.

C. One identification sign of not more than fifty (50) square feet may be erected on the premises as part of any business or activity conducted thereon in any District, except that signs relating to home occupations shall be controlled by the provisions set forth below:

    1. Home Occupation provided that there be no external evidence of such occupation except a name sign not more than twenty (20) square feet in area without illumination and of a character in keeping with the neighborhood, and provided further, that said occupation does not require nor effect any changes in the external character of the building.

D. No poster type signs shall be tacked up on poles or trees or otherwise erected. For sale or for rent signs of not more than six (6) square feet in size may be placed without permit. No Trespassing, no hunting signs and/or identification signs for private residence may be placed without a permit.

E. For the safety of the general public, no spinners, pennants, flashing lights, internal illumination or other distracting devices may be used in conjunction with any sign for a business or residence.

Section 4.09 Exceptions to Maximum Height

In order to preserve the pastoral character of the area, no building or structure or any part thereof shall be constructed having a height greater than is permitted in the Schedule of Regulations, above. This does not include structures subject to the supplementary height regulations contained in Section 4.23 of this ordinance.

Section 4.10 Reserved

Section 4.11 Wireless Communication Facilities

A. **Purpose and Intent**. It is the general purpose and intent of the Township to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. It is the further purpose and intent of the Township to provide for such authorization in a manner that will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large recognizing the number of providers authorized to establish and operate wireless communication services and coverage; it is the further purpose and intent of this section to:

    1. Facilitate adequate and efficient provision of sites for wireless communication facilities and ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.

    2. Establish predetermined areas considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.

3. Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within predetermined areas.

4. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

5. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way.

6. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.

7. Promote the public health, safety, and welfare.

8. Provide for adequate information about plans for wireless communication facilities in order to permit the community to effectively plan for the location of such facilities.

9. Consideration that the presence of numerous tower structures, particularly if located within residential or agricultural areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values and further recognizing that this economic component is an important part of the public health, safety and welfare.

B. **General Regulations Applicable to All Facilities.** All applications for wireless communication facilities shall be reviewed, constructed and maintained in accordance with the following standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed, at the sole discretion of the Planning Commission and the Bengal Township Board to meet the purpose and intent of this Section:

1. **Conditions:**

(a) Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.

(b) Facilities shall be located and designed to be harmonious with the surrounding areas.

(c) Facilities shall comply with applicable Federal and State standards relative to the environmental effects of radio frequency emissions.

(d) No facility shall be erected that requires any FAA lighting

(e) The applicant shall demonstrate the need for the proposed facility to be located as proposed, based upon the presence of one or more of the following factors:

(i) Proximity to a major thoroughfare.

(ii) Areas of population concentration.

(iii) Concentrations of commercial, industrial and/or other business centers.

(iv) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.

(v) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.

(vi) Other specifically identified reasons creating facility need.

2. **The following additional standards shall be met:**

(a) The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to collocate on the structure. Applicants shall demonstrate a justification for

(b) The proposed height of the structures and an evaluation of alternative designs that might result in lower heights.

(c) A proposed accessory building to enclose switching equipment shall be limited to maximum height in direct relation to the amount and type of screening being proposed to be implemented.

(d) **Setbacks:**

(i) **Residential Dwellings:** The setback of a proposed new support structure shall be one hundred fifty (150) feet or the height of the proposed structure, whichever is greater. The required setback shall be measured from the property line of any adjacent zoning district that permits residential dwellings, or from the property line of any adjacent property, in any nonresidential district, containing a residential dwelling.

(ii) **Public Right-of-Way:** The setback of a proposed support structure shall be one hundred fifty (150) feet, or the height of the proposed support structure, whichever is greater. Support structures under 40 feet tall, or support structures that were previously approved to be closer to the right of way, shall be exempt from this section.

(iii) **From Non-Residential Parcels:** Where a proposed new support structure abuts a parcel of land planned, zoned or used for a non-residential use (commercial or industrial), and does not contain a residential dwelling, the minimum setback of the structure shall be fifty (50) percent of the height of the support structure.

(e) Where an existing structure will serve as an attached wireless communication facility, setbacks of the existing structure shall not be materially changed or altered, based upon a determination by the Planning Commission and the Bengal Township Board.

(f) There shall be an access drive to the support structure for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access drive shall be a minimum of fourteen (14) feet in width and meet the construction requirements of a Multiple Residence Drive (MRD).

(g) Where an attached wireless communication facility is proposed on the roof of a building, any equipment enclosure shall be designed, constructed and maintained to be architecturally compatible with or enclosed within the principal building.

(h) The Planning Commission and Bengal Township Board shall review and approve the color of the support structure and all accessory buildings so as to minimize distraction, reduce visibility, maximize aesthetic appearance and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.

(i) The support structure system shall be constructed in accordance with federal, state and local codes, including all applicable building codes.

(j) Submission for building permit shall include the submission of a soil Report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements indicating the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communications Commission and Michigan Aeronautics Commission shall be noted.

(k) A maintenance plan and any applicable maintenance agreement shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonable prudent standard.

(l) An open weave wire fence at least six (6) feet in height shall be constructed and set away from the base of the tower at least ten (10) feet in all directions.

(m) Advertising signs are prohibited on tower structures.

(n) The proposal shall be reviewed in conformity with the Collocation requirements of this section.

C. **Application Requirements.**

1. A site plan prepared in accordance with Article 16, Procedures for Site Plan Review.

2. The site plan shall also include a detailed landscaping plan illustrating screening and aesthetic enhancement for the structure base and accessory buildings in accordance with Section 9.02, Landscaping, Greenbelts, Buffering and Screening. In all cases, there shall be shown on the plan, fencing which is required for protection of the support structure and security from children and other persons who may otherwise access the facilities.

3. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall. The certification will be utilized along with other criteria, such as applicable regulations for the district in question in determining the appropriate setback to be required for the structure and other facilities, if greater than required in Section 4.11.B.2.d, Setbacks.

4. The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in Section 4.11.E, Removal. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash or (2) surety bond.

5. The application shall include a map showing existing and known proposed wireless communication facilities within the County and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the County which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any proprietary information may be submitted with a request for confidentiality.

6. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. The owner shall update this information annually during all times the facility is on the premises.

D. **Collocation.**

1. **Statement of Policy.** It is the policy of the Township to minimize the overall number of newly established locations for wireless communication facilities and encourage the use of existing structures. It is also the policy of the Township to approve new facilities only if it is demonstrated that the new facility can and will support numerous collocations.

2. **Feasibility of Collocation.** Collocation shall be deemed to be "feasible" for purposes of this section where all of the following are met:

   (a) The wireless communication provider entity under consideration for collocation will commit to pay market rent or other market compensation for collocation.

   (b) The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility is able to provide structural support.

   (c) The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas and the like.

   (d) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the standards set forth in this section.

3. **Requirements for Collocation.**

   (a) Approval for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.

   (b) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.

   (c) If a party who owns or otherwise controls a facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use and shall not be altered, expanded or extended in any respect.

E. **Removal.**

1. The Township reserves the right to request evidence of ongoing operation at any time after the construction of an approved wireless communication facility.

2. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:

   (a) When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.

   (b) Six (6) months after new technology is available at reasonable cost as determined by the Township, which permits the operation of the communication system without the requirement of the support structure.

3. The situation in which removal of a facility is required may be applied and limited to portions of a facility.

4. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator and The Township Board.

5. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the County may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the facility.

Section 4.12 Accessory Buildings, Structures, Uses

Accessory buildings, structures and uses shall be subject to the following regulations, except that structures with a total footprint under 200 square feet shall be exempt from this section, and any other exemption specifically described elsewhere in this Ordinance shall supersede this section. Roof overhangs shall not be considered part of the footprint, but "lean-to" structures shall be.

A. The following shall apply to accessory buildings and structures in all Zoning Districts:

1. Where a structure is attached to a main building, it shall be subject to, and must conform to, all area, height, and setback regulations of this Ordinance that apply to principal structures.

2. An accessory structure is by its very nature and definition accessory and subject to the principal use of the property and structure.

3. **Setbacks from Other Buildings and Structures.** A detached accessory structure shall be located no closer than ten (10) feet to any main building or other accessory building on the same property, or no less than ten (10) feet from any off-site building or structure.

4. **Setbacks from Side and Rear Lot Lines.** A detached accessory structure shall not be located closer than ten (10) feet to any side or rear lot line. If the detached accessory structure is more than fourteen (14) feet in height, then one (1) foot additional setback must be provided per each foot above fourteen feet.

5. Detached accessory structures shall not exceed a height, as defined in Section 2.02, of thirty-five (35) feet.

6. No building or structure or any part thereof shall be erected, altered or used or land or premises used in whole or in part, for any of the following uses in any District under This Ordinance: any process or activity resulting in the emission of odor, fumes, dust, smoke, waste, noise or vibration which shall make it obnoxious to the public interest, health, or welfare.

B. The following shall apply to accessory buildings and structures in the A-1 District only:

1. **Setback from Front Lot Line.** No detached residential accessory structure shall be located closer than the principal residential structure to any road right-of-way, unless the following conditions are met:

   (a) The accessory building must be at least 50 feet from the road.

   (b) The accessory building shall not exceed 1,000 square feet in area.

   (c) The accessory building shall not exceed 20 feet in height.

   (d) The accessory building must be constructed of materials that are consistent with the principal building on the lot (i.e. the house), in the opinion of the Zoning Administrator. The materials need not match exactly but must be consistent in color and type.

2. The total of all detached accessory buildings located on a parcel shall be subject to maximum lot coverage requirements in Section 3.05.

3. Buildings erected as garages or accessory buildings shall only be occupied for dwelling purposes if they meet the following requirements:

   (a) The accessory building must be at least 600 square feet in area.

   (b) No more than one accessory building on a lot may be used as a dwelling unit.

   (c) The accessory building shall not have a dedicated driveway connecting to an adjacent roadway. Any driveway connecting to an accessory building containing a dwelling unit must be a spur off the main driveway into the property.

   (d) The dwelling unit within the accessory building must meet all building code requirements for residential habitation, in the opinion of the County Building Department. Building Department approval of the plans must be submitted to the Zoning Administrator prior to construction.

   (e) All other applicable requirements of this Section 4.12.B must be met.

C. The following shall apply to accessory buildings and structures in the I-1 District only:

1. **Setback from Front Lot Line:** Accessory buildings and structures in the I-1 District shall be subject to same front setback requirement as principal buildings, as listed in Section 3.05. Accessory buildings and structures that meet all setback requirements may be located between the principal building and the front lot line.

2. The total all buildings and structures, including both principal and accessory buildings, shall not exceed the maximum lot coverage described in Section 3.05.

3. The accessory building must be set back at least 50 feet from any lot line abutting an A-1 Zoning District.

Section 4.13 Temporary Dwellings

A trailer home, motor home, mobile home, or other temporary structure (that does not meet the definition of a building), whether of a fixed or movable nature, may be erected, moved, or used for dwelling purposes in the following circumstances. This section shall not apply to permanent buildings or structures.

A. Under no circumstances shall a temporary dwelling, as described in this section, be established within another enclosed structure. Opening the windows and/or doors of the structure shall not result in the structure being deemed “unenclosed.”

B. The location and associated activities of the temporary dwelling shall not be injurious to adjacent property or enjoyment thereof.

C. A Temporary Dwelling shall be permitted:

1. For up to 30 days with no permit or approval from the Township required.

2. For up to 90 days upon the granting of a permit by the Zoning Administrator. The Zoning Compliance permit application need not state any particular reason for the use of the temporary dwelling, but the application must clearly state the date on which the use of the temporary dwelling unit will cease, and the use of the temporary dwelling unit must cease on or before that date. If the temporary dwelling has already been on the property for a period of time prior to the application for the permit, that time shall count towards to 90 allowable days. No extensions shall be granted under this section. For a temporary dwelling in place for more than 90 days, an application must be submitted and approved under subsection 3 or 4 below.

3. For up to 365 days, upon the granting of a permit by the Zoning Administrator, during construction of a permanent dwelling on the site or during the repair of a permanent dwelling that was destroyed or damaged by a natural or manmade event, such as fire, flood, windstorm, or tornado, to the extent that it is uninhabitable. The application must also meet the following requirements in order to be approved.

   (a) Clearly state the date that the use of the temporary dwelling will cease.

   (b) The location shall meet all applicable setbacks for a principal structure in the district in which it is located.

   (c) The structure, vehicle, or other temporary dwelling must be designed to withstand the weather and remain suitable for human habitation for at least 365 days.

   (d) The application shall be accompanied by a drawing, showing the location of the proposed temporary structure and the proposed electric supply, water supply, and toilet facilities. The water supply and toilet facilities serving the temporary dwelling shall conform to the minimum requirements as set forth by the Mid-Michigan Health Department.

4. For more time than would otherwise be allowed under this section, upon approval of a Special Use Permit by the Planning Commission. The requirements of Article 17 must be met, in addition to all other applicable provisions of this Ordinance, in order for the Special Use to be approved.

D. At the conclusion of the approved or allowable amount of time, the temporary dwelling must be removed from the site for at least 30 days.

Section 4.14 Temporary Construction Structure/Activities

A. Temporary construction buildings and/or construction activities shall be allowed in any zone for a period of one (1) year, with application and approval for Zoning Compliance Permit is obtained. Extensions may be allowed, at the discretion of the Zoning Administrator, if the temporary structure & activity is considered a necessity for the ongoing development.

B. Temporary construction activities with or without temporary buildings shall be defined as construction activities other than actual construction of buildings approved pursuant to a building and Zoning Compliance Permit. They include, but not by way of limitation, a construction yard for the development of a subdivision or multiple family project, a cement or asphalt making operation for street and/or road construction and other similar activities.

C. The Zoning Administrator shall determine, before issuing a Zoning Compliance Permit, whether the proposed temporary construction building and/or construction activity is necessary and if it is necessary that it should be located at the proposed location. The Zoning Administrator shall also find that the proposed activity does not place excessive burden on the septic, sanitary sewer and/or water system, nor create a hazardous fire condition. In granting the approval, the Zoning Administrator may set such conditions as appear necessary to minimize disturbance to the area and the surrounding land uses. Compliance with this Ordinance and all other applicable County ordinances, standards, rules, and regulations, and proper clean-up of the site within a set period of time as indicated on the zoning/land use permit are required.

D. Temporary construction activities allowed pursuant to this section shall conform to the following requirements.

1. All roads used for ingress or egress, on or off the site, shall be kept dust free by chemical or water treatment and/or by hard topping with cement or bituminous substance. Work within the right-of-way of a public road must be permitted through the Clinton County Road Commission (CCRC).

2. Work/storage areas shall be kept clean and clear.
3. Work areas shall be posted with the owner and operator's name and phone numbers.
4. Work yards shall be fenced or otherwise made safe.
5. Truck crossings and other means of ingress and egress shall be posted two hundred (200) feet from access point in either direction to warn motorists if deemed appropriate and permitted by the CCRC.
6. Working hours shall be between 7 am and 8 pm, Monday through Friday and 8 am to 7 pm Saturday. No work shall be permitted on Sundays or holidays except by special permission of the Zoning Administrator upon demonstration of hardship or special circumstance.

Section 4.15 Standards for Single-Family Dwellings; Site-built, Manufactured Homes, Mobile Homes and Prefabricated Housing

No site-built single-family dwelling, mobile home, modular housing dwelling, or prefabricated house located outside of a Manufactured Housing Community or mobile home park shall be permitted unless said dwelling unit conforms to the following standards.

A. **Square Footage.** The minimum requirement for habitable (excluding garage, uninsulated storage areas, etc.) square footage is 960 square feet.

B. **Dimensions.** Each such dwelling unit shall have a minimum width across any front, side or rear elevation of twenty (20) feet. Breezeways, garages, porches and other appurtenances shall not be considered part of the required twenty (20) feet.

C. **Foundation.** Each such dwelling unit shall be firmly attached to a perimeter foundation constructed on the site and shall have a wall of similar, or the same perimeter dimensions of the dwelling.

D. **Undercarriage.** Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

E. **Architecture.** All dwellings shall be aesthetically compatible in design and appearance with other single-family dwelling erected within the jurisdiction of the Township. All homes shall have a peaked roof.

F. **Code Compliance.** Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a manufactured home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said manufactured house shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

G. **Building and Zoning/Land Use Permit.** All construction required herein shall be commenced only after a building and zoning/land use permit has been obtained.

H. **Exceptions.** The foregoing standards shall not apply to a manufactured or mobile home located in a licensed mobile home park or manufactured housing community except to the extent required by state or federal law or otherwise specifically required in this Ordinance and pertaining to such parks. Mobile homes or manufactured homes that do not conform to the standards of this section shall not be used for dwelling purposes within the Township unless located within a mobile home park or manufactured housing community, or unless used as a temporary residence as otherwise provided in this Ordinance.

Section 4.16 Walls, Fences, and Screens

A. Within the limits of the required front yard setback of residential uses within the agricultural district , no fence, wall, or other screening structure shall exceed three (3) feet in height. No such fence or wall located within a side or rear yard shall exceed six (6) feet in height. This section is not intended to restrict fences enclosing agricultural uses to the degree that they are consistent with generally accepted agricultural practices.

B. In a commercial, industrial, or research office district, no fence, wall, or other screening structure shall exceed twelve (12) feet in height.

C. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or structure as deemed necessary in the interests of public safety. Fences enclosing utility buildings or structures may exceed the height limitations otherwise established by this section.

Section 4.17 Intersection Visibility

On any corner lot in any district having front and side yards, no fence, wall, screen, hedge, sign, or other structure or planting shall obstruct the visibility of street vehicular traffic between the heights of three (3) feet and ten (10) feet in an area measuring thirty (30) feet from the point of intersection of the street right-of-way lines and the tangent connecting the thirty (30) foot extremities of the intersecting right-of-way lines.

Section 4.18 One Lot, One Building

In all districts allowing single-family residential as a permitted use, only one (1) principal building/structure shall be placed on a single lot of record.

Section 4.19 Required Access/Street Frontage

Any parcel of land that is to be occupied by a use or a structure shall have the minimum lot width as prescribed in the district where it is located and frontage on and direct access to a public or private street that meets one of the following conditions:

A. A public road which has been, or shall be accepted for maintenance by the Clinton County Road Commission; or

B. A permanent and unobstructed multiple residence drive of record, reviewed, approved and built in accordance with Article 4 of the Ordinance.

Section 4.20 Building Grades

A. Any building requiring yard space shall be located at such an elevation that a finished grade shall be maintained to cause the flow of surface water to run away from the walls of the building. All grades shall be established and maintained so that surface water run-off damage does not occur to adjoining properties prior to, during, and after construction.

B. The yard around the new building shall be graded in such a manner as to meet existing codes and to preclude normal run-off of surface water to flow onto the adjacent property.

C. Final grades shall be approved by the Zoning Administrator who may require a grading plan that has been duly completed and certified by a registered engineer or land surveyor.

Section 4.21 Buildings to be Moved or Demolished

No Zoning Compliance Permit shall be granted for the moving of buildings or structures to be placed on property in the Township unless the Zoning Administrator shall have approved the location to which it is to be moved.

A. Any building moved and placed upon a foundation shall be considered a new building and be subject to all the limitations and requirements herein set forth relating to uses, construction, permits, and certificates.

B. All debris from any demolished building or structure shall be properly disposed of. The foundation materials removed and disposed of and backfilled with clean earth materials devoid of all debris, large stones and organic materials. The site shall be graded to a smooth, even surface and seeded to grass or cultivated to cropland.

Section 4.22 Yard Encroachments

A. Terraces, patios, and similar accessory structures not attached to a principal building or accessory structure may project into a required yard as provide herein, provided that such structures are unroofed and without walls or other continuous enclosure, and are setback 5' from a side or rear property line. Such structures are not permitted in the required front yard setback. Such areas may have open railings or fences not exceeding four (4) feet in height and may have non-continuous windbreaks or visual screens not exceeding six (6) feet in height in a side or rear yard.

B. Enclosed and unenclosed roofed porches attached to a structure shall be considered an integral part of the building to which they are attached and shall be subject to all principal and accessory structure yard requirements to which the improvement is attached.

C. Unenclosed and unroofed porches, decks fire escapes, outside stairways, and balconies that are attached to a structure may project into a required yard a maximum of fifty (50) percent of the required side and rear yard established by the district in which it is located. Such structures are not permitted in the required front yard setback.

D. Chimneys, flues, belt courses, leaders, sills, pilasters, cornices, eaves, gutters, and similar features may project into any required yard a maximum of twenty-four (24) inches.

Section 4.23 Supplementary Height Regulations

A. The following structural appurtenances shall be permitted to exceed the height limitations for authorized uses in any district.

1. Those purely ornamental in purpose such as church spire, belfries, domes, cupolas, ornamental towers, flag poles, and monuments.

2. Those integral to mechanical or structural functions such as chimneys, smoke stacks, water tanks, elevator and stairway penthouses, ventilators, bulkheads, aerials, and antennae, electronic devices, heating and cooling units, silos and grain legs, and fire suppression tanks/towers.

3. Antenna systems that might require a greater height for adequate signal reception, wind energy system towers, or any structure actively used for agricultural purposes.

B. The foregoing permitted exceptions may be authorized only when the following conditions are satisfied.

1. No portion of any building or structure permitted as an exception to a height limitation shall be used for human occupancy or commercial purposes.

2. Any structure permitted as an exception to a height limitation shall be erected no higher than such height as may be necessary to accomplish the purpose for which it is intended to serve.

3. Structures permitted as exceptions to height limitations shall not occupy more than twenty (20) percent of the gross roof area of any building upon which they may be located.

Section 4.24 Continued Conformance with Regulations

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or use is located.

Section 4.25 Garage Sales, Rummage Sales, and Similar Activities

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

A. Any garage sale, rummage sale, or similar activity shall be allowed without a building and zoning/land use permit for no more than four (4) garage sales, rummage sales, or similar activities to be held in any one location within any twelve (12) month period lasting longer than 7 days each. Such activities in operation for a period of time in excess of seven (7) days shall require a zoning/land use permit from the Zoning Administrator.

B. All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.

C. All such sales shall be conducted a minimum of twenty (20) feet from the front lot line of the premises of such sale.

D. No signs advertising a garage sale or similar activity shall be placed upon public property. Four (4) signs advertising a garage sale are permitted to be placed upon private property with the consent of an owner of said property and shall be removed within twenty-four (24) hours of the conclusion of said garage sale or similar activity.

Section 4.26 Seasonal Sale Items

A. All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.

B. Adequate parking and ingress and egress to the premises shall be provided.

C. Upon discontinuance of the seasonal use, any temporary structures shall be removed.

D. Signs shall conform to the provisions of the district in which the seasonal use is located.

E. Any lighting shall be directed and controlled to not create a nuisance to neighboring property owners.

F. Broadcasting of music and announcements shall not be audible from any adjacent property containing a residential dwelling, or at the entrance of any building located in the agricultural or industrial districts.

Section 4.27 Unsafe Buildings

Nothing within this Ordinance shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy by an appropriate governmental official.

Section 4.28 Structural Damage

Any structure or building which may be in whole or in part destroyed by fire, windstorm, or other such cause, if rebuilt, shall be rebuilt in accordance with this Ordinance, except as otherwise permitted under Article 13 of this Ordinance, or shall be restored to a safe and healthy condition with all debris removed from the site within twelve (12) months from the occurrence of such damage. If the structure or building is not rebuilt or restored to a safe and healthy condition within twelve (12) months from the occurrence of such damage, the building shall be considered a nuisance and may be ordered abated.

Section 4.29 Construction Debris

A temporary trash and construction debris storage area shall be required to be located on the site of all construction and renovation projects for the duration of the project. Windblown debris, trash, material resulting from construction and renovation projects shall be considered a public nuisance and a violation of this Ordinance. All trash and debris shall be removed from the property and disposed of properly and a regular basis.

Section 4.30 Road and Railroad Right-of-Way

All road and abandoned railroad right-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such road and abandoned railroad right-of-way. Where the centerline of a road or abandoned railroad right-of- way serves as a district boundary, the zoning of such road or abandoned railroad right-of-way unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline. No building or structure may be erected, constructed, or altered upon any right-of-way unless appurtenant to the right-of-way.

Section 4.31 Home Occupations

Home occupations that are clearly incidental to the principal residential use of a lot are permitted in any district permitting single-family residential use through administrative site plan review. The following standards must be met for issuance of a home occupation permit.

A. The home occupation shall utilize no more than twenty-five (25) percent of the total floor area of any one story of the residential structure so used, and not to exceed 400-sf.

B. The home occupation shall involve no employees other than members of the immediate family permanently occupying and residing on the premises.

C. No structural alterations or additions that will alter the residential character of the structure shall be permitted to accommodate a home occupation.

D. Only customary domestic or household equipment, or equipment judged by the Zoning Administrator not to be injurious or a nuisance to the surrounding neighborhood, shall be permitted.

E. There shall be no external evidence of such occupations except a small announcement sign not exceeding four (4) square feet and conforming to provisions of Section 4.08, Signs, of this Ordinance.

F. No unrelated commodity shall be sold on the premises in connection with a home occupation. Under no circumstance shall an “over-the-counter”, “walk-in” retail sales operation be conducted.

G. No home occupation shall be permitted which is injurious to the general character of the neighboring area or Township generally or which creates noise, dust, vibration, smell, smoke, glare or a congested or otherwise hazardous traffic or parking condition.

Section 4.32 Livestock and Farm Animals Outside of a Farming Operation

A. **Intent**. It is the intent of this section to provide definitions and standards for the keeping and maintenance of animals in the A-1 zoning district within the Township. Raising or keeping of animals that are normally part of the livestock maintained on a farm, for personal enjoyment and not for farming, is prohibited except in the A-1 zoning district, subject to the following requirements. Such animals raised and kept as part of a farming operation are to maintain compliance with the rules, regulations and generally accepted agricultural practices established by the Michigan Department of Agriculture.

B. **Definitions.** The word “animals” means a nonhuman zoological species, classified for purposes of this Article as follows:

1. **Class I Animal.** Domesticated animals which are not Class II, III, or IV, or Class V animals and which are customarily considered household pets.

2. **Class II Animal.** An animal which is normally part of the livestock maintained on a farm, but is not, for the purposes of this section, located on a farm, including:

   (a) bovine and like animals, such as the cow, buffalo, elk, lama, and alpaca;

   (b) equine and like animals, such as the horse;

   (c) swine and like animals, such as the hog which are in excess of six (6) months in age;

   (d) bovine and like animals, such as the sheep and goat;

   (e) other animals weighing in excess of seventy-five (75) pounds and not otherwise specifically included in Class II such as the ostrich and the emu.

3. **Class III Animal.** Rabbits which are not maintained or kept as domesticated household pets, animals considered as poultry, and other animals weighing less than seventy-five (75) pounds not specifically treated herein.

4. **Class IV Animal.** Wild or exotic animals. Such animals include any wild or undomesticated animal that is not of a species customarily used as an ordinary household pet, but one that would ordinarily be confined to a zoo, or one that would ordinarily be found in the wilderness of this or any other country. Such animals would generally weigh less than one hundred (100) pounds and would not cause a reasonable person to be fearful of bodily harm or property damage.

5. **Class V Animal.** Dangerous animals. Such animals include any wild or undomesticated animal that is not of a species customarily used as an ordinary household pet, but one that would ordinarily be confined to a zoo, or one that would ordinarily be found in the wilderness of this or any other country. Such animals would cause a reasonable person to be fearful of bodily harm or property damage.

C. **Animals Allowed by Zoning Districts.**

1. Class I animals may be maintained in all zoning classification districts, provided that dogs are licensed in accordance with the provisions of Act No. 339 of the Public Acts of Michigan of 1919 (MCL 287.261, et seq., MSA 12.511 et seq.), as amended and providing they do not create a public nuisance as herein defined.

2. Class II animals may be maintained in A-1 zoning district on property with a minimum of three (3) acres of area. One (1) acre of activity space shall be provided per each Class II animal up to a maximum of ten (10) Class II animals provided that they do not create a public nuisance as herein defined. Activity spaces shall be counted as the sum total of ground floor stable/housing area, pasture and manure storage area. Activity spaces shall be contiguous and shall not include leased portions of property adjacent to principal property. Areas where animals are housed, pastured and exercised shall be adequately fenced. Inability to prevent escape of animals from activity space shall be considered a public nuisance as herein defined.

3. Class III animals may be maintained in the A-1 zoning classification district, with a minimum of two (2) acres of land area, provided that they do not create a public nuisance as defined herein.

4. Class IV animals may be maintained in the A-1 district, provided they are maintained in compliance with all Federal, State, or County laws and further provided that they do not create a public nuisance.

5. Class V animals shall not be maintained anywhere within the Township.

D. **Setbacks.** Anyone wishing to raise or keep livestock and farm animals for personal enjoyment shall be required to meet the following setbacks:

1. No portion of any building, barn, stable or similar structure used for the housing of animals shall be permitted within fifty (50) feet of any adjoining property line planned, zoned or used for residential purposes. The storage of manure, odor or dust producing materials is prohibited within 50 feet of any property line.

Section 4.33 Creation of Manmade Ponds

A. A manmade pond is an excavation or impoundment of surface water, with a soft or natural bottom, rather than one made of concrete. Ponds are created by human activities and are designed to retain or detain water. A manmade pond is allowed as an accessory use in all zoning districts. No person shall commence the excavation, dredging, or construction of a dam, which is designed, intended or results in the creation or enlargement of a pond of more than 1,000 square feet in surface area without first making application for and receiving a Zoning Compliance Permit approving the specific plans for a pond. Ponds under 1,000 square feet in surface area shall be exempt from this ordinance and shall not require a permit.

B. Creation of a manmade pond with a surface area of at least one-thousand (1,000) square feet and less than 2- acres is subject to the following regulations:

1. Plans submitted to the Zoning Administrator for review shall indicate the general size, depth, and proposed finished grade of the land both above and below water level, and the slope between the water's edge and the maximum depth. In addition, the applicant shall indicate sources of water being used to supply the pond (such as stream impoundment, surface water runoff, springs, and wells).

2. No pond shall be closer than twenty (20) feet from any property line or dwelling units. Setbacks for septic tanks, drainage fields and domestic water wells are established by the Mid-Michigan District Health Department (MMDHD), but shall be no less than 20'. In the event that a pond is being constructed for mutual benefit and shared enjoyment of two properties and the pond is situated on both sides of the property line, application must be made by both property owners and the pond area must be established within an easement allowing full use by each property owner. The Zoning Administrator may consider the joint application and properties thereof as a zoning lot for the purposes of reviewing and issuing the permit.

3. The slope at the outer edge of the pond shall be 3:1, that is one (1) foot of depth per three (3) feet of horizontal distance. This slope must continue until a depth of five (5) feet from the below the water's surface (which will be a distance of 15 feet from the edge of the pond), or the maximum depth of the pond, whichever is shallower.

4. All such ponds shall be completed one hundred eighty (180) days following issuance of the zoning permit or such permit shall be declared null and void.

C. Creation of a pond with a surface of more than two (2) acres are subject to the following regulations in addition to the preceding regulations:

1. Manmade ponds in excess of two (2) acres shall be considered a use requiring site plan review under Article 16.

2. Applications for ponds larger than two (2) acres and/or ponds which are located within 500 feet of a lake, river, stream, or open county drain shall be required to be submitted to the Michigan Department of Environmental Quality to determine the extent to which the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, apply to the proposal.

D. Exceptions to the Approval Process for Manmade Ponds. In the event that a pond is part of the approval of a site condominium, plat, quarry, commercial, office, industrial site plan or special land use approval for purposes of providing drainage, retention or detention, the above process, procedure and regulations are hereby waived. In addition, any project under the Clinton County Drain Commissioner (CCDC) resulting in a pond is also exempt due to the creation being for the greater public health, safety and welfare.

E. This section shall not apply to the removal of less than 10,000 cubic yards of material from any single lot.

Section 4.34 Previously Approved Site Plans & Special Use Permits

Nothing in the Ordinance shall require changes to existing special use permits or site plans except where construction of structures and/or installation of use as approved under previous site plan or special use permit procedure has not been commenced within one-hundred eighty (180) days after the effective date of this Ordinance and the buildings, structures and/or installation of use shall be completed as authorized within one (1) year after the date of adoption of this Ordinance.

If commencement or completion has not been achieved within the time specifications listed above, the site plan and special use permit shall automatically be null and void. A petition for site plan or special land use approval under this Ordinance is required to commence, complete or receive a certificate of occupancy.

Section 4.35 Airport Layout and/or Approach Plan

The guidelines set forth in airport layout plans and airport approach plans on file with the Zoning Administrator shall be utilized in the review and approval of zoning/land use permits, site plans special land uses, variances, appeals and interpretations.

Section 4.36 Junk Prohibition

No person shall store, place, abandon or permit to be stored, placed, abandoned or allow to remain outdoors, in any district, items herein defined as “junk”. Such action and/or activity shall be considered a violation of the Ordinance and therefore subject to the enforcement procedures provided herein.

Section 4.37 Outdoor Lighting

A. **Intent.** The naturally lit night sky is of value to the character and quality of life in Bengal Township. Concurrently, the health, safety and welfare of residents and visitors depend on appropriate artificial outdoor lighting. Indeed, quality lighting sources and design can contribute to visual acuity, color recognition and visual effectiveness. Accordingly, it is the policy of the Board to generally limit outdoor lighting which would generate light pollution of the night sky and to provide standards for allowable outdoor lighting in various applications, intensities and times consistent with thoughtful, efficient design and energy conservation.

B. **Standards.** Outdoor lighting fixtures and installations shall conform to the following restrictions, excluding applications of single decorative lamps of **less** than 70 watts or equivalent lumens:

1. The fixture shall be designed and/or shielded in such a configuration as to limit all lighting above the fixture from horizontal to the lamp and upward.
2. The fixture and installation are to be designed such that direct views of the lamp are not visible from adjacent properties or public property, including roadways.
3. All outdoor recreational facilities, including but not limited to tennis courts, outdoor field sports, golf courses and facilities shall be illuminated with fixtures in compliance with the above restrictions and equipped to manually or automatically switch off before 11:30 pm.
4. Spotlights and Floodlights shall be directed generally downward. By exception, signage, buildings and landscaping may be lit up only by fixtures less than 70 watts or equivalent lumens and the lighting must light only the intended surface area.
5. Signage may be lit only to the extent that the signage itself is directly lit by the lamp source. The lamp source may not be visible to the passing motorist in either direction.
6. Pole lighting may not be higher than 22'.
7. Parking lots may only be lighted during regular business hours + 1hr at closing.
8. Security lighting of parking lots and buildings is exempt from the above provision, except that Security lighting must comply with subsections 1, 2 & 3 above. If Security lighting is to be wall mounted, it must be oriented downward.
9. The use of lighting for farming is specifically exempt from the standards of this ordinance, except that greenhouse and hothouse lighting is to be considered an industrial application.

10. Other uses as specifically applied for to the planning commission may or may not be granted by a majority vote such as: temporary lighting events, night construction operations, sports events, specialized industrial applications, etc.

C. **Applications and Enforcement.**

1. The Zoning Administrator and planning commission are hereby empowered to enforce the provisions of this ordinance.

2. It is the responsibility of the landowner, user or business to comply with the provisions of this ordinance.

3. The landowner, user or business shall make application for approval to the Zoning Administrator providing a plan showing number and location of fixtures. Single family residential users are not required to file application, but must still comply with Sections 4.37.B.1 & 4.37.B.2 of this ordinance.

4. The Zoning Administrator will review the project upon completion and upon finding compliance shall grant final approval.

5. If the Zoning Administrator reviews the project upon completion and finds lack of compliance, the project will be referred to the planning commission for review.

6. Upon review of any project for compliance with this ordinance, the Planning Commission may order removal or changes to outdoor lighting at landowner's expense for any project to achieve compliance with both the plan submitted by the landowner, user or business and to achieve compliance with Article 16. The Planning Commission may base decisions on the information provided by the applicant, the initial plan application, photometric and technical data on fixtures used, lighting designer or engineer expertise, correspondence, and public hearing.

Section 4.38 Non-Commercial Wind Energy Systems

Specific Regulations for Single (Non-Commercial) WES for On-site Service

A. **Applicability.** Single WES applications of wind energy conversion system, including WES Testing Facilities, to service the energy needs of only the property where the structure is located may be approved by permit, provided the property upon which the system is to be located is at least three and one-half (3-1/2) acres in size and the WES complies with all of the following:

1. The tower shall not exceed a height of 80 feet.

2. The blade diameter (tip to tip) shall not exceed 100 feet.

3. The height of the overall WES (with the blade in the vertical position) shall not exceed 130 feet above ground level (at normal grade).

4. The distance of the structure from all property lines shall be at least two (2) times the WES height.

5. If the tower is for residential or agricultural use only on site, the tower can be of either monopole or lattice design.

6. Capacity must be no more than 30 kilowatt generator size.

7. **Site Plan:** Prior to installation of an On-Site WES, a site plan must be filed and subsequently approved by the Planning Commission.

8. **Compliance with Building Code:** A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the WES and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code as adopted by the County of Clinton. Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.

9. All noise limits and requirements as outlined in this Ordinance.

Section 4.39 Swimming Pools

It shall be unlawful for any person(s) to install, place or construct a swimming pool upon any lot in Bengal Township except in conformity with the applicable provisions of the most recently adopted Building Code in use in Clinton County. The location of a swimming pool, including above-ground and in-ground pools on any lot or parcel of land must comply with the setback requirements for accessory structures that are applicable to the Zoning District in which the swimming pool is located. A four-foot high fence, meeting the standards of this Ordinance, must be erected to prevent access to any in-ground swimming pool from off the property. The fence may be constructed in any location desired by the property owner, provided that there is no route from any property line to the swimming pool that is not blocked by the fence or another structure (such as a home, garage, or shed).

Section 4.40 Data Centers and Digital Mining

A. **Purpose.** The purpose of this section is to provide regulations for data centers within the Township in a manner that protects the rural residential character of the community by creating opportunities for data centers while limiting the impacts on nearby residents and the property values of adjacent and nearby properties and the health, safety and general welfare of the Township and its residents.

B. Data centers and/or digital mining businesses may be permitted by the Planning Commission as a special land use upon compliance with all of the terms and conditions of this section.

C. **Application.** A site plan shall be submitted and reviewed prior to the approval of a data center or digital mining use under the provisions of Article 16, except where special land use approval is required, in which case Special Land Use approval under Article 17 shall be required. All documentation and correspondence pertaining to the application and review of a data center or digital mining use shall be considered public information and shall be made available upon request. An application for a proposed data center or digital mining use shall include all of the information required for site plan review under Section 16.01.B, and the following additional information:

1. The site plan for the proposed use shall include the location of proposed buildings, structures and other improvements, floodplains, wetlands, any bodies of water, and the zoning districts for all adjacent properties and any existing dwellings within 100 feet of the proposed use.

2. Evidence of preliminary contact with the proposed electrical service provider regarding whether there is capacity for the proposed use and whether the existing infrastructure and facilities can accommodate the proposed use.

3. A noise mitigation plan shall be submitted, including, at a minimum, a detailed acoustic study showing the amount of noise that would be produced by normal operations of the data center and strategies to minimize noise and achieve a neutral impact on adjacent and nearby properties.

4. A separate noise impact study which includes information on the noise levels to be generated by the construction, use and operation of the data center, measured in dB(A).

5. A detailed narrative of the arrangements to be made for stormwater discharge, water supply, and sewage disposal service, including approximate capacity, source of water supply, discharge points for sewage disposal, and description of stormwater management facilities.

6. A description of the proposed plan to obtain water required for the data center or digital mining use, including whether the water would be taken from groundwater or surface water, whether private or public utilities are proposed, and indicating the quantity of water required. The description shall specify if non-potable or recycled water is proposed to be used.

7. A separate analysis from a licensed professional engineer of the impact on the use of the required water for the data center or digital mining business on the capacity of water available from public utilities or from groundwater or surface water sources. If water is proposed to be from public sources, the applicant shall demonstrate that the public source has the capacity to provide water for the proposed data center or digital mining use or if infrastructure or facilities improvements would be required. Groundwater or surface water sources are only permitted for accessory data centers.

   (a) Data centers may only be approved upon confirmation of the authority that will be providing water and sewer service, as applicable, that the water system has sufficient capacity for the proposed Data Center. Alternatively, the applicant may opt to pay the full costs of all required upgrades needed to ensure sufficient water capacity with no impact on existing water customers.

8. A project development timeline, including information regarding how the applicant will inform adjacent property owners and members of the community regarding the status of the project.

9. A decommissioning plan, which shall include details regarding the planned method of safe removal and recycling or disposal of server infrastructure, any hazardous materials, batteries, electronic waste, and related products.

D. **Environmental Impact Assessment.** The Applicant shall also provide an environmental impact assessment with the application materials. This assessment shall describe the effect and impact that the proposed data center or digital mining use will or may have upon or with respect to the following matters:

1. The lands involved and the adjacent and nearby lands; streams, rivers, wetlands, and the quality and volume of surface and groundwater; wildlife and trees, and other significant vegetation; the effect, if any, on surrounding property values.

2. A traffic impact study.

3. Additional costs to governmental units; police and fire protection; storm water drainage; water supply; and sewage disposal.

4. Evidence that the disposal of wastewater and other materials will be accomplished in a manner that complies with local, state and federal regulations.

5. Noise, vibration, dust and dirt, litter, smoke, odor, light, and glare.

6. A community impact analysis.

7. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tile and addressing stormwater management, which is subject to the Township's review and approval.

8. An analysis of the nature and effect of any private utility systems, including septic tanks and drain fields, storm water control and retention facilities, and water supply and distribution systems. This analysis shall include any impact on private utility systems located on adjacent or nearby properties up to 100 feet away from the proposed data center.

9. Such other matters as the Planning Commission may request to be included. If requested by the Planning Commission, the environmental impact assessment shall include statements or comments from the following public agencies or officials concerning those aspects of the proposed data center within their respective responsibilities and jurisdictions: Clinton County Health Department; Clinton County Road Commission, Clinton County Drain Commissioner, Michigan Department of Environment, Great Lakes, and Energy, local school district(s); local board(s) of education, Clinton County Sheriff's Department, the Saint Johns Fire Department, Dallas Township Fire Department, and other appropriate agencies.

E. **Reports.** The Township shall have the right to require supplemental or amended reports related to matters including but not limited to impacts of the proposed development, prior to any zoning approval.

F. **Staff Review.** The Zoning Administrator shall ensure that a report on the proposed site plan is prepared for the Planning Commission. The Township Planner, Township Attorney, Township Engineer, and other Township staff and consultants may also prepare reports. The Township may also contract with other consultants to provide reports necessary to evaluate the proposed data center and its potential impacts.

G. **Fees.** The applicant shall pay all fees and charges required by the Bengal Township Fee Schedule, including the required escrow deposit set by the Township Board for site plan review and special land use approval, if applicable. In addition, the Township reserves the right to require the applicant to deposit an increased or additional escrow deposit if necessary for the Township to review the application and related materials.

H. **General Regulations.** The following general requirements apply to all data centers and digital mining uses within the Township.

1. **Location Requirements.** Principal Use Data centers and/or digital mining businesses shall be permitted as special land uses in the I-1 – Light Industrial District provided, however, that data centers and/or digital mining businesses shall not be permitted in areas of the Township that do not have sufficient infrastructure or facilities to support those uses.

   (a) Principal use data centers and/or digital mining businesses shall be required to connect to public water and public sewer.

   (b) In addition, principal use data centers and/or digital mining businesses shall not be located in areas that do not have existing electrical infrastructure and facilities that are sufficient to support data centers and/or digital mining businesses without adversely impacting adjacent and surrounding properties.

2. **Minimum Requirements for Data Centers and/or Digital Mining Businesses.**

   (a) **Minimum Lot Area.** The minimum lot area shall be 20 acres.

   (b) **Landscaping and Buffering.**

      (i) Landscaping shall be provided in accordance with the requirements of Section 9.02 of the Zoning Ordinance.

      (ii) The owner(s) and/or operator(s) of the data center shall continuously maintain the required landscaping, including but not limited to replacement of any dead or diseased plantings.

3. **Noise.** All measurements must be conducted in accordance with ANSI Standards for outdoor sound measurements with instruments suitable for measurement of infra and low frequency sounds and be under the supervision of a Member of the Institute of Noise Control Engineers (INCE). Evidence of noise emission from the operation of a data center shall:

   (a) Not exceed thirty-five (35) decibels on the dB(A) scale between 7am and 7pm.

   (b) Not exceed thirty (30) decibels on the dB(A) scale between 7pm and 7am.

   (c) Not exceed fifty (50) decibels on the dB(C) scale at any property line or inside any occupied residence between 7 pm and 7 am.

   (d) Not exceed a difference of 15 dB between an unweighted measurement of infra and low frequency sounds inside a room at night and the A-weighted sound level for frequencies.

   (e) Be over the range of infra and low frequency sound.

   (f) Not exceed a difference of 10 dB between the dB(C) measurement of sound inside a room at night and the A-weighted sound level.

   (g) Be free of perceptible tones or changes in amplitude (fluctuations or impulses) that could cause a complaint.

   (h) Except for in-home measurements, be measured at the property or lot line closest to the data center.

   (i) The maximum noise levels provided above shall not apply to emergency alerts or emergency alarms.

4. **Mechanical Equipment.** To reduce the impact of additional noise on surrounding properties, any equipment necessary for cooling, ventilating, or otherwise related to operations of the data center or digital mining use, including power generators or other power supply equipment, shall be located within an enclosed building or structure.

   (a) The Planning Commission may waive this requirement for specified equipment if it finds that it is not mechanically feasible to fully enclose such equipment. If it does so, the specified equipment that has been approved to be located outside of an enclosed building or structure shall be screened by a wall or similar barrier.

5. **Setbacks.**

   (a) **Setbacks from Residential Properties.** Any building or structure that is used for a medium or hyperscale data center or digital mining use shall be located at least 500 feet from the lot line of any property located in the A-1 – General Agriculture District.

   (b) **Setbacks from Non-Residential Properties.** Any building or structure that is used for a medium or hyperscale data center or digital mining use shall be located at least 100 feet from the lot line of any property located in the I-1 – Light Industrial District.

   (c) **Setbacks for Equipment.** Any equipment necessary for cooling, ventilating, or otherwise related to operations of a medium or hyperscale data center or digital mining use, including power generators or other power supply equipment, shall be located at least 500 feet away from all property lines.

   (d) **Setbacks for Small or Accessory Data Center.** An accessory data center shall comply with the applicable setback requirements for the district in which the accessory data center is located.

(e) **Setbacks for Heat Exchange with Adjacent Properties.** For any data center that supplies heat energy to an adjacent use, the Planning Commission may allow a reduced setback, though no principal building shall be closer to the lot line than the applicable minimum setback requirement in the I-1 – Light Industrial District.

6. **Outdoor Storage.** Outdoor storage of materials, equipment, and supplies shall be prohibited.

7. **Hazardous Materials.** Due to the nature of a data center or digital mining use, hazardous waste and storage of hazardous materials is anticipated. If the proposed data center or digital mining use includes storage or disposal of hazardous materials or waste, the following is required:

   (a) The applicant shall describe the nature of the storage and processing of hazardous materials and waste as part of the application for site plan review. This shall include proposed safety measures and protocols to prevent the spread of hazardous materials outside of designated containment areas and procedures in the event that hazardous materials or waste are released and have the potential to damage persons, property or the environment. This information shall be provided to provide the Township with notice that hazardous materials or waste are present to coordinate in the event that hazardous materials or waste is released, and to inform public safety officials.

   (b) All storage and/or processing of hazardous materials and waste shall comply in all respects with state and federal law and regulations and the requirements of the Michigan Department of Environment, Great Lakes, and Energy and any other applicable agency. Storage and/or processing of hazardous materials and waste shall not commence until all necessary permits have been obtained and copies of such permits have been provided to the Township.

   (c) Storage and/or processing of hazardous materials and waste shall not occur within 500 feet of any lot line.

   (d) If storage and/or processing is proposed outside of a building or structure, those activities shall be screened from view of adjacent public or private rights-of-way and any property that is zoned in a residential district.

8. **Air Quality and Water Quality.** The equipment, including but not limited to any power generators, used in the operation of the data center or digital mining use shall minimize air pollutant emissions and water pollutant discharges and meet or exceed applicable state and federal laws regarding emissions and discharges.

9. **Storm Water Management.** A Township storm water permit is required for a proposed data center or digital mining use. Measures for control of storm water drainage shall be provided under the terms of the Clinton County Drain Commission.

10. **Cooling Methods.** To reduce the potential impact on nearby potable water resources, any data center or digital mining use that proposes to use water cooling must use a closed-loop cooling system or an immersion cooling system using a dielectric solution and adequate containment.

11. **Power.** Before the issuance of any building permits, the applicant shall provide written verification from the applicable energy service provider that states the following:

    (a) There is adequate capacity available on the applicable supply lines and substation for the data center or digital mining use and to ensure that there is sufficient capacity available to serve the needs of other customers within the service area, consistent with the normal projected load growth envisioned by the provider;

(b) The utility supply equipment and related electrical infrastructure are sufficiently sized and can safely accommodate the proposed data center or digital mining use during the power provider's peak consumption hours;

(c) Any system designed for cooling and operation of the facility (electricity, water, or other means) will be adequate and will not negatively impact the surrounding area; and

(d) The use will not cause electrical interference or fluctuations in the line voltage on and off the operating premises.

12. **Electric Utilities.**

(a) Integration of renewable energy to power data centers is preferred, if feasible. Data centers that are required to obtain power from renewable sources as part of eligibility for the sales and use tax exemptions under Public Act 181 of 2024, as amended, and Public Act 207 of 2024, as amended, shall comply with state laws and regulations.

(b) To the extent feasible, electrical utilities shall be located underground.

(c) Prior to the issuance of a certificate of occupancy, the applicant shall provide the Township with written verification that the electrical work has passed a final inspection from a licensed electrical engineer.

13. **Lighting.** Any proposed outdoor lighting for a data center or digital mining use shall comply with the requirements of Section 9.06.

14. **Fencing.** The Planning Commission may require fencing for a data center or digital mining use if necessary for safety or security purposes.

15. **Parking.** Data centers and digital mining uses shall provide a minimum of one (1) off-street parking space for each employee of the data center, and an additional three (3) visitor parking spaces.

16. **Safety.**

(a) A detailed emergency response plan shall be submitted with the zoning application, showing at a minimum that the data center has a plan in effect to address emergencies resulting from flood, fire, explosion and catastrophic weather events. The emergency response plan is subject to review and comments by the Township, including the Saint Johns Fire Department Fire Chief and Dallas Township Fire Department Chief, and may also be subject to review of the Clinton County Sheriff's Department or other applicable law enforcement agency.

(b) The equipment used in any data center or digital mining use shall be housed in a metered, electrically grounded, and metal-encased structure with a fire rating designed to resist an internal electrical fire for at least thirty (30) minutes. The containment space for the equipment shall contain baffles that automatically close in the event of fire, independent of a possible electrical system failure.

(c) Any data center or digital mining use that is proposed to include battery storage or any other device or group of devices capable of storing energy in order to supply electrical energy at a later time shall demonstrate compliance with the National Fire Protection Association (NFPA) Standard 855, Installation of Stationary Energy Storage Systems, or similar standards and must include fire suppression systems specifically designed for battery storage.

17. **Fire Safety.** The proposed data center or digital mining use shall include a fire suppression system that complies with the Michigan Construction Code, as amended, and any other applicable local, state or federal laws, rules or regulations. Compliance with all requirements of the Saint Johns Fire Department Chief and Dallas Township Fire Department Chief related to fire suppression shall be required.

    (a) The applicant shall be responsible for providing sufficient equipment and training to local fire departments regarding how to safely contain and stop a potential fire at a Data Center at the discretion of the fire departments themselves.

    (b) The fire suppression system must meet all National Fire Protection Association (NFPA) and National Electrical Code (NEC) standards.

18. **Annual Maintenance Review.** All Medium, Large, and Hyper-Scale Data Centers must be reviewed annually by a licensed third-party engineer for any defects of the site. A report of this review shall be submitted to the Planning Commission once inspections are completed to demonstrate any issues that require correction. Any issues identified in the inspection report must be corrected within a period of 180 days. Any cost of hiring a third-party licensed engineer shall be borne by the applicant.

19. **Emergency Contact Information.** Each data center or digital mining use shall provide 24-hour emergency contact signage visible at each access entrance. The signs shall include the company name (if applicable), the owner or representative's name, the telephone number for the emergency contact person, and the local power company's name and telephone number.

20. **Nuisance Prohibited.** The data center or digital mining use shall be designed, constructed and operated at all times in a manner that does not create a nuisance by reason of heat, glare, fumes, dust, noise, vibration or odor beyond the property on which the data center is located.

21. **Modular Data Centers Prohibited.** Pre-fabricated or "modular" data centers are prohibited. All data center uses shall be within site-built buildings.

22. **Compliance with Other Laws.** The design, construction, operation use and decommissioning of a data center or digital mining use shall comply with all other applicable local, state or federal laws or regulations, including but not limited to laws or regulations regarding the environment, pollution, and mitigation of potential impacts on threatened or endangered species.

I. **Decommissioning Requirements.** The application shall include a decommissioning plan that describes the anticipated life of the data center or digital mining facility and the manner in which the project will be decommissioned, actions that will be taken to restore the site, the removal of the equipment, the estimated cost of the decommissioning process, a method for ensuring that the owner and/or operator will have sufficient funds available for decommissioning and restoration, and a method for ensuring the facility can be easily repurposed in the event of decommissioning.

    1. **Abandonment.** If a data center or digital mining use is not operational for a continuous one-year period, or if substantial action on the project is discontinued for a period of one year, the project shall be deemed abandoned and must be decommissioned. The owner, operator, permit holder and/or their successor(s) in interest shall have one year to complete decommissioning of the facility. The decommissioning shall be in compliance with the approved decommissioning plan, and the owner, operator, permit holder and/or their successor(s) in interest shall notify the Township when the project has been decommissioned.

2. **Decommissioning Fund.** A Decommissioning Fund shall be established to cover the costs of decommissioning or removal of the Data Center once the use of the parcel has ceased for a period of at least one year. The Decommissioning Fund shall be funded with a performance bond that is solely for the benefit of the Township. No other entity, including the applicant, shall have the ability to demand payment under the decommissioning fund.

3. **Financial Security.** To ensure proper decommissioning of a Data Center upon abandonment, the applicant must post financial security in the form of a security bond, escrow payment, or irrevocable letter of credit in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.

4. **Emergency Decommissioning.** In the event of a Data Center failure that requires emergency removal (such as a fire or other destruction), the applicant will be responsible for proper removal and disposal of the Data Center and any damaged equipment surrounding the use. Data Center equipment may be replaced in kind or equivalent at the applicant's expense. If an equivalent Data Center is used as replacement, the Township will be notified of the equivalent replacement. Additional life and fire safety training for local fire departments for the equivalent Data Center will be required and provided by the applicant. The decommissioning fund does not include decommissioning costs and salvage value for emergency Data Center decommissioning. The emergency decommissioning dollar value would be covered by the standard decommissioning surety. A revised surety shall be posted prior to providing any new/replacement equipment under a post emergency event.

J. **Colocation Data Centers**. Colocation data centers shall be permitted. The owner(s) and/or operator(s) of colocation data centers shall be responsible for ensuring that lessees and users of the data center or digital mining use facilities comply with the terms of this section and other applicable provisions of the Zoning Ordinance and other applicable local, state and federal laws, rules and regulations. The owner(s) and/or operator(s) of colocation data centers shall provide information regarding their plan to ensure that all of the lessees and users of the proposed data center or digital mining use will remain in compliance.

K. **Accessory Data Centers.**

1. An accessory data center is permitted in all zoning districts.

2. Accessory data centers must be located on the same lot or parcel as the principal use.

3. All equipment necessary for the operation of the accessory data center, including any equipment necessary for cooling, ventilating, or otherwise related to operations of the data center or digital mining use, including power generators or other power supply equipment, shall be located within an enclosed building or structure.

L. **Digital Mining Uses.** Where a digital mining use is allowed as a permitted use or special land use in a zoning district, the following additional requirements apply:

1. All activities related to the digital mining use must be conducted within an enclosed building.

2. The applicant must provide evidence to the Township, certified by a professional engineer, that the proposed use will not have an adverse effect on electrical or digital internet services in neighboring properties or the Township.

3. All digital mining operations shall be designed, erected, and installed in accordance with all applicable local, state or federal laws, codes, rules, and regulations.

4. Digital mining shall not occur in any accessory building or temporary structure. The use of ISO shipping containers or other similar containers for digital mining shall be prohibited.

Article 5
Commercial Wind Energy Systems

Section 5.01 Purpose

The purpose of this Article is to define standards and procedures governing installation and operation of commercial wind energy systems, also known as utility scale wind energy systems as a special use in Bengal Township. Standards and procedures are necessary to:

A. Protect public health, safety and welfare;

B. Ensure that the location and scale of commercial wind energy systems within the Township are consistent with the vision and goals of the master plan;

C. Protect all areas of the Township and the Township's natural resources from potential adverse impacts of wind energy systems, including adverse visual and environmental impacts;
Avoid potential damage to adjacent property from hazards associated with and/or failure of commercial wind energy systems;

D. Ensure the compatibility of adjacent land uses;

E. Protect property values;

F. Define regulatory requirements and procedures for permit application and review:

   1. Monitoring and compliance

   2. Revocation and/or decommissioning

Section 5.02 General Provisions

A. **Applicability.** Commercial wind energy systems shall not be regulated or permitted as essential services public utilities, or private utilities. Commercial wind energy systems are allowed as a special land use within Agricultural Districts in Bengal Township subject to the requirements of this Ordinance. All interconnected wind energy systems, except those that meet the definition of private wind energy systems, shall be considered commercial and subject to special land use permit and requirements within this ordinance. Application for Special Land Use Permit.

   1. An owner/applicant may apply for a Special Land Use Permit to construct and operate a commercial wind energy system subject to all of the requirements of this Ordinance.

2. Bengal Township shall have the right to impose other discretionary criteria, including time- related conditions such as phased development, to effectuate the purpose and intent of this Ordinance, to protect the health, safety and welfare of the Township residents, to protect the social and economic well-being of nearby residents and landowners, and to protect against pollution, impairment or destruction of the Township's natural resources.

3. Procedures for application and site plan review shall comply with requirements set forth for Major Projects in "Procedures for Site Plan Review" of the Bengal Township Zoning Ordinance except that the Planning Commission may require more than one public hearing. Notice of the public hearing will be made according to the Michigan Zoning Enabling Act.

B. **Approval Standards.** The Bengal Township Planning Commission shall not approve a Special Land Use Permit unless it finds that:

1. The applicant/owner has demonstrated compliance with the General Provisions, Performance and Regulatory Standards, and Application Requirements of this Ordinance, as well as "Standards for Granting Site Plan Approval" from the Bengal Township Zoning Ordinance.

2. The Township shall have the right to impose other discretionary criteria in order to effectuate the purpose and intent of this Ordinance, to protect the health, safety, and welfare of the Township residents, or to protect against pollution, impairment or destruction of the Township's natural resources.

C. **Issuance of Special Land Use Permit for Construction and Operation.**

1. If the Bengal Township Planning Commission finds that the applicant/owner has met the approval standards, it may issue a Special Land Use Permit for construction of a wind energy system that shall be valid for two years from the date of issue.

2. Upon completion of construction, the applicant/owner shall submit to the Bengal Township Zoning Administrator proofs of compliance with all requirements of the Ordinance. If such submission does not occur within two years, the Special Land Use Permit is no longer valid.

3. The Bengal Township Planning Commission shall determine that all provisions, requirements, standards, and discretionary criteria have been complied with fully before issuing a final Special Land Use Permit for operation of the wind energy system that shall be valid for five years from the date of issue.

4. Six months prior to the expiration of the Special Land Use Permit for operation of the wind energy system, the applicant/owner/operator shall submit to the Bengal Township Zoning Administrator proofs of continued compliance, including proofs that any complaints have been satisfactorily resolved, safety and maintenance records, records of environmental impacts and records on the useful life of similar equipment. The Bengal Township Planning Commission may reissue the Special Land Use Permit for operation of the Wind Energy System for another five-year period if it finds sufficient evidence of continued compliance.

5. In the event that the Special Land Use Permit for operation of the Wind Energy System is not reissued, the wind energy system shall be considered in violation of the Ordinance.

6. The Township reserves the right of review of compliance with the conditions and limitations imposed upon such use, and any failure to comply may result in termination of the permit by action of the Planning Commission.

D. **Revocation.** The Township Board shall have the authority to revoke any special use permit if (a) it was granted in part because of a material misrepresentation by the applicant or an agent of the applicant; or (b) the holder of the special use permit violates any term of the special use permit, including any condition, or

any applicable requirement of the ordinance. In either event, the Township shall give written notice to the holder of the special use permit, by ordinary mail to the last address provided to the Township by the holder of the special use permit. If the subject of the notice is a violation of a term or condition of the special use permit or the ordinance, the permit holder shall have 30 days from the date of the notice to correct the violation, unless the time period is extended at the sole discretion of the Township Supervisor. If the violation is not corrected in time, or if the subject of the notice was a material misrepresentation by the applicant or its agent, the Township Board may revoke the special use permit with cause after a hearing.

E. The Township Board shall establish notice requirements and such other conditions for the hearing as the Township Board deems appropriate, including but not limited to the subpoena of persons and/or documents. The holder of the special use permit shall reimburse the Township for its costs, including expert consultant and attorney fees, associated with or resulting from a revocation proceeding. This paragraph shall not prevent the Township from seeking any appropriate relief in any other venue, including but not limited to civil infraction proceedings, criminal proceedings, or proceedings in civil court.

F. **Enforcement and Penalties.** The enforcement of the Ordinance shall be the responsibility of the Bengal Township Zoning Administrator, unless otherwise specified in the ordinance or designated by the Township. An owner/operator, landowner, firm, association, corporation or representative agent of any wind energy system that is found by Bengal Township, or its designee, to be in violation of the special use permit, or to be abandoned, inoperable, or unsafe as defined in this Ordinance, or to have a serious adverse impact.

1. Shall provide abatement by shut down, repair, or removal of the wind energy system upon written notification from the Zoning Administrator (or other Township designee).

2. Is a civil infraction, the penalty for which shall be $500 per occurrence. For violations that continue after a written demand for correction by the Township, each day shall be considered a separate occurrence.

3. May be subject to revocation of the special use permit for excessive and continued violations.

4. May be required to reimburse Bengal Township for cost(s) and expenses of obtaining other relief including a temporary or permanent injunction; such reimbursement may include costs and reasonable attorney fees.

G. **Certification of Insurance.**

1. Applicant/owner/operator/landowners shall indemnify and hold harmless the applicant/owner/ operator/landowners itself and Bengal Township, all as additional named insureds, against any and all claims arising out of the existence and operation of the wind energy system.

2. Applicant/owner/operator/shall procure comprehensive general liability, casualty, wrongful acts insurance policies, and any other policies customary to the wind energy system industry. This insurance shall be in the amount of $2 million per wind energy system but not to exceed $100 million in the aggregate if the applicant/owner/operator/ own(s) more than one wind energy system in Bengal Township. The Planning Commission may adjust these amounts periodically to reflect inflation.

3. The applicant/owner/operator/shall maintain these insurances for the duration of the construction, operation, decommissioning, removal and site restoration of the wind energy system. The insurance carrier shall be instructed to provide Bengal Township with certificates of the existence of such insurances, and shall be instructed to notify the Township if such insurances expire for any reason.

4. Failure of the applicant/owner/operator to maintain these insurances at all times shall result in termination of the permit.

5. Cancellation Notice – all insurances described shall include an endorsement stating the following: It is understood and agreed that thirty (30) days advanced written notice of cancellation, non-renewal, reduction and/or material change shall be sent to the township Zoning Administrator.

H. **Removal Cost Guarantee.** The cost of removal and site restoration is the full responsibility of the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the wind energy system and to restore the site, the following steps shall be followed:

1. For each wind energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost. The Planning Commission shall require independent verification of the adequacy of this amount and may require that it be reviewed every two years

2. This money shall be deposited in an escrow account specified by Bengal Township, which may be an interest-bearing account. There shall be no alternative to such an account.

3. Withdrawals will be made from this account, solely by Bengal Township or its designee, only to pay for removal and site restoration of the wind energy system as provided for in this Ordinance.

4. Any money left in the account for each wind energy system after removal and site restoration shall be returned by Bengal Township to the then owner/operator.

I. **Separation and Management of Each Removal Cost Account.** If more than one wind energy system is owned by the same applicant/owner/operator, the removal/restoring guarantee accounts may be joined together by Bengal Township into a single account for that applicant/owner/operator. However, accounts for different applicant/owner/operators shall be kept separate. Bengal Township may, from time to time, change the financial institution in which such accounts are deposited.

J. **Administration Costs; Initial Application and Ongoing.** For each WES the applicant/owner shall deposit into an escrow account the amount of $25,000. The purpose of this joint escrow account is:

1. To reimburse Bengal Township for its costs incurred to hire consultants and experts as the Township, at its sole discretion, deems desirable to examine, evaluate and verify the data and statements presented by the applicant/owner/operator.

2. For the life of each wind energy system, to cover the administrative and legal costs incurred by Bengal Township in monitoring and enforcing the owner/operator's ongoing compliance with the Ordinance.

3. The account shall be managed as follows:

   (a) Funds can be withdrawn from this account only by the signature of a Township designee.

   (b) If at any time the balance of this account shall fall below $15,000, the applicant/owner/operator shall deposit an additional $10,000 into the account.

   (c) If at any time the balance of this fund shall fall below $15,000 for a continuous period of thirty days, the application shall be considered to have been withdrawn, or the Permit for the wind energy system may be terminated.

   (d) The township Zoning Administrator or township designee shall be charged with monitoring the escrow account and giving quarterly reports to the Planning Commission.

K. After the wind energy system has been removed and site restoration has been completed, as defined in this Ordinance, any balance remaining in this account shall be returned to the applicant/owner/operator.

L. **Insufficiency of Removal and Administrative Cost Accounts.** During the useful life and operation of the wind energy system, Bengal Township may from time to time determine, in its sole discretion, whether the amounts deposited for removal, site restoration, and administration costs are adequate for these purposes. (Costs of removal, restoration and administration may change due to technology, environmental considerations, inflation, and many other causes.) If the Township determines that these amounts, including any interest earned to date, are not adequate, the Township shall require the owner/operator to make additional deposits to the accounts to cure such inadequacy. The Township shall consider the wind energy system in violation of the Ordinance if the owner/operator fails to cure the inadequacy within sixty (60) days of notification.

M. **Road Repair Costs.** Any damage to a public road within Bengal Township resulting from the construction, maintenance or operation of a wind energy farm shall be repaired at the applicant/owner/operator's expense. For each wind energy system:

1. The applicant/owner/operator, Bengal Township and the Clinton County Road Commission shall agree upon and document construction routes and public road conditions before construction begins.

2. The applicant/owner/operator shall provide security in an amount to be agreed upon by the applicant/owner/operator and Bengal Township with guidance from applicable experts, including the Clinton County Road Commission, to be used by the Township and/or the Clinton County Road Commission to pay for the repair of damage to public roads.

3. Failure of the applicant/owner/operator to provide these funds shall result in termination of the Permit.

Section 5.03 Performance and Regulatory Standards

All commercial wind energy systems and testing structures shall comply with the performance and regulatory standards set forth in this section.

A. **Height Limit.** The maximum permitted height of an anemometer tower or a wind energy system measured from the ground to the tip of the blade when in vertical position shall not exceed three hundred fifty (350) feet. The Planning Commission may set a lower height limit for other types of wind turbines.

B. **Setbacks.**

1. **Road setback:** The setback of an anemometer tower or a wind energy system from any adjoining private or public road shall be no less than ten (10) times the diameter of the rotor. If necessary, the owner/operator shall secure recorded lease agreements or easements with adjoining property owners to achieve the setback requirements.

2. **Structure setback:** The setback of an anemometer tower or a wind energy system from any structure shall be no less than five (5) times the total height of the wind energy system.

3. **Property Line setback:** The setback of an anemometer tower or a wind energy system from any property line shall be no less than five (5) times the total height of the wind energy system.

4. **Wetland Setbacks:** The setback of an anemometer tower or a wind energy system from the delineated boundary of wetlands shall be no less than ten (10) times the diameter of the rotor.

5. **Setbacks to Other Sensitive Areas:** The setback of an anemometer tower or a wind energy system from other sensitive areas, except as specified herein shall be no less than ten (10) times the diameter of the rotor.

C. **Stray Voltage.** The applicant shall not permit any stray voltage to be caused by its operation of a wind energy system and violation of this prohibition shall be deemed evidence of the applicant's breach of its duty under the ordinance. Any person injured as a result of stray voltage caused by operation of an applicant's wind energy system may seek reimbursement against the applicant's security posted as required by this Ordinance. The applicant shall be responsible for compensation to persons damaged due to any stray voltage caused by a wind energy system.

D. **Tower and Turbine Design.** The wind energy system tower shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) with no guy wires, exterior ladders or platforms

E. **Color and Finish.** Wind energy systems shall have a non-reflective finish and shall be non-obtrusive, neutral color that is compatible with the natural environment, such as white, gray, or beige. Wind energy system shall not display logos, advertising, or promotional materials.

F. **Lighting.** A lighting plan for each wind energy system and anemometer tower shall be approved by the Bengal Township Board. Such plan must describe all lighting that will be utilized, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color, and whether any lights will be flashing. Minimum FAA lighting standards shall not be exceeded. All lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground.

G. **Construction Codes, Towers, and Interconnection Standards.** Wind energy systems together with all related components, including but not limited to transmission lines and transformers, shall comply with all federal, state and county requirements and standards, including applicable construction and electrical codes, local permit requirements, and applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards and IEC61400. Wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations.

H. **Interconnection and Electrical Distribution Facilities.** All electrical transmission lines associated with the wind energy site shall be located and maintained underground, in accordance with best practice guidelines. This requirement applies to transmission lines connecting the wind energy system(s) to the transmission provider's distribution system, but does not apply to the transmission provider's distribution system that constitutes the public electrical grid

I. **Vibrations/Wind Currents.** Under no circumstances shall a wind energy system or anemometer tower produce vibrations or wind current humanly perceptible beyond the property boundaries of the lot or parcel on which the wind energy system or anemometer tower is located.

J. **Safety.**

1. All utility grid wind energy systems shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.

2. Signs no more than four (4) square feet in area and without advertising or promotional materials shall be posted at the wind energy system tower and at the wind energy system service drive entrance at the minimum setback distance. Signs shall display:

   (a) Address and telephone numbers that allow a caller to directly contact a responsible individual to deal with emergencies at any time during or after business hours and on weekends and holidays.

   (b) A warning about the dangers of falling ice.

3. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system.

4. The minimum vertical blade tip clearance from grade shall be seventy-five (75) feet for a wind energy system employing a horizontal axis rotor.

5. The applicant and/or the owner/operator shall be responsible for the cost of all fire and rescue training and equipment as required by the fire and rescue entities serving Bengal Township so as to perform necessary fire and rescue services which involve a WES.

6. The applicant and/or the owner/operator shall describe all emergency response training and equipment needed to respond to a fire or other emergency including an assessment of the training and equipment available to the designated agencies.

7. The Township or County or any emergency service provider who services the Township or the County has the authority to order any Utility Scale Wind Energy System or anemometer tower to cease its operations if they determine in good faith that there was an emergency situation involving the utility scale Wind Energy System or anemometer tower that may result in danger to life or property. The owner and/or operator is to be notified not required to be present in such an emergency situation.

K. **Impacts on Wildlife Species and Habitat.**

1. **Site Selection:** Applicants shall follow the U.S. Fish and Wildlife Service Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines (2012) for selecting appropriate wind energy system site(s) including completing a potential impact checklist and calculating the potential impact index.

2. **Endangered or Threatened Species:** Development and operation of a wind energy system shall not have a significant adverse impact on endangered or threatened fish, wildlife, or plant species, as defined by US Endangered Species Act of 1973 and Michigan Endangered Species Protection, Part 365 of the Natural Resources and Environmental Protection Act (Act 451 of 1994) and identified in the Michigan Natural Features Inventory, or their critical habitats, or other significant habitats identified in studies and plans of local, regional, and federal governmental bodies. The setback of an anemometer tower or a wind energy system from designated critical habitat for any endangered species shall be five (5) miles.

3. **Migratory Birds:** Development and operation of a wind energy system shall not have a significant adverse impact on migratory bird species.

4. **Eagles:** Development and operation of a wind energy system shall not have a significant adverse impact on eagles. The setback of an anemometer tower or a wind energy system from any known eagle’s nest shall be five (5) miles.

5. **Imposed Conditions for Monitoring and Operation:** The Bengal Township Planning Commission may impose special conditions for monitoring bird and bat fatalities and may impose special mitigation measures such as blade feathering limiting rotational speed or shut down during periods of high seasonal concentrations of migrating birds and bats and or low visibility weather conditions.

6. **Monitoring:** Avian and bat impact reporting: The owner/operator shall submit a quarterly report to the Bengal Township Zoning Administrator or the Township's designee that identifies all dead birds and bats found within five hundred (500) feet of the wind turbine generator. Reporting shall continue for at least three (3) years after turbine operations begin, or longer if required by the Bengal Township Planning Commission. Monitoring shall follow protocols referenced in this Ordinance under "Application Requirement: Avian, Bat and Wildlife Impact Analysis and Plan," and results shall be adjusted for predation and observer bias. Notification and mitigation: In the event of extraordinary mortality of threatened or endangered species, or discovery of an unexpected large number of dead birds and bats of any variety on site, the US Fish and Wildlife Service, Michigan Department of Natural Resources and the Environment (MDNRE) and the Bengal Township Zoning Administrator or the Township's designee shall be notified within twenty-four (24) hours. The owner/operator shall, within thirty (30 days), submit a report to the Bengal Township Zoning Administrator describing the cause of the occurrence and the steps taken to avoid future occurrences.

L. **Noise Regulatory Standards.**

1. Evidence of noise emission from the operation of a WES or MET Tower or solar energy equipment shall:

   (a) Not exceed thirty-five (35) decibels on the dB(A) scale between 7am and 7pm.

   (b) Not exceed thirty (30) decibels on the dB(A) scale between 7pm and 7am.

   (c) Not exceed fifty (50) decibels on the dB(C) scale at any property line or inside any occupied residence between 7 pm and 7 am.

   (d) Not exceed a difference of 15 dB between an unweighted measurement of infra and low frequency sounds inside a room at night and the A-weighted sound level for frequencies.

   (e) Be over the range of infra and low frequency sound.

   (f) Not exceed a difference of 10 dB between the dBC measurement of sound inside a room at night and the A-weighted sound level.

   (g) Be free of perceptible tones or changes in amplitude (fluctuations or impulses) that could cause a complaint.

   (h) Except for in-home measurements, be measured at the property or lot line closest to the wind turbine tower(s).

2. **Tonality and/or Repetitive, Impulsive Tone Penalty:** In the event the noise due to wind turbine operations exhibits tonality, contains a perceptible tone and/or repetitive, fluctuating or impulsive noise, the permitted dBA and dBC sound levels shall be reduced by a total of five (5) dB.

3. All measurements must be conducted in accordance with ANSI Standards for outdoor sound measurements with instruments suitable for measurement of infra and low frequency sounds, and be under the supervision of a Member of the Institute of Noise Control Engineers (INCE).

4. Applicant shall provide a report of the noise impact of the proposed WES with the application. It shall describe in detail all noise studies and must demonstrate compliance with all ANSI/ISO standards for outdoor measurements and predictions. Where such standards include confidence limits or limitations of use the report shall present them and provide an explanation of how they were addressed. Later sections of this ordinance provide more details.

5. **Applicable Standards include:** S12.9 "Quantities and Procedures for Description and Measurement of Environmental Sound," Part 3 "Short Term Measurements With an Observer Present" ANSI/ASA_S12.100-2014 Methods to Define and Measure the Residual Sound in Protected Natural and Quiet Residential Areas, and ANSI/ASA S12.62 (US version of ISO 9613-2) "Acoustics-Attenuation of sound during propagation outdoors," Part 2, "General Method of Calculation."

6. Reports shall be produced and certified by a qualified acoustical consultant with Member status with the Institute of Noise Control Engineering (INCE) and include:

   (a) A description and map of the project's sound producing features, including the range of decibel levels expected (to be measured in dB(A) and dB(C)), and the basis for the expectation.

   (b) A description and map of the existing land uses and structures including any residences, hospitals, libraries, schools, places of worship, and parks within one (1) mile of the proposed WES or MET Tower. Said description shall include the location of the structure/land use, distances from the source of the sound or WES or MET Tower and continuous background sound (as defined in ANSI/ASA S12.100 for "residual" sound and S12.9, Part 3, for continuous background sound level) decibel readings. The report shall include appropriate documentation per ANSI/ASA S12.9 Part 3 and related standards for reporting, including the measurement data, date and time, weather, when measurements are taken, etc.) for each identified land use and structure described and mapped sufficient to allow independent review.

   (c) A description of the project's proposed sound control features shall be described in detail, including specific measures to minimize noise impacts to structures and land uses identified in the preceding item. Information about potential post construction mitigation options, such as operation in Noise Reduction Operating (NRO) modes shall be described. If there are no post construction mitigation methods available a statement to that effect shall be included along with reasons supporting that statement.

   (d) The report shall address the potential for any and all adverse impacts from wind turbine sound emissions on the community and its residents located within two (2) miles from the boundary of the WES or MET Tower.

7. **Noise Complaint Investigation and Resolution:** Bengal Township Zoning Administrator shall maintain a Noise Complaint Log. The Planning Commission shall review this log at least once a year to identify and address potential adverse noise impacts. During the review process, the Township can require additional sound studies to be prepared by an acoustic engineer approved by Bengal Township and the Bengal Township Zoning Administrator. Complaints shall be reported, documented and resolved in accordance with the "Complaint Resolution" section of this Ordinance.

8. **Noise Modeling, Measurement, and Analysis:** Measurement, modeling and analysis shall be conducted in compliance with ANSI/ASA Standards for modeling and outdoor sound measurements, and be under supervision of a Member of the Institute of Noise Control Engineers (INCE). They shall follow Section 5.05 Appendix, "Measurement Protocol for Sound." Background sound pressure level measurements and post-construction sound pressure level measurements made after installation of the wind energy system for compliance purposes shall be conducted by a third party, qualified professional, approved by Bengal Township and Bengal Township Zoning Administrator. All sound pressure levels shall be measured with a certified Type I or Type II sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a sound meter. Meters shall be calibrated on site before and after any measurement period. Instruments shall be suitable for measurements of infra sound from 0.125 Hz and above.

M. **Shadow Flicker and Blade Glint.** A WES shall be designed to minimize shadow flicker from moving blades or reflected blade glint occurring off the site on which the facility is located. No WES or anemometer tower shall cause any shadow flicker (also known as strobe effect) on any property without written approval by the affected property owner (s). Waiver of the amount of shadow flicker or strobe effect permitted by this section must be obtained by written consent from the affected property owner (s) stating that the affected property owner(s) is aware of the limitations imposed by this section, and that consent is voluntarily granted to allow shadow flicker or strobe effect that exceeds the limit stated here within. The waiver must be in the form of a permanent easement and recorded in the Clinton County Register of Deeds and filed with the Bengal Township Clerk for each affected property. The easement will be in effect permanent until the property is either sold or the deed is amended. The newly deeded affected property owner will be required to file a new waiver if consenting to allow shadow flicker or strobe effect that exceeds the limit stated here within. If shadow flicker or blade glint violate any of these conditions, violations shall be handled by the township Zoning Administrator or township designee.

N. **Ice Throw.** The ice throw or ice shedding for the WES shall not cross the property lines of the site on which the facility is located and shall not impinge on any public right-of-way or overhead utility line. Violations shall be handled by the township Zoning Administrator or township designee.

O. **Maintenance and Compliance.** In order to ensure safety and compliance with the Ordinance:

1. The owner/operator shall conduct regular monitoring, physical inspections and maintenance of the WES. Copies of monitoring and inspection reports and maintenance logs shall be submitted to the Bengal Township Zoning Administrator or the Township's designee at least once a year or more often if requested in writing by the Bengal Township Zoning Administrator or the Township's designee.

2. Bengal Township shall have the right to inspect the premises on which the wind energy system is located and to hire a consultant to assist with any such inspection at the applicant/owner/operator's expense.

P. **Abandoned, Inoperable, and Unsafe Wind Energy Systems (WES) and Adverse Impacts.**

1. **Abandoned:** Any WES or anemometer tower that is not operated for a continuous period of six (6) months shall be considered abandoned and subject for removal.

2. **Unsafe:** Any WES or anemometer tower that is found to present an imminent physical threat of danger to life or a significant threat of damage to property shall be shut down immediately and removed or repaired or otherwise made safe. A State of Michigan Licensed Professional engineer shall certify its safety prior to resumption of operation. The owner/operator shall notify the Bengal Township Zoning Administrator or the Township's designee within twenty-four (24) hours of an occurrence of tower collapse, turbine failure, fire, thrown blade or hub, collector or feeder line failure, or injury.

Q. **Removal and Site Restoration.**

1. Within ninety (90) days of receipt of written notification from the Township, the owner/operator shall begin to remove any WES or anemometer tower.

   (a) If the owner/operator determines the system is at the end of its useful life, or

   (b) If the Township determines the system is subject for removal because it is unsafe or abandoned, or

   (c) If the Township determines the special use permit is expired or has been revoked.

2. Failure to begin to remove a wind energy system or anemometer tower within the 90- day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense.

3. All equipment associated with the WES or anemometer tower including all materials above and below ground shall be removed, and the site shall be restored to a condition that reflects the specific character of the site including topography, vegetation, soils, drainage, and any unique environmental features. The restoration shall include: road repair, if any, and all re-grading, soil stabilization, and re-vegetation necessary to return the subject property to a stable condition consistent with conditions existing prior to establishment of the wind energy system. The restoration process shall comply with all state, county, or local erosion control, soil stabilization and/or runoff requirements or ordinances and shall be completed within 6 months.

R. **Construction Activities.** Construction activities shall be organized and timed to minimize impacts on township residents and wildlife from noise, disruption (including disruption of wildlife habitat), and the presence of vehicles and people.

S. **Complaint Resolution.**

1. Any individual, group of individuals or reasonably identifiable entity may file a signed and dated written complaint with the owner/operator of the wind energy system. Any complaints received directly by Bengal Township Zoning Administrator shall be referred to the owner/operator.

2. The owner/operator of the wind energy system shall report to Bengal Township Zoning Administrator all complaints received concerning any aspect of the wind energy system construction or operation as follows:

   (a) Complaints received by the applicant/owner/operator shall be reported to Bengal Township Zoning Administrator or its designee within five business days, except that complaints regarding unsafe wind energy systems and serious violations of this ordinance as defined in this ordinance shall be reported to Bengal Township Zoning Administrator or its designee the following business day.

   (b) The applicant/owner/operator shall document each complaint by maintaining a record including at least the following information:

      (i) Name of the wind energy system and the owner/operator

      (ii) Name of complainant, address, phone number

      (iii) A copy of the written complaint

      (iv) Specific property description (if applicable) affected by complaint

      (v) Nature of complaint (including weather conditions if germane)

      (vi) Name of person receiving complaint, date received

      (vii) Date reported to Bengal Township Zoning Administrator

      (viii) Initial response, final resolution and date of resolution

3. The applicant/owner/operator shall maintain a chronological log of complaints received, summarizing the above information. A copy of this log, and a summary of the log by type of complaint, shall be sent on or before January 15, March 15, July 15, and October 15 to Bengal Township Zoning Administrator, covering the previous calendar quarter. An annual summary shall accompany the January 15 submission.

4. All complaints regarding unsafe wind energy systems and serious violations of this ordinance as defined in this ordinance shall be investigated on site. The complainant and a Township designee shall be invited to the investigatory meeting(s).

5. The Township may designate a person to seek a complaint resolution that is acceptable to the complainant, the Township and the owner/operator. If such a resolution cannot be obtained, the Township may take action as authorized by the enforcement section of the Ordinance.

6. The Township may at any time determine that a complaint shall be subject to enforcement and penalties as defined in this ordinance.

Section 5.04 Application Requirements

An application for a special use permit for a wind energy system or an anemometer tower shall meet requirements of Article 16, Procedures for Site Plan Review, in the Bengal Township Zoning Ordinance and shall also include all of the following information, unless expressly indicated otherwise:

A. **Registered in Michigan.** The application shall provide evidence of being registered to do business in Michigan.

B. **Wind Resources.** The applicant shall submit information showing adequate wind resources and summarizing site wind characteristics, including minimum, maximum and average wind speeds, directions, seasonal variations and dominant wind direction in the direction from which 50 percent or more of the energy contained in the wind flows.

C. **Wind Energy System Information.** The applicant shall supply the following information pertaining to the wind energy system: type, manufacturer and model, total installed height, rotor material, rated power output, performance history, safety history, electrical system, and rotor over-speed control system(s). The Township may require, at its discretion, complete wind energy system specifications and drawings and professional certification of these data.

D. **Manufacturers' Material Safety Data Sheet(s).** Documentation shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

E. **List of Experts and Evidence of Qualifications.** The applicant shall supply the name, address, and resumé or other written summary of the education, experience, and other qualifications of each expert providing information concerning the wind energy system or anemometer tower project. This shall include information disclosing any relationships between the applicant and the experts for this or other wind energy projects including services provided to other wind energy developers or utility operators.

F. **Certification of Compliance.** The applicant shall provide certification that the applicant has complied or will comply with all applicable county state, and federal laws and regulations including but not limited to:

   1. Copies of all such permits and approvals that have been obtained or applied for at the time of the application.

   2. Written documentation that the applicant has notified the Federal Aviation Administration and any other applicable state and federal regulatory agencies of the proposed WES or anemometer tower.

G. **Copies of Leases, Agreements, and Recorded Easements.** The applicant shall provide written permission from the property owners(s) if that is necessary to meet setback requirements. Before a special land use permit shall be granted by the Planning Commission, the applicant shall submit copies of leases and all recorded agreements and easements, such as non-development agreements within a specified setback and/or easements for rights-of-way, from all affected landowners and governmental units. Easements shall be recorded prior to a special land use permit being issued.

H. **Site Plan.** The applicant shall submit vicinity maps and site plans showing the physical features and land uses of the project area. The vicinity maps and site plan drawings shall meet requirements listed in the

Bengal Township Ordinance under “Requirements for Site Plan” for special uses. The vicinity maps and site plans shall also include maps, plans, section and elevation drawings and written specifications in sufficient detail to clearly describe the following: *(The following are either not included or included to a lesser standard in Section 16.01).*

1. With vicinity map(s).
    (a) Existing zoning districts, land uses, including all dwellings, public and private airstrips within two (2) miles of the boundary of the property upon which the commercial wind energy facility is to be located.
    (b) Planned land uses (based on the current *Clinton County General Plan* and the *Bengal Township Master Plan*) within two (2) miles of the boundary of the property upon which the commercial wind turbine generator facility is to be located.
2. With vicinity map(s), site plan(s) and written specifications as required.
    (a) Location of all proposed new infrastructure above and below ground related to the project including meteorological and wind testing towers.
    (b) Location of existing and proposed electrical lines and facilities.
    (c) Proposed setbacks.
    (d) Location of all known active or abandoned wells within 1,300 feet of any proposed construction.
    (e) Identification and location of sensitive areas and sensitive environmental resources that are in the vicinity of the proposed wind turbine, including but not limited to endangered or threatened flora or fauna or their critical habitats, and other significant habitats identified by government and other authoritative sources.
    (f) The vicinity map and site plan shall cover a radius that is large enough to address all setbacks required by the Zoning Ordinance.
3. Ingress and egress information including:
    (a) Location, grades, dimensions and surfacing materials of all temporary and permanent on-site and access roads.
    (b) Distances from the nearest county or state-maintained road.
    (c) Evidence of compliance with standards required for year-round emergency access.
4. With site plan, plan, section and elevation drawings, and with written specifications and reports as required.
    (a) Project area boundaries and physical dimensions of the proposed project area.
5. Soils on site delineated and described in a soil survey map accompanied by a report of the soil conditions based on soil borings prepared by a firm that specializes in soil borings and is approved to perform such work for the Michigan Department of Transportation. The report shall include soil and geologic characteristics of the site based upon on-site sampling and testing. The soil boring reports and the proposed plans for the foundation shall be certified by a registered Professional Engineer licensed in the State of Michigan, who is practicing in his or her area of competency.
6. Location, height, and dimensions of all existing and proposed structures and fencing.

7. Drawings and specifications, bearing the seal of a professional engineer licensed in Michigan, of all proposed new infrastructure above and below ground related to the project including meteorological and wind testing towers.

8. Lighting on site described with a lighting plan and specifications that show location, color, type, intensity, direction, shielding and control of all on-site lighting.

I. **Electrical Interconnection Plan.** The applicant shall provide a plan for the electrical interconnection showing methods and standards for interconnection and copies of contracts or letters of intent with the electric utility and the electric transmission service provider.

J. **Visual Simulations and Drawings and View Shed Analysis.** The applicant shall provide elevation drawings, detailed computer and/or photographic simulations and other models and visual aids showing the wind energy system with all related facilities as they will appear on the proposed site from vantage points north, south, east, and west of the project starting at a ¼ mile of the site and at 2 miles, 3 miles and 5 miles of this site.

K. **Hazard Plan.** An application for a wind turbine generator shall be accompanied by a hazard prevention plan. At a minimum such a plan shall include the following:

1. Certification by a professional engineer licensed in the State of Michigan that the electrical wiring between turbines and between turbines and the utility right-of-way does not pose a fire or stray voltage hazard.

2. A landscape plan designed to avoid spread of fire from any source on the turbine.

3. A listing of any hazardous fluids that may be used on site and manufacturers' material safety data sheet(s) as specified herein.

4. Certification by a professional engineer licensed in the State of Michigan that the turbine has been designed to contain any hazardous fluids and a statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released or leaked from the turbine or any other equipment or on the site.

5. A Hazardous Materials Waste Plan complying with all federal, state, and county laws and regulations. Further, approvals or waivers, by the state Department of Environmental Quality, the state Department of Natural Resources and/or the US Army Corp of Engineers shall also be submitted prior to the issuance of any permit.

L. **Environmental Impact Analysis and Plan.** The applicant shall submit a report demonstrating compliance with development, design and operation recommendations contained in the current version of U.S. Fish and Wildlife Service *Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbine*. The applicant shall have a third party, qualified professional, approved by the Bengal Township Planning Commission, conduct a site characterization and evaluation study and an analysis following accepted scientific procedures to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The site characterization report shall include:

1. A description of the environmental characteristics of the site prior to development, i.e., topography, soils, vegetative cover, drainage, streams, creeks or ponds.

2. Natural features that will be retained, removed and/or modified including vegetation, drainage, hillsides, streams, wetlands, woodlands, wildlife and water. A description of the areas to be changed shall include their effect on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.

3. Identify natural resources that may be potentially impacted and associated mitigations. The applicant shall provide a plan and take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis and to demonstrate compliance with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.). The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

M. **Avian, Bat, and Wildlife Impact Analysis and Plan.** The applicant shall have a third-party, qualified professional, approved by the Bengal Township Planning Commission, conduct a site wildlife characterization and evaluation study and an analysis to identify and assess any potential impacts on wildlife, especially birds, bats and endangered species, following accepted scientific procedures. Avian studies shall follow protocols described in the National Wind Coordinating Committee, *Studying Wind/Energy Interactions: A Guidance Document, 1999* and the U.S. Fish and Wildlife Service *Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines*, Federal Register: July 10, 2003 (Volume 68, Number 132). The applicant shall submit this study and shall provide a plan and take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis and to demonstrate compliance with *Michigan Endangered Species Protection, Part 365 of the Natural Resources and Environmental Protection Act* (Act 451 of 1994). The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

N. **Noise Report.** The applicant shall submit a noise report prepared by a qualified acoustical engineer and Member of INCE approved by the Bengal Township Planning Commission that includes, at a minimum, the following:

1. All information specified in other sections of this ordinance.
2. Measurements of the existing continuous background (residual) sound environment.
3. Results of modeling and analysis in order to confirm the wind energy system will not exceed the maximum permitted sound pressure levels including tolerances and safety margins.
4. A sound and vibration assessment as specified in Appendix 5.05 of this Ordinance.
5. A description of the wind energy system's noise characteristics, including manufacturer's noise data, and the project's proposed noise control features, including specific measures proposed to mitigate noise impacts for sensitive receivers.
6. Engineering standards referenced here-in.
7. Evidence of compliance with requirements of this ordinance regarding noise modeling, measurement, analysis, and noise control
8. During the review and approval process, the Bengal Township Planning Commission may seek independent professional verification of information presented by the applicant.

O. **Shadow Flicker and Blade Glint.** The applicant shall submit:

1. A shadow flicker and blade glint analysis and computer simulation or model including topography and structures. The analysis and model shall identify the locations of shadow flicker and blade glint caused by the wind energy system and the expected durations of the shadow flicker and blade glint at these locations from sunrise to sunset over the course of a year. The analysis and model shall identify problem areas where shadow flicker or blade glint may affect parcels of land, roadways, and existing or future structures. The analysis and model also shall describe measures that shall be taken to eliminate or mitigate the problems, including, but not limited to, a change in siting of the facility, a change in the operation of the facility, or grading or landscaping mitigation measures.

2. Copies of agreements signed with adjacent property owners affected by shadow flicker and/or blade glint.

P. **Ice Throw and Blade Throw.** The applicant shall submit.

1. A report on the incidence of blade throw and ice throw for similar equipment,
2. An analysis and calculations of blade and ice throw potential, and
3. A plan showing locations likely to be affected by blade throw and by ice throw under a variety of conditions.

Q. **Decommissioning Removal and Restoration Plan.** The applicant shall submit a decommissioning removal and restoration plan describing the intended disposition of the wind energy system and all equipment associated with the system upon termination of the lease, revocation of the permit, or at the end of the system's useful life. The plan shall include:

1. The anticipated life of the project,
2. Any agreement with the landowner regarding equipment,
3. The estimated decommissioning costs in current dollars, and
4. The anticipated manner in which the project will be decommissioned and the site restored.

R. **Complaint Resolution Plan.** The applicant shall submit to Bengal Township Zoning Administrator the procedures it will use to receive and respond to complaints about its wind energy system(s) and facilities. Procedures shall include provisions for immediate response to complaints regarding unsafe wind energy system(s) and serious violations of this ordinance as defined in this ordinance.

S. **Severability.** If any part of this ordinance is determined by a court of competent jurisdiction to be invalid, that judgment shall not affect the remainder of this ordinance. The invalid part of the ordinance shall be considered to be separated from the rest, which shall remain in effect.

Section 5.05 Appendix

A. **Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Wind Energy System.**

1. The purpose is first to establish a consistent and scientifically sound procedure for estimating existing (ambient) background sound and vibration levels in a project area, and second to determine the likely impact that operation of a new wind energy system will have on the existing sound and vibration environment.
2. The characteristics of the proposed wind energy system and the features of the surrounding environment will influence the design of the sound and vibration study. Site layout, types of wind turbine generators selected and the existence of significant local sound and vibration sources and sensitive receivers should be taken into consideration when designing a sound and vibration study. It will be necessary to have a qualified consultant conduct the sound and vibration study.

3. Consult with Bengal Township Planning Commission prior to conducting any sound and vibration measurements. These guidelines are meant to be general in nature and may need to be modified (with approval of the Bengal Township Planning Commission) to accommodate unique site characteristics. Consult with Bengal Township Planning Commission for guidance on study design before beginning the sound and vibration study. During consultation, good quality maps or diagrams of the site will be necessary. Maps and diagrams should show the proposed project area layout and boundaries and identify important landscape features as well as significant local sound and vibration sources and sensitive receivers.

B. **Sound Level Estimate for Proposed Wind Energy System (WES).** A sound propagation model must be developed to predict the reasonable worst-case noise level at all relevant and sensitive receivers. The reasonable worst case condition is a nighttime period with calm winds at the surface and winds at the height of the blades sufficient to operate the wind turbine at full power production. The report should include:

1. The sound propagation model software used for prediction;

2. An estimate of model accuracy for the specific conditions of the proposed project including all tolerances and safety margins;

3. Assumptions used as input, including allowances for wind direction, noise absorptions due to air, ground, topographical and wind effects.

4. In order to support the model's estimate the sound and vibration impact of the proposed WES on the existing environment the full measurement report(s) prepared for the manufacturer showing the declared apparent sound power level obtained using IEC61400- 11 and 14 produced by the specific make and model of the proposed wind turbine generator(s) must be provided.

5. Provide the manufacturer's sound level characteristics for the proposed wind energy system(s) operating from cut-in speeds to the rated power wind speed of the wind turbine generator(s). Include an unweighted octave-band (16, 31.5, 63, 125, 250, 500, 1K, 2K, 4K, and 8K Hz) analysis for the wind energy system(s) operating from cut-in speeds to full rated power.

6. Estimate the sound levels for the proposed wind energy system(s) in dB(A) and dB(C) at sensitive receivers, at adjacent property lines and for distances from adjacent property lines to 2 miles from wind energy system (s). For projects with multiple WESs, the combined sound level impact for all wind energy system(s) operating full rated power must be estimated.

7. Provide a contour map of the expected sound level from the new WES(s), using 5dB(A) increments created by the proposed wind energy system(s) extending out to a distance of 2 miles. The map should show the location of sensitive receivers.

8. Determine the impact of the new sound and vibration source on the existing environment. For each measuring point used in the ambient study:

   (a) Identify if the point is a sensitive receiver

   (b) Report expected changes to existing sound levels for Leq, L10, L50, and L90 in dBA. o Report expected changes to existing sound levels for Leq, L10, L50, and L90,in dBC. o Identify and describe fluctuating or impulsive and tonal noise components.

   (c) Report all assumptions made in arriving at the estimate of impact and any conclusions reached regarding the potential effects on people living near the project area.

   (d) Include an estimate of the number of hours of operation expected from the proposed wind energy system(s) and under what conditions the wind energy system(s) would be expected to run.

C. **Measurement of the Existing Sound and Vibration Environment.** An assessment of the proposed wind energy system project area's existing background sound and vibration environment is necessary in order to predict the likely impact resulting from a proposed project. The following guidelines must be used in developing a reasonable estimate of an area's existing sound and vibration environment. All testing is to be performed by a qualified acoustical engineer who is a Member of INCE and who is approved by the Bengal Township Planning Commission. All measurements are to be conducted with industry certified testing equipment meeting the standards referenced in this ordinance. All test results must be reported to the Bengal Township Planning Commission.

1. Sites with no existing wind energy systems

   (a) Background sound level measurements shall be taken as follows:

      (i) At all properties abutting the proposed wind energy system project boundaries

      (ii) At representative properties within a two mile radius of the proposed wind energy system project boundaries.

   (b) One test must be performed during each season of the year during a period representative of quiet nighttime conditions between 8pm and 4am.

      (i) Spring March 15 - May 15

      (ii) Summer June 1 - September 1

      (iii) Fall September 15- November 15

      (iv) Winter December 1- March 1

2. All measurement points shall be located in consultation with the property owner(s) and shall be located such that no significant obstruction (building, trees, etc.) blocks sound and vibration from the site.

3. Duration of measurements shall be a minimum of three ten (10) minute periods for each criterion at each location. If instruments can assess multiple criteria during a sampling period then three samples of ten (10) minute measurement periods may be acceptable if those samples meet the testing protocol requirements. The measurements shall comply with the procedures of ANSI/ASA S12.9 Part 3 (2013) for assessing the continuous background sound in a community. If transient background sounds are present during the measurement additional samples are required to satisfy the test protocol. The site's continuous background sound level shall be represented by the lowest L90 from the available set of ten (10) minute samples after removing artifacts as required by the ANSI/ASA protocol.

4. Background sound level measurements must be made on a weekday of a non-holiday week. Background sound shall not be measured during sporadic noise events such as seasonal farming activities, unusual traffic or weather events that would distort the establishment of a baseline level representative of the nighttime L90 rural environment.

5. For each measuring point and for each measurement period, provide each of the following measurement criteria:

   (a) Unweighted octave-band analysis (16, 31.5, 63, 125, 250, 500, 1K, 2K, 4K, and 8K Hz)

   (b) Leq, L10, L50, and L90 indBA

   (c) Leq, L10, L50, and L90 in dBC

(d) A narrative description of any intermittent sounds registered during each measurement including time of such sounds.

(e) Wind speed at the height of the test microphone at the time of measurement

(f) Wind direction at the height of the test microphone at the time of measurement

(g) Description of the weather conditions during the measurement including atmospheric pressure, temperature, humidity, and precipitation.

6. Provide a map and/or diagram clearly showing:

(a) The layout of the project area, including topography, the project boundary lines, and property lines

(b) The locations of the measuring points

(c) If not to scale, the minimum and maximum distance between any measuring points

(d) The location of significant local sound and vibration sources

(e) If not to scale, the distance between all measuring points and significant local sound and vibration sources

(f) The location of all sensitive receivers including but not limited to: schools, day- care centers, residences, residential neighborhoods, places of worship, and elderly care facilities.

7. Sites with existing wind energy systems

(a) Two complete sets of sound level measurements must be taken as defined below: a.) One set of background sound level measurements with the wind energy system(s) off, and b.) One set of sound level measurements with the wind energy system(s) running. These tests shall be conducted as per the protocols of ANSI/ASA S12.9 Part 3 (2013)

(b) The utility operator shall cooperate in starting and stopping wind turbines as needed during the period of testing.

(c) SCADA data showing the wind speeds and direction, hub rpm, power produced, blade angle, nacelle angle, and any other information deemed necessary to establish the operating state of each of the wind turbines shall also be provided in a minimum of 10 minute increments for the period of the tests. This shall be provided in spreadsheet format with one table for each wind turbine and a summary table for all wind turbines in the project combined.

(d) Sound level measurements shall be taken as for sites with no existing wind energy systems.

D. **Post-Construction Measurements.**

1. Within twelve months of the date when the wind energy system is fully operational, and within two weeks of the anniversary date of the pre-construction background sound level measurements, repeat the sound and vibration environment measurements taken before the project approval per the requirements of 5.05.C above and other sections of this ordinance. Post-construction sound level measurements shall be taken both with all wind turbine generator(s) running and with all wind turbine generator(s) off. Measurements should include sound levels for the wind energy system(s) at sensitive receivers downwind from the wind energy system(s) at a wind speed providing the rated power of the wind energy system.

2. Report post-construction measurements to the Bengal Township Planning Commission in the same format used for the pre-approval sound and vibration studies.
3. Measurements shall be available for public review.
4. For measurements related to complaints of indoor noise or vibration the testing shall include indoor tests to assess indoor sound levels and to test for the differences in unweighted and dBC and the dBA level inside the home(s).

Article 6
Solar Energy Facilities

Section 6.01 Purpose and Intent

A. In order to preserve the natural, rural beauty of the Township, the viability of the Township's farmland, the precious ecosystems contained within the Township, and the health, safety, and welfare of the Township's residents, the regulations of this section shall govern the development of solar energy facilities within Bengal Township.

1. Renewable energy is important for the sustainability of ecosystems, food systems, economies, and communities. However, the large-scale positive impacts must be weighed against local negative impacts, including the health, safety, and welfare of the residents of Bengal Township.

2. Small solar energy systems provide ecological and economic benefits, at a scale that is desirable in a rural community and with fewer impacts on the immediate surroundings than utility-scale solar energy systems. However, the impacts they do have must be managed through zoning regulations.

3. Large solar energy systems should be developed with careful consideration of the impacts on local ecosystems, farmland, rural beauty, and the health, safety, and welfare of the Township's residents.

Section 6.02 Rooftop Solar Panel Arrays

Solar Panel Arrays attached to the roof of a building must comply with the Clinton County Building Code and Sections 6.03.A-F of this Ordinance. Further, the addition of a rooftop solar panel array shall not cause any structure to exceed the maximum permitted height for that structure. Otherwise, rooftop solar panel arrays shall be exempt from the regulations of this Article.

Section 6.03 General Regulations for Freestanding Solar Energy Facilities

All freestanding solar panel arrays and associated equipment shall be subject to the following:

A. Any and all solar equipment must comply with State of Michigan and Clinton County building codes, the National Electric Code, the National Electric Safety Code, and the regulations of the Clinton County Drain Commission.

B. Proper permits must be applied for and issued by Bengal Township and Clinton County prior to any construction.

C. Drawings, sketches or any additional material that indicates the entire scope of the solar equipment must be submitted to the Township Zoning Administrator and Clinton County for purposes of local plan review.

D. The plans of the solar equipment construction shall be certified by a registered Professional Engineer.

E. The useful life of the equipment shall be included in the application.

F. The Solar energy equipment shall not be altered in any way except for routine maintenance including repairs and replacement parts without approval from the Zoning Administrator. The Zoning Administrator may determine that the alteration requires Special Use Approval.

G. All equipment related to a solar energy system must adhere to the Noise Regulatory Standards in this Ordinance.

H. Freestanding solar panel arrays shall not count towards the maximum lot coverage for a given lot. Accessory structures containing solar energy equipment other than solar panel arrays shall count towards the maximum lot coverage for a given lot.

I. Freestanding solar panels shall not exceed fifteen (15) feet in height above the ground.

Section 6.04 Small Freestanding Solar Panel Arrays

A. Freestanding Solar Panel Arrays that are smaller than the footprint of the principal building on the same lot shall be considered permitted accessory structures in all Zoning Districts.

B. All structures associated with a small freestanding solar panel array, as described in Section A above, shall be set back at least 20 feet from the nearest lot line.

C. Solar energy equipment must be located in the rear yard.

Section 6.05 Community Solar Garden

A. A Community Solar Garden is a type of non-commercial solar energy system which produces a net energy output for a group of farms or residences located within the Township for purposes of offsetting those farms' or residences' energy consumption. The power output of the system shall not exceed a rating of 1,000kWh per month.

B. A Community Solar Garden shall be considered a permitted use in all Zoning Districts, regardless of whether or not the area of the panels is larger than the footprint of the principal building on the site (or whether or not there is a principal building at all). A Community Solar Garden shall require Site Plan Approval by the Planning Commission, but shall not require Special Use Approval.

C. All Community Solar Gardens shall meet the following requirements, in the opinion of the Planning Commission, in order to be approved:

   1. All requirements of Section 6.03

   2. All requirements applicable to Large Freestanding Solar Panel Arrays in Sections 6.06.B-Q.

Section 6.06 Large Freestanding Solar Panel Arrays

A. **Special Use Permit Required.** Freestanding Solar Panel Arrays that are larger than the footprint of the principal building on the same lot, or which have no principal building on the same lot, shall be permitted by Special Use in the A-1 and I-1 districts. However, no Special Use permit shall be approved for a Solar Farm on land enrolled in the Michigan Farmland and Open Space Preservation Program (otherwise known as PA 116).

B. **Definition of "Participating" and "Non-Participating".** As used in this Section, the following terms shall have the following meanings:

1. **Participating Lot:** A lot where the landowner has leased land to the solar applicant, OR a landowner that has any other written and signed agreement with the solar applicant with regard to the large freestanding solar array, including "good neighbor" agreements and other agreements that do not necessarily allow the placement of solar panels on the lot.

2. **Non-Participating Lot:** Any lot that does not meet the definition of "Participating Lot" in Subsection a).

C. **Setbacks.** All solar panels and other structures associated with the large freestanding solar array shall meet the following minimum setback requirements.

1. **From a lot line abutting a lot that is not participating in the solar project:** 500 feet

2. **From a lot line abutting a lot that is participating in the solar project:** 10 feet. The purpose of this setback is to ensure there are corridors through the large freestanding solar array for the passage of wildlife. The Planning Commission may permit alternate wildlife corridors, in lieu of the 10 foot setback.

3. **From a public or private roadway:** 500 feet

D. No solar panels associated with a large freestanding solar array shall be located within the boundaries of a wetland delineated by the State of Michigan.

E. **Landscaping, Ground Cover, and Buffering:** The following requirements must be met for all large freestanding solar arrays:

1. **Buffering/Screening:** Screening requirements must be met along all lot lines adjacent to non-participating parcels and along all public or private road frontages.

(a) When landscape screening is required, it may be planted anywhere within the required setback, and shall meet the following requirements:

(i) Evergreen trees, planted in a staggered double row designed to form a dense visual screen while still allowing for healthy development of the trees. The trees must be at least 6 feet in height at the time of planting in all areas where the solar panels will be visible from a residence (in the opinion of the Planning Commission), and at least 4 feet in height at the time of planting in all other areas.

(ii) The applicant must submit a description of the height and spread of each proposed evergreen species at maturity, as well as an estimated timeline for each species to reach maturity.

(iii) The Planning Commission shall determine at the time of approval whether the proposed plantings constitute a "dense visual screen" at the time of planting and whether the design also allows for the "healthy development of the trees." The Planning Commission may require additional plantings, or other design changes to the landscape plan, as a condition of Special Land Use Approval. In making their determination, the Planning Commission may request the opinion of a landscape architect, arborist, or other expert, with costs to be paid by the applicant.

(b) **Existing Trees and Woodlands:**

(i) Existing trees shall be preserved unless the Planning Commission determines that preserving them would have a negative impact on surrounding properties by increasing the overall size of the Large Freestanding Solar Array.

(ii) The Planning Commission may waive or alter Subsection E.1.a above upon determining that existing foliage on a participating lot provides a continuous screen from neighboring non-participating lots (foliage on non-participating lots shall not count for screening requirements). If existing foliage is permitted to count for screening requirements, the large freestanding solar array owners shall be responsible for the maintenance of the existing foliage, including compliance with Subsection E.3, and the planting of new landscaping to replace any areas that no longer form a sufficient screen due to death, disease, or destruction of plants.

2. **Ground Cover:** Between the solar panels, the ground must be covered by "no mow" grass and other natural vegetation which may include, but is not limited to:

   (a) Native Grasses.

   (b) Grazing Grasses.

   (c) Pollinator Habitat.

3. **Maintenance:** All plantings shall be installed in a design that supports their long- term health and vitality. All plantings shall be maintained, in a sound health and vigorous growing condition, as a continuous screen, in the opinion of the Zoning Enforcement Officer. Dead, diseased, damaged, or destroyed species within the required setback area to be replaced with new plantings. The new plantings must comply with this Ordinance and must result in an overall landscape screen that complies with this Ordinance. Determinations of the Zoning Enforcement Officer may be appealed to the Zoning Board of Appeals.

F. **Noise.** Noise emanating from solar panels or other structures associated with the large freestanding solar array shall not exceed 35 decibels (dB), as measured at any property line a non-participating lot. Noise shall be measured as described in Section 5.03.L.

G. **Drainage.**

1. Prior to approval of an application, all drains, culverts, and other stormwater drainage infrastructure on participating parcels and non-participating parcels that are immediately adjacent to a participating parcel must be inspected to determine if there is any existing damage or other impediments to the efficient operations of the stormwater system. Prior to the construction of any approved Large Freestanding Solar Array, all damage identified by the inspection must be repaired by the solar farm owner/operator. Following completion of construction of the solar energy facility, the stormwater infrastructure must be inspected again to ensure that no damage has been incurred during construction.

2. All drains, culverts, and other stormwater drainage infrastructure on participating parcels and non-participating parcels that are immediately adjacent to a participating parcel must either be County-owned or must be subject to an easement clearly designating permanent maintenance responsibility over the stormwater infrastructure to the owner of the large freestanding solar array.

3. Prior to approval of the Special Use permit by the Planning Commission, the large freestanding solar array applicant must obtain written confirmation from the County Drain Commissioner that stormwater drainage will not be impacted, or that any impacts will be mitigated without negative impacts on any nearby lots (participating or non-participating).

4. Any damage to underground drainage tiles, or other stormwater infrastructure or County Drains caused during the installation and ongoing operation of the large freestanding solar array shall be repaired by the large freestanding solar array owner within 30 days of discovery of the damage. The Planning Commission may extend this deadline upon determination that the large freestanding solar array owner has made good faith progress towards the repair.

H. **Road Repair Costs.** Any damage to a public road within Bengal Township resulting from the construction, maintenance or operation of a Large Freestanding Solar Array shall be repaired at the applicant/owner/operator's expense. For each solar energy system:

1. The Clinton County Road Commission shall review and approve the following before construction begins.

   (a) Construction traffic routes.

   (b) Haul routes for solar panels and other large equipment to be transported to the site.

   (c) Access routes for ongoing maintenance vehicles once the solar farm is operational.

   (d) Haul routes for solar panels and other large equipment in the event of decommissioning and/or abandonment.

2. If Township-maintained roads are included in the approved routes described in Subsection 1, the applicant must seek approval for the routes from a third party engineer to be chosen by the Township. Costs for the engineering review shall be borne by the applicant.

3. The applicant/owner/operator shall provide security in an amount to be determined by Bengal Township with guidance from applicable experts, including the Clinton County Road Commission, to be used by the Township and/or the Clinton County Road Commission to pay for the repair of damage to public roads.

4. Failure of the applicant/owner/operator to provide these funds shall result in termination of the Permit.

I. **Glare.** No large freestanding solar array shall produce glare that causes negative impacts on any adjacent lot (participating or non-participating), or causes a danger to motorists on any roadway.

J. **Lighting.** No light on the same lot as a Large Freestanding Solar Panel array shall cast more than 0.5 footcandles onto an adjacent parcel or right-of-way.

K. **Fencing.** The outer boundaries of the large freestanding solar array shall be surrounded by fence at least six-feet-high with a self-locking gate. The fence shall not be subject to setback requirements, except where necessary to preserve wildlife corridors. The design of the fence must be approved by the Planning Commission, and no design other than the approved design shall be installed.

L. The large freestanding solar array must be designed and operated to allow sufficient access for public safety vehicles in the event of an emergency, in the opinion of the fire department with jurisdiction. The large freestanding solar array owner/operator shall be responsible for providing training to the public safety offices with jurisdiction in how to respond to emergencies at the large freestanding solar array site. The large freestanding solar array owner/operator may also, as a condition of the Special Use permit, be required to purchase equipment determined, by a third party, to be necessary for emergency response to the large freestanding solar array.

M. All power transmission lines and other utility wires within participating parcels shall be located underground.

N. If the land on which the large freestanding solar array is proposed is to be leased, rather than owned, by the large freestanding solar array operator, all lots within the large freestanding solar array project boundary shall be included in a recorded easement, lease, or consent agreement specifying the applicable uses for the duration of the project. All necessary leases, easements, or other agreements between the large freestanding solar array operator and the affected parties shall be in place prior to commencing construction.

O. No large freestanding solar array shall be installed until evidence has been given to the Township that the electric utility company has agreed to an interconnection with the electrical grid and a power purchase

agreement. The owner of the solar energy system shall submit, as part of the Special Use application, written documentation that the proposed project has a valid interconnection agreement with the regional or local transmission provider, and a power purchase agreement with an electric utility company. The Special Use application shall not be approved without the required documentation. A copy of the approved interconnection agreement and power purchase agreement must be submitted to the Township prior to the start of construction. If the solar farm owner/operator fails to have a power purchase agreement for more than 180 days, the decommissioning process described in Subsection N shall begin. If the interconnection agreement is voided, the decommissioning process described in Subsection N shall begin immediately.

P. **Abandonment.** Any large freestanding solar array that ceases to generate energy for more than 180 days, or which fails to have a power purchase agreement in place for more than 180 days, or which has does not have an in-force interconnection agreement, shall be deemed "abandoned" under this Ordinance, and the Special Use permit shall be considered void. This section shall also apply to an approved large freestanding solar array that begins construction, but never completes construction or begins operations. In the event of abandonment, the following process shall be required:

1. All equipment and structures must be removed from the site, including all foundations, wiring, and other below-grade aspects of the solar arrays. The removal shall be at the expense of the owner of the equipment or structure. The Planning Commission may approve specific fences or accessory structures to remain in place. However, in the absence of such approval, fences and accessory structures must be removed.

2. The removal process must begin within 90 days of the Township's determination that the large freestanding solar array has been abandoned, and must be completed within 365 days of the start date, unless a time extension is approved by the Planning Commission.

3. The Planning Commission shall require a performance bond to guarantee all required equipment and structures are removed. At the time of the Special Use application, the applicant shall submit two third-party contractor bids for removal of all panels and related equipment, and the bond shall be the higher of the two bids. The Township shall review the bond every two years, including submission of two updated third-party contractor removal bids by the owner of the large freestanding solar array, and shall require an additional deposit if the amount is no longer sufficient to cover removal costs.

4. In the event that any equipment or structures are not removed within 365 days after the start date of the removal process, the panels and facilities shall be removed by the Township and the costs of removal assessed against performance bond.

5. Decommissioned material must be removed from the Township and disposed of in a State-approved landfill or other facility.

6. The site must be returned to a state where crop production is viable. The applicant must submit, with the original application for approval, a remediation plan that allows for the resumption of crop production following decommissioning of the solar array. The remediation plan may include ground cover that preserves the topsoil, may include storage of removed topsoil on site for eventual replacement, or may include another method of remediation deemed sufficient by the Planning Commission.

Q. **Maintenance Guarantee and Insurance.** To ensure adjacent property and township protection the following insurance and damage requirements will be in effect for large freestanding solar arrays:

1. **Damage.** Should any physical property damage occur from the installation of solar panel equipment, the solar array owner shall reimburse any and all costs associated with said damage, including damage that occurs outside the boundaries of the owner's property.

2. **Insurance.** There shall be maintained a current general liability policy covering bodily injury and property damage (including damage to public roadways and non-participating properties) with limits of at least $1 million per occurrence and $1 million in the aggregate. The insurance policies shall be reviewed by the Township every five years, and the Planning Commission may require increases to the policy limits.

3. **General Maintenance Bond.**

   (a) The Planning Commission shall require an irrevocable and non-cancellable General Maintenance Bond to guarantee all aspects of this Ordinance are met at all times during the construction and operation of the large freestanding solar array. At the time of the Special Use application, the applicant shall submit two third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the large freestanding solar array, and the bond shall be the higher of the two bids.

   (b) Every five years, the owner/operator of the solar farm shall again submit two third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the large freestanding solar array, and the bond shall be increased to the higher of the two bids.

   (c) The Township may use the bond to repair any landscaping, fencing, drainage infrastructure (including drainage tiles), and/or to correct any ongoing violation of this Ordinance, in the event that the large freestanding solar array owner fails to adequately maintain the required site improvements, or fails to make operational changes to correct an operational violation.

   (d) The Planning Commission shall not utilize the General Maintenance Bond unless the Civil Infractions process described in Section 19.02 has been completed and the Planning Commission determines that the large freestanding solar array owner is unlikely to make required repairs, upgrades, or operational changes.

4. **Semi-Annual Performance Report.** Every year, prior to the first regularly scheduled Planning Commission meeting after January 1, and the first regularly scheduled Planning Commission meeting after July 1, the large freestanding solar array owner/operator shall submit a report to the Planning Commission detailing the energy generation, maintenance condition, and ongoing performance of large freestanding solar array. Missing two Semi-Annual Reports in a row shall result in actions to revoke the Special Use Permit and invoke the decommissioning requirements in Subsection P.

5. **Complaint Resolution Plan.** The applicant shall submit to Bengal Township the procedures it will use to receive and respond to complaints about its solar energy system(s) and facilities. Procedures shall include provisions for immediate response to complaints regarding unsafe solar energy system(s) and serious violations of this ordinance as defined in this ordinance.

R. In determining whether to grant a special use permit for a large solar panel array, the Planning Commission shall consider the following, in addition to the Special Use standards in Article 17.

1. Proximity to existing electric transmission lines, and feasibility of connecting to the existing transmission network.

2. Existing physical features of the site that would be impacted by the new solar arrays, including wildlife impacts.

3. Aesthetic impact of the solar panel arrays.

4. Loss of farmland due to the solar arrays.

Article 7
Battery Energy Storage Systems (BESS)

Section 7.01 Intent

This section is intended to promote public safety and the general welfare of the Township. It is intended to establish standards for the use of lands in the Township for Battery Energy Storage Systems (BESS). This section is not intended to prohibit the creation of energy storage facilities, but to ensure they comply with the safety standards set forth in this section to keep Township residents safe from potential hazards that could be caused by BESS malfunctions.

Section 7.02 General Provisions

All BESS uses are subject to the following conditions:

A. A building permit and an electrical permit shall be required for installation of all battery energy storage systems.

B. Battery Energy Storage Systems shall be permitted in all zoning districts as accessory uses, subject to the Michigan Building Code and the National Electric Code as applicable.

C. Utility-Scale Battery Energy Storage Systems are permitted only through the issuance of a special use permit within the I-1 zoning district, and shall be subject to the following requirements:

1) All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

2) **Signage.** Signage shall be required in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.

(a) As required by the National Electrical Code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

D. **Lighting.** Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

E. **Vegetation and Tree-Cutting.** Areas within twenty (20) feet on each side of Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

F. **Noise.** The average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of sixty (60) dBA as measured at the outside wall of any non-participating residence or occupied community building. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

G. **Setbacks.** All Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures.

H. **Height.** All Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.

I. **Fencing Requirements.** Utility-Scale Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by an 8-foot-high fence with barbed wire and a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.

J. **Screening and Visibility.** Utility-Scale Battery Energy Storage Systems shall have views screened from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfering with ventilation or exhaust ports.

K. **Ownership Changes.** If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Planning Director of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Planning Director in writing. The special use permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Planning Director in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Local Law.

L. **Fire Safety.** The following fire safety standards must be met by all Battery Energy Storage Systems:

1) The Applicant shall be responsible for providing sufficient equipment and training to local fire departments regarding how to safely contain and stop a potential BESS container fire at the discretion of the fire departments themselves.

2) The fire suppression system must meet all National Fire Protection Association (NFPA) and National Electrical Code (NEC) standards.

3) The applicant must get approval from the Clinton County Department of Public Works that confirms there is a sufficient water supply to provide the capability for firefighters to actively contain a potential BESS fire for a period of at least 1 week.

4) The applicant shall conduct a review of the BESS facility to determine compliance with the standards of the National Fire Protection Association (NFPA) and provide a report to the Planning Commission on an annual basis confirming the facility remains in compliance with all standards that apply.

M. Inspections. The Township may inspect a Utility-Scale Battery Energy Storage System at any time by providing 24 hours advance notice to the applicant or operator.

N. Annual Maintenance Review. All Utility-Scale Battery Energy Storage Systems must be reviewed annually by a licensed third-party engineer for any defects of the site. A report of this review shall be submitted to the Planning Commission once inspections are completed to demonstrate any issues that require correction. Any issues identified in the inspection report must be corrected within a period of 180 days. Any cost of hiring a third-party licensed engineer shall be borne by the applicant.

O. Connection to power grid. In the case of a BESS to be interconnected with the power grid of the local electric utility, the applicant shall provide proof of written notice to the utility of the proposed interconnection and the utility's response thereto. The owner shall comply with all requirements of the servicing utility if the BESS is interfaced with the utility grid. The utility will install appropriate electric metering (for sellback or non-sellback) and the owner will be required to install a disconnecting device adjacent to the electric meter(s).

Section 7.03 Decommissioning

A. Decommissioning Plan. The applicant shall submit a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:

1) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site, which is subject to the Township's review and approval.

2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;

3) The anticipated life of the battery energy storage system;

4) The estimated decommissioning costs and how said estimate was determined;

5) The method of ensuring that funds will be available for decommissioning and restoration, which is subject to the Township's review and approval.

6) The method by which the decommissioning cost will be kept current, which is subject to the Township's review and approval.

7) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed, which is subject to the Township's review and approval.

8) A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

9) A soil sample from the site must be taken and tested prior to construction of the BESS and after decommissioning to determine the environmental impact on the soil of the property and prevent leakage of hazardous materials. Should evidence of contamination of the soil arise, the applicant shall be fully responsible for the cleanup and rehabilitation of the parcel to remove contamination from potential groundwater sources.

10) Decommissioning Fund. A Decommissioning Fund shall be established to cover the costs of decommissioning and removal of the Battery Energy Storage System once the use of the parcel has ceased for a period of at least 90 days. The Decommissioning Fund shall be funded with a performance bond that is solely for the benefit of the Township. No other entity, including Applicant, shall have the ability to demand payment under the decommissioning fund.

(a) Financial Security. To ensure proper decommissioning of a Utility-Scale Battery Energy Storage System upon abandonment, the applicant must post financial security in the form of a security bond, escrow payment, or irrevocable letter of credit in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the Township. The operator and the Township will review the amount of the financial security every two (2) years to ensure that the amount remains adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.

(b) Emergency Decommissioning. In the event of a BESS failure that requires emergency removal (such as a BESS container fire) the Applicant will be responsible for proper removal and disposal of the BESS system and any damaged equipment surrounding the BESS. The BESS equipment will be replaced in kind or equivalent at the Applicant's expense. If an equivalent BESS system is used as replacement the Township will be notified of the equivalent replacement. Additional training for the equivalent BESS system will be required and provided by the Applicant. The decommissioning fund does not include decommissioning costs and salvage value for emergency BESS decommissioning. The emergency decommissioning dollar value would be covered by the standard decommissioning surety. A revised surety shall be posted prior to providing any new/replacement equipment under a post emergency event.

Article 8
Unmanned Aircraft Systems (UAS)

Section 8.01 Purpose

This section is intended to promote public safety and the general welfare of the residents of the Township as property owners are entitled to the quiet use and enjoyment of their property. It is Intended to establish standards for the use of lands in the Township for the operation of Unmanned Aircraft Systems (UAS). It is not intended to restrict legitimate hobbyists from operating a drone, UAS or the flying object similar in nature but to ensure that the operator complies with FAA rules and any applicable laws, and does not operate in prohibited areas or in such a way as to impact the quiet use and enjoyment of property by neighboring residents. This section is not intended to preempt FAA rules, but to operate in conjunction with those rules to promote public safety.

Section 8.02 General

A. The operation of drone, UAS, or other flying object similar in nature shall be in compliance with the requirements set forth in Public Law 112-95, Title III, Subtitle B – Unmanned Aircraft Systems of the Modernization Reform Act of 2012 (FMRA).

B. The drone, UAS or other flying object similar in nature shall not be operated outside the visual line of sight of the operator.

C. No person, firm or corporation shall operate any drone, UAS or flying object similar in nature so as to interfere with the privacy, safety, peace or repose of persons or endanger the health of another, recklessly, carelessly or in violation of federal law.

Section 8.03 Permission

A. Unless otherwise exempt under this section, no person shall operate, deploy or launch a drone, UAS or other flying object similar in nature over any private property not owned by the operator without the property owner’s consent.

B. Permission from the property owner shall be in writing specifying the name of the operator, the address of the property over which the drone, UAS or other flying object similar in nature may be operated, and the permissible dates and hours of operation.

Section 8.04 Prohibition

A. Drones, UAS or other flying objects similar in nature may not include any device equipped to carry a weapon. Any modifications to a drone must be pursuant to FAA approval.

B. Operation of the drone, UAS or other flying object similar in nature shall be completely prohibited within 500 ft. of a school, police investigation, public gathering space, or such place that may endanger a person or property or interfere with person discharging their public duties.

C. Drones, UAS or other flying objects similar in nature shall not be operated within 500 feet of any electric generating facility, substation or control center or within 100 feet of any electric transmission facility or within 25 feet of any electric distribution facility or of any overhead wire, cable, conveyor or similar equipment for the transmission of sounds or signal or of heat, light, power or data upon or along any public way with in the Township, without the facility or equipment owner's consent and subject to any restrictions that the facility or equipment owner may place on such operation.

Section 8.05 Exemptions

A. This Article shall not prohibit the use of drones or UASs by any law enforcement agency for lawful purposes.

B. This Article shall not prohibit the use of drones or UASs for bona fide agricultural purposes, as defined in the Michigan Right to Farm Act. A bona fide agricultural use shall not be subject to the provisions of this Article, except for Section 7.02.C, which shall apply to agricultural drone use.

Section 8.06 Enforcement

The Zoning Administrator may enforce violation(s) of the provisions of this section as a criminal, civil, and/or administrative action. Violators may be guilty of a misdemeanor. Equipment flown in violation of this section may be confiscated

Article 9
Performance Standards

Section 9.01 Purpose

Performance standards are established in order to preserve the short and long-term environmental health, safety, and quality of Bengal Township. The Township seeks to insure that no parcel, lot, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely impact the surrounding area or use and/or enjoyment of adjoining premises. Any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance standards. No use, otherwise allowed, shall be permitted within any district that does not conform to the following standards of use, occupancy, and operation. These standards are established as minimum requirements to be maintained.

Section 9.02 Landscaping, Greenbelts, Buffering and Screening for Industrial and Commercial Developments

A. **Intent.** The intent of this section is to promote the public health, safety, and welfare and improve the visual appearance of the Township by requiring landscaping for each industrial and commercial development for which site plan, special land use, and plat review is required. It is further the intent of this section to achieve the following:

1. Minimize noise, air, and visual pollution.
2. Require buffering of residential areas from more intense land uses and public road rights-of-way.
3. Prevent soil erosion and soil depletion and promote surface/sub-surface water retention.
4. Encourage an appropriate mixture of plant material, such as evergreen and deciduous trees and shrubs, to protect against insect and disease infestation and produce aesthetic and cohesive design.
5. Encourage the integration of existing woodlands and other natural features in landscape plans.
6. Protect and preserve the appearance, character, and value of the community and its natural resources.

B. **Application of Requirements.** These requirements shall apply to all uses for which site plan review and approval is required. No site plan or special land use approval shall be approved unless a landscape plan is provided which meets the requirements set forth herein. The Planning Commission, however, may waive or modify landscaping requirements set forth in the preceding provisions, where cause can be shown that no good purpose would be served, or such requirements are found to be injurious or an impediment to the intended use. Moreover, such waiver or modification would neither be injurious to the surrounding neighborhood, now or in the reasonably anticipated future, nor contrary to the spirit and purpose of this Ordinance or section. The Planning Commission may also defer landscaping until such time adjacent

property is petitioned for development. Any waiver, modification or deferment shall be accompanied by a finding of fact.

C. **Landscape Plan Requirements.** The landscape plan shall demonstrate that all requirements of this Section are met and shall include, but not necessarily be limited to, the following items:

1. Location, spacing, size, root type, scientific name, and common name for each plant type proposed for use within the required landscape area.

2. The landscape plan shall be presented in an appropriate scale (1:20, 30, 40, 50, 100, 200), which depending on the particular size of the proposed development is deemed adequate to convey important information.

3. On parcels of more than one (1) acre, existing and proposed contours on-site and fifty (50) feet beyond the site at intervals not to exceed two (2) feet.

4. Typical cross section including slope, height, and width of berms and type of ground cover, or height and type of construction of walls.

5. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.

6. Details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.

7. Identification of existing trees and vegetative cover to be preserved.

8. Identification of grass and other ground cover and method of planting.

9. Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with the standards of this Ordinance at the next available planting season.

D. **Landscape Standards.**

1. **Installation.** All landscaping shall be installed in a manner consistent with accepted planting procedures and the approved landscape development plan. This shall include quantity, size, type and location of plantings proposed. In general, major deviations as to quality, quantity, type, size and location of plant materials from the original approved landscape development plan shall require submission and approval in the same manner as provided in this Article for the original submission. Minor deviations are permitted by the Zoning Administrator upon determination that the deviation does not substantially impact the overall concept of the landscape plan and the proposed development. Such findings shall be in written form and accompany a revised landscape plan. The Zoning Administrator shall determine if any proposed change is a minor or major deviation.

2. **Material.**

(a) All plant material shall:

(i) Be consistent with the size and description set forth in the current edition of "American Standard for Nursery Stock" sponsored by the American Association of Nurseryman, Inc., and approved by the American National Standards Institute, Inc.

(ii) Be typical of their species or variety, have normal habit of growth, well branched and densely foliated when in leaf.

(iii) Be of sound health and vigorous in appearance, free from disease, insect pests, eggs or larvae and shall have healthy, well developed root systems.

(iv) Be freshly dug and nursery grown.

(v) Be chosen according to soil, local climate conditions and environmental factors for the proposed development.

(b) Trees shall have straight trunks with leaders intact, undamaged and uncut.

(c) The following trees, because of various problems, shall not be considered as being of desirable quality, and therefore shall, in most cases, not be permitted. This does not preclude the use of existing trees if it can be shown that the removal of the tree would result in a substantial loss of screening and/or buffering of adjacent lands or public rights- of-way.

(i) Acer negundo - Box Elder

(ii) Ulmus varieties - Elm varieties

(iii) Aesculus varieties - Horse Chestnut

(iv) Populus varieties - Poplar Varieties

(v) Salix varieties - Willow Varieties

(vi) Catalpa varieties - Catalpa Varieties

(vii) Ailanthus altissima - Tree of Heaven

(viii) Fraxinus – Ash

(d) Lawn areas shall be planted in species of grass normally grown as permanent lawns in mid-Michigan. Grass may be placed as sod or seeded and mulched. Sod or seed shall be clean, free of weeds and noxious pests or disease

(e) Ground covers used in lieu of grass in whole or part shall be planted in such a manner as to present a finished appearance and reasonably complete after one complete growing season.

(f) Hedges, where provided, shall be planted and maintained so as to form a continuous unbroken, solid, visual screen within one full planting season. Where plants are to be used as a hedge for screening purposes, the maximum spacing will have to be determined by the plant proposed.

(g) Minimum sizes of plant material:

(i) Deciduous shade trees. Deciduous trees shall have a minimum caliper of two (2) inches diameter at breast height, at the time of planting.

(ii) Deciduous small ornamental trees. Small ornamental trees shall be a minimum of five (5) feet in height at time of planting.

(iii) Evergreen trees. Evergreen trees shall be a minimum of five (5) feet in height at time of planting.

(iv) Shrubs. Shrubs shall be a minimum of two (2) feet in height at the time of planting or two (2) feet in spread if plants are low spreading evergreens.
Vines. Vines shall be a minimum of thirty (30) inches in length after one (1) growing season and may be used in conjunction with fences, screens, or walls to meet buffer requirements.

(h) Artificial plant material shall be prohibited.

3. **Maintenance.** The owner of the property shall be responsible for all maintenance thereon. Landscaping shall be kept in neat and orderly manner, free from debris and refuse. All dead plant material shall be removed and replaced in accordance with the standards of this Ordinance at the next available planting season after it dies. The approved landscape development plan shall be considered a permanent record and integral part of the site plan or special land use. Unless otherwise approved in accordance with the aforementioned procedures, any revisions to, or removal of, plant materials will place the parcel in non-conformity with the originally approved landscape development plan and shall be viewed as a violation of this Ordinance and the agreed upon terms of the final approval of a site plan, special land use, site or plat. The developer, at the time of submission for approval of a site plan, special land use, site or plat shall demonstrate to the Planning Commission that adequate provisions have been made to supply water to all landscape areas.

E. **Screening Between Land Uses.**

1. Between a conflicting non-residential or conflicting residential land use and a residential use within the agricultural district there shall be provided and maintained an obscuring wall, screening fence or landscape barrier, at the discretion of the Planning Commission, having a minimum height of six (6) feet unless a greater or lesser height is specified elsewhere in this Ordinance.

2. Required walls or fences shall be located at the lot line, except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines in abutting residential uses within the agricultural district. Landscape screen barriers shall be located ten (10) feet from the lot line, except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines in abutting residential uses within the agricultural district.

3. Such walls, fence or landscape barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Ordinance and except such openings as may be approved by the Planning Commission. Landscape barriers shall maintain a minimum opacity of at least eighty (80%) percent year round. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above established grade of the area to be concealed and the top or the highest point of the required screen. Opacity shall be achieved within three (3) years of the time of planting. The applicant shall agree, by notation on the final development plan, to install additional plantings after the expiration of three (3) years, in the event that the landscaping has not screened the view of areas as required.

4. All walls and screen barriers herein required shall be constructed in one (1) of the following manners, however the Planning Commission will determine when, in its opinion, a wall, screening fence, planting strip, and/or landscape berm as distinct from a wall will be required.

(a) A solid wall shall be constructed of brick or poured concrete panels using a brick pattern form. The solid wall shall be located at the property line with a planting strip ten (10) feet wide abutting the base and on the interior side of the wall. The planting strip shall have a minimum of two (2) inches caliper deciduous shade trees planted thirty (30) feet on center.

(b) A screening mound or berm shall consist of the minimum specified height with a side slope no steeper than 3:1 (three (3) foot horizontal to one (1) foot vertical). The top of all berms shall have a level horizontal area of at least three (3) feet in width. The mound or berm shall be graded in a manner that will blend with existing topography, shall be graded smooth, and shall be appropriately placed as sod, seeded, and mulched, or planted. Included, as part of the mound or berm shall be deciduous shade trees, small deciduous ornamental trees and/or evergreen trees planted along the berm area.

(c) Evergreen screens shall consist of five (5) foot spruce, fir or pine trees planted no farther than (15) feet on center in two (2) staggered rows ten (10) feet apart. Arborvitae shall be planted no more than five (5) feet apart in staggered rows. Other evergreen plant material may be considered providing that it will provide, in the opinion of the Planning Commission, the same screening effect.

5. The Planning Commission may waive or modify the foregoing requirements, where cause can be shown that no good purpose would be served and that the waiver or modification would neither be injurious to the surrounding neighborhood, now or in the reasonably anticipated future, nor contrary to the spirit and purpose of this section. The Planning Commission may also defer landscaping until such time adjacent property is petitioned for development.

F. **Parking Lot Landscaping Requirements.**

1. Separate landscape islands shall be required within parking lots of twenty four (24) spaces or greater. Landscape islands shall be curbed, or, at the discretion of the Planning Commission, be implemented in a manner whereas vehicle interference or damage to the landscape area is impeded. No more than sixteen (16) spaces in a row is permitted without a landscape island. Where size or configuration of parking lot would prevent maintenance or impede traffic flow as a result of requiring landscaped islands within parking lots, the Planning Commission may approve alternative landscaping along the parking lots perimeter.

2. **Required Landscaping at the Perimeter of Parking Lots.** Separate landscape areas shall be provided at the perimeter of parking lots in accordance with the following requirements:

(a) Parking lots that are considered to be a conflicting land use as defined by this Section shall meet the screening requirements set forth in Section 9.02.E.

(b) Parking lots, which are visible from a public road, shall be screened from view with a landscaped berm varied in height from between two (2) and three (3) feet along the perimeter of those sides. The berm shall be planted with one (1) deciduous or evergreen tree and six (6) deciduous or evergreen shrubs for every thirty (30) feet, or major portion thereof. The Planning Commission, at its discretion, may approve alternative landscaping plantings, such as a solid hedge, or a solid wall in lieu of a landscape berm.

(c) Minimum of five (5) foot wide landscape strips (not including vehicle overhangs assumed to be two (2) feet) should be provided between paved parking surfaces and buildings, fences, and property lines wherever possible. Trees and shrubs shall be planted clear of the vehicle overhang area.

G. **Greenbelts.** A greenbelt shall be provided, and is an area established within the required front yard setback of the zoning district in which it is located, and landscaped in accordance with the following requirements:

1. The greenbelt shall be landscaped with a minimum of one (1) deciduous or one (1) evergreen tree, plus six (6) deciduous and/or evergreen shrubs for every thirty (30) lineal feet, or fraction thereof, of frontage abutting a public 6-9 road right-of-way. Landscaping material is to meet minimum size requirements as outlined in Section 9.02.D.2.g, Minimum Sizes of Plant Material.

2. If ornamental deciduous trees are substituted for either non-ornamental deciduous trees or evergreen trees, they shall be provided at a minimum of one (1) tree for every twenty (20) lineal feet, or fraction thereof, of frontage abutting a public road right-of-way and meet minimum requirements set forth in this section.

3. In addition to the required trees within the greenbelt, the remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and other natural landscape materials outside of approved parking areas.

4. Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

H. **Foundation Landscaping.** Foundation plantings shall be provided along the front or sides of any building, which faces a public road and/or is adjacent to a parking lot or other areas, which provides access to the building(s) by the general public. Foundation planting areas shall be integrated into the sidewalk system between the front and sides of the building, and the parking area and/or associated driveways adjacent to the building. Foundation planting areas shall contain at a minimum, one (1) ornamental tree and six (6) shrubs per thirty (30) lineal feet of applicable building frontage. Individual planting areas shall be a minimum of five (5) feet in width excluding an assumed two (2) feet for vehicle overhang where applicable.

I. **General Site Landscaping.** In addition to any landscape greenbelt and/or parking lot landscaping required by this section, six (6) percent of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area landscaping may include a combination of the preservation of existing tree cover, planting of new trees and plant material, grass areas and building foundation planting beds. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air-conditioning units, and loading areas.

J. **Screening of Trash Containers.**

1. Outside trash disposal containers shall be screened on all sides with a masonry wall, and a durable gate at least as high as the container, but no less than six (6) feet in height. The wall and gate shall be constructed of material that is compatible with the architectural materials used in the site development.

2. Containers shall be consolidated to minimize the number of collection sites, and located so as to reasonably accommodate the buildings they serve and situated so as not to cause nuisance or offense to occupants of buildings.

3. Containers and enclosures shall be located away from public view insofar as possible. In no case shall the facility be located between the front building line and a public road.

4. Concrete pads of appropriate size and construction shall be provided for containers or groups of containers having a capacity of six (6) thirty (30) gallon cans or more. Aprons shall be provided for loading of bins with a capacity of one and a half (1-1/2) cubic yards or more.

5. For storage of recyclable materials, the enclosure area and pad size shall be increased to amply accommodate the extra materials and their containers.

Section 9.03 Noise and Vibration

A. Noise that is objectionable as determined by the Zoning Administrator or an individual due to volume, frequency, or beat shall be muffled, attenuated, or otherwise controlled, subject to the general definition of public nuisance.

B. In addition, objectionable sounds of an intermittent nature, or sounds characterized by high frequencies shall be so controlled so as not to become a nuisance to adjacent uses. Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity or from an approved process (such as a quarry, or gravel mining operation) shall be exempt from this requirement insofar that other provisions set forth herein particular to the use seeks to limit, mitigate and buffer objectionable sounds.

C. No use shall generate any ground transmitted vibration in excess of the general definition of a public nuisance.

Section 9.04 Use, Storage and Handling of Hazardous Substances, Storage, and Disposal of Solid, Liquid, and Sanitary Wastes

A. It shall be unlawful for any person, firm, corporation or other legal entity to pollute, impair or destroy the air, water, soils or other natural resources within the Township through the use, storage and handling of hazardous substances and/or wastes or the storage and disposal of solid, liquid, gaseous and/or sanitary wastes.

B. Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall obtain the appropriate permits or approval from the Michigan Department of Environmental Quality, Michigan Fire Marshal Division, Clinton County, or other designated enforcing agencies including Fire Departments serving Bengal Township.

C. Any person, firm, corporation or other legal entity operating a business or conducting an activity which uses, stores or generates hazardous substances shall complete and file a Hazardous Chemicals Survey to the Township in conjunction with the following:

1. Upon submission of a site plan.
2. Upon any changes of use or occupancy of a structure or premise.
3. Upon any change of the manner in which such substances are handled, and/or in the event of a change in the type of substances to be handled.

D. All business and facilities that use, store, or generate hazardous substances in quantities equal to or greater than twenty-five (25) gallons or two hundred twenty (220) pounds shall comply with the following standards:

1. Above-Ground Storage and Use Areas for Hazardous Substances.
   (a) Secondary containment of hazardous substances and polluting materials shall be provided. Secondary containment shall be sufficiently impervious to contain the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
   (b) Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers that are protected from weather, leakage, accidental damage and vandalism.
   (c) Secondary containment structures such as out-buildings, storage rooms, sheds and pole barns shall not have floor drains.
   (d) Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff.

2. **Underground Storage Tanks.**

   (a) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with requirements of the U.S. Environmental Protection Agency, the State Police and State Fire Marshal Division, the governing fire jurisdiction for the township and/or any other Federal, State or local authority having jurisdiction.

   (b) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with requirements of the State Police, State Fire Marshal Division, Clinton County, and the governing fire jurisdiction for the township. Leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by state or local officials.

   (c) Out-of-service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the State Police and State Fire Marshal Division, the Michigan Department of Environmental Quality, the governing fire jurisdiction for the township and/or any other Federal, State or local authority having jurisdiction.

3. Loading and Unloading Areas used for the loading and unloading of hazardous substances shall be designed and constructed to prevent the harmful release to the environment of hazardous materials which may be spilled or leaked.

E. All site plans for business or facilities which use, store or generate hazardous substances shall be reviewed by the local fire authority, consulting engineer and any other appropriate experts determined necessary prior to approval of the site plan and/or special land use.

Section 9.05 Electrical Disturbance, Electromagnetic or Radio Frequency Interference

A. No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or

B. Cause, creates, or contributes to the interference with electronic signals (including, but not limited to, Television, radio broadcasting transmission or any other communication satellite) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

Section 9.06 Artificial Lighting, Exterior Lighting, and Glare

A. Where lighting is required, maximum light levels shall not exceed A. Definitions. The words, terms and phrases, when used in this section, shall have the meanings ascribed to them under the definition of “Lighting (Artificial, Exterior, Site)” in Article 2 of this Ordinance.

B. Glare from any process (such as or similar to arc welding or acetylene torch cutting) that emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines

C. The design and/or screening of any development shall insure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.

D. Exterior lighting shall be of the type designed with a shielded/downwardly directed light source, and located and maintained to prevent the reflection and glare of light in a manner which creates a nuisance or safety

hazard to operators of motor vehicles, pedestrians, and neighboring land uses. This provision is not intended to apply to public street lighting.

E. Any operation that produces intense glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.

F. Exterior doors shall be located, operated, and maintained so as to prevent any glare and light from creating a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses.

G. On-site lighting, (i.e. parking, building lights, etc.) shall conform to the following regulations:

1. It is the goal of the Township to minimize lighting levels to reduce off-site impacts, prevent the reflection and glare of light in a manner which creates a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses, and to promote "dark skies" in keeping with the rural character of Bengal Township.

2. When site plan review is required, all lighting, including signage and ornamental lighting, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties, traffic safety, and overhead sky glow. The objectives of these specific actions are to minimize undesirable on-site and off-site effects.

3. Only non-glare, color-corrected (white) lighting shall be permitted. For all non-residential uses, full cutoff shades are required for light sources so as to direct the light onto the site and away from adjoining properties. The light source shall be recessed into the fixture so as not to be visible from off site. Building and pole mounted fixtures shall be parallel to the ground. Unscreened Wall-Pack type lighting shall be prohibited.

4. Lighting for uses adjacent to residentially zoned or property used for residential purposes, shall be designed and maintained such that illumination levels do not exceed 0.1 foot-candles along property lines. Lighting for uses adjacent to non-residential properties shall be designed and maintained such that illumination levels do not exceed 0.3 foot- candles along property lines. Such information shall be provided on the site plan at the request of the Zoning Administrator or the Planning Commission.

5. Lighting levels shall not exceed three (3) foot candles as measured directly between two (2) fixtures. The Planning Commission may allow for an increased level of lighting above maximum permissible levels when determined that the applicant has demonstrated that such lighting is necessary for safety and security purposes. Such information shall be provided on the site plan at the request of the Zoning Administrator or the Planning Commission.

6. For the purposes of this Ordinance, all lighting measurements shall be taken at ground level.

7. For parking lots of less than one hundred (100) parking spaces lighting fixtures shall not exceed a height of sixteen (16) feet measured from the ground level to the centerline of the light source. For parking lots of more than one hundred (100) spaces lighting fixtures shall not exceed a height of eighteen (18) feet measured from the ground level to the centerline of the light source.

8. Signs shall be illuminated only in accordance with the regulations set forth in Section 4.08 of this Ordinance. In addition, signs within the agricultural district with residential uses shall not be illuminated between the hours of 10:00 p.m. and 6:00 a.m.

9. Building or roof mounted lighting intended to attract attention to the building and/or use and not strictly designed for security purposes shall not be permitted.

10. Establishments that are not 24-hour operations shall limit building and parking lot lighting to hours of operation. Limited lighting, as approved by the Planning Commission, can be operational for security measures.

Section 9.07 Fire Hazard

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance, which is compatible with the potential danger involved.

Section 9.08 Safety

Existing hazards or potential hazards and nuisances, such as construction sites, auto wrecking yards, junk yards, landfills, sanitary landfills, demolition sites, unused basements, sand, gravel, and stone pits or stone piles are to be enclosed by suitable fencing or barriers, as determined by the Zoning Administrator and/or the Planning Commission, so as not to endanger public health, safety and welfare. Abandoned wells and cisterns are to be capped or filled in to the satisfaction of the Mid-Michigan District Health Department and/or Michigan Department of Environmental Quality

Section 9.09 Storm Water Management

A. **Storm water Management.** All developments and earth changes subject to review under the requirements of this Ordinance shall be designed, constructed, and maintained to prevent flooding and protect water quality. The particular facilities and measures required on-site shall reflect the natural features, wetlands, and watercourses on the site; the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site. Storm water management shall comply with the following standards:

   1. The design of storm sewers, detention/retention facilities, and other storm water management facilities shall comply with the standards of the Clinton County Drain Commissioner (CCDC).

   2. Storm water management conveyance, storage and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to storm water runoff and soil erosion from the proposed development.

   3. Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent upstream or downstream property owners.

   4. Discharge of runoff from any site, which may contain oil, grease, toxic chemicals, or other polluting materials, is prohibited. If a property owner desires to propose measures to reduce and trap pollutants, the owner must meet the requirements of the Michigan Department of Environmental Quality and the CCDC.

   5. Drainage systems shall be designed to protect public health and safety and to be visually attractive.

B. **On-Site Storm water Detention/Retention.** For the purpose of controlling drainage to off-site properties and drainage ways, all properties with the exception of single family residences and agricultural operations, which are developed under this Ordinance, whether new or improved, are preferred to provide for on-site detention/retention storage of storm water or other alternative. Applicable retention, detention and other storm water issues are to be accordance with the current CCDC standards and reviewed and approved by the CCDC.

Section 9.10 Floodplains

A. **Development Prohibited.** Any development requiring site plan and special land use review and approval under any section of this Ordinance shall be prohibited within the one hundred (100) year floodplain of any existing watercourse and/or wetland, unless permitted by the Michigan Department of Environmental Quality (MDEQ).

B. **Delineation of Floodplain.** It shall be the petitioner's responsibility to delineate the one hundred (100) year floodplain boundaries through a floodplain determination by MDEQ.

Section 9.11 Sewage Treatment and Disposal

In addition to the requirements established by the Mid-Michigan District Health Department (MMDHD) or the Michigan Department of Environmental Quality (MDEQ), the following site development and use requirements shall apply to all public and private sewage treatment and disposal plants for uses requiring site plan and special land use review and approval.

A. All treatment buildings, lagoons or ground application areas shall be completely enclosed by a fence not less than six (6) feet high.

B. All operations and structures shall be surrounded on all sides by a buffer strip of at least one hundred (100) feet wide within which grass, trees and shrubs, and structural screens shall be placed to minimize the appearance of the installation and to help confine odors therein. The Planning Commission, upon consultation with the appropriate reviewing agencies of the facilities, shall have the authority to review and approve the design and treatment of all buffer strips.

C. No device for the collection, treatment and/or disposal of sewer wastes shall be installed or used without approval of the MMDHD and/or MDEQ, or when development occurs within a sewer service area, the appropriate municipal utility, or authority.

Section 9.12 Composting Areas on Residential Properties

The composting of yard waste, grass clippings and other household organics such as fruits, vegetables, grains and there by products with the exception of meat and dairy products are encouraged under the following conditions and regulations:

A. On the premises of single-family residences in the A-1 General Agriculture District.

B. Minimum lot size: 10,000 square feet.

C. Setback: Composting areas or piles must be setback at least twenty-five (25) feet from all property lines and must be at least fifty (50) feet from all neighboring residential dwelling units.

D. Compost piles must be fenced or otherwise enclosed to screen them from view and to prevent the wind from scattering debris.

Compost piles shall be established and maintained in accordance with recognized guidelines provided by the municipal unit in which it is located, or those guidelines provided by the Clinton County Department of Waste Management if local guidelines have not been adopted.

Article 10 Land Division

Section 10.01 Purpose

The purpose of this Article is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act) (the "Act"), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and to otherwise provide for health, safety and welfare of the residents and property owners of the municipality by establishing reasonable standards for prior review and approval of land divisions within the Township.

Section 10.02 Prior Approval Requirement for Land Division

Land in the Township shall not be divided without the prior review and approval of the Zoning Administrator, in accordance with this Article and the State Land Division Act; provided, however, that the following shall be exempted from this requirement:

A. A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.

B. A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.

C. An exempt split as defined in this Article or other partitioning or splitting that results in parcels of twenty acres or more if each is not accessible and the parcel was in existence on March 31, 1997 or resulted from an exempt split pursuant to the Act.

Section 10.03 Application for Land Division Approval

A. A proposed land division shall be filed with the Administrator and shall include the following:

1. A completed application, on such written form as the Township may provide, including any exhibits described therein.

2. Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the fee owner of such land.

3. A land title search, abstract title, or other evidence of land title acceptable to the Administrator which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997.

4. A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further divisions.

5. Three (3) copies of a tentative parcel map showing the parent parcel or the parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. The tentative parcel map, including the resulting parcels, shall be accurately and clearly drawn to a scare of not less than one inch = 200 feet for parent parcels or parent tracts of three acres or more in area. A tentative parcel map shall include:

   (a) Date, north arrow, scale, and the name of the person or firm responsible for the preparation of the tentative parcel map;

   (b) Proposed boundary lines and the dimensions of each parcel;

   (c) An adequate and accurate legal description of each resulting parcel;

   (d) A drawing or written description of all previous land divisions from the same parent parcel or parent tract identifying the number, area and the date of such divisions;

   (e) The location, dimensions and nature of proposed ingress to and egress from any existing public or private streets; and

   (f) The location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.

6. The requirements of subparagraph (5) do not apply to any resulting parcel which is 20 acres or larger, as long as such parcel satisfies the requirements of Section 10.04.A.2 below.

7. Other information reasonably required by the Administrator in order to determine whether the proposed land division qualified for approval.

8. Payment of the application fee and other applicable fees and charges established form time to time by resolution of the Township Board.

B. A proposed division shall not be considered filed with the Township, nor shall the time period stated in this section commence, until all of the requirements for an application for land division approval have been compiled with.

Section 10.04 Minimum Requirements for Approval of Land Divisions

A. A proposed land division shall be approved by the Administrator upon satisfaction of all of the following requirements:

1. The application requirements of Section 10.03.

2. Each resulting parcel shall have a means of vehicular access to an existing street or road from an existing or proposed driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road. If a driveway or access easement does not lawfully exist at the time a division is proposed, the applicant shall also comply with the requirements of subsection 10.03.B

3. The proposed division, together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than the permitted under Section 108 of the Act.

4. Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.

5. Each resulting parcel shall have the depth to width ratio specified by applicable County of Clinton ordinances or ordinances of the Township of Bengal hereafter adopted, regulating the size of the parcel or regulations pertaining to the zoning district(s) in which the resulting parcel is located.

6. All resulting parcels to be created by the proposed land division(s) and the remaining parent parcel shall fully comply with the applicable lot area, lot width, and all other requirements of this Ordinance.

B. If a means of vehicular access to a resulting parcel does not lawfully exist at the time a land division is applied for, the proposed division shall not be approved unless the following requirements are satisfied:

1. If a driveway is proposed as a means of access, each resulting parcel shall have an area where a driveway will lawfully provide vehicular access in compliance with applicable Township ordinances.

2. If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner of the parcel(s) within which the easement is to be located. Such easement shall provide a lawful means of access over and across such parcel(s), in compliance with applicable Township ordinances. The Administrator may require that all such easements be in recordable form and recorded with the Register of Deeds.

3. If a new public street is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street and of utility easements and drainage facilities associated therewith.

C. The Administrator shall approve or disapprove a proposed land division within 45 days after the complete filing of the proposed division with the Administrator, and shall provide the applicant with written notice of such approval or disapproval. If disapproved, the Administrator shall provide the applicant with a description of the reasons for disapproval. Any notice of approval for a resulting parcel of less than one acre in size shall contain a statement that the Township is not liable if a building permit is not issued for the parcel for the reason that the parcel fails to satisfy the requirements of Section 109a of the Act, including approval of on-site water supply and on-site sewage disposal under the standards set forth in Section 105g of the Act.

D. An applicant aggrieved by the decision of the Administrator may, within 30 days of the decision, file a written appeal of the decision to the Governing Body, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting, at least 10 days written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first class mail, directed to the applicant's address shown in the application or in the written appeal. The Governing Body may affirm or reverse the decision of the Administrator, in whole or in part, and its decision shall be final.

Section 10.05 Approval of Land Divisions; Recording; Revocation

A. The Administrator shall maintain a record of all land divisions approved by the Township.

B. A decision approving a land division shall be effective for not more than 180 days after such approval by the Administrator or, if appealed, by the Governing Body, unless either of the following requirements is satisfied within such 180-day period:

1. A deed or other recordable instrument of conveyance, accurately describing the resulting parcel(s) other than the remainder of the parent parcel or parent tract by the applicant, shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator; or

2. A survey accurately showing the resulting parcel(s) shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Administrator. Such survey shall comply with the minimum requirements of Public Act 132 of 1970, as amended.

3. If neither paragraph (1) nor paragraph (2) is satisfied, such land division approval shall, without further action on the part of the Township, be deemed revoked and of no further effect after the 180th day following such approval by the Administrator or, if appealed, by the Governing Body.

C. All deeds and other recordable instruments of conveyance and all surveys submitted in compliance with Section 5A shall be reviewed by the Administrator in order to determine their conformity with the approved tentative parcel map. The Administrator shall mark the date of approval of the proposed land division on all deeds, other recordable instruments of conveyance and surveys which are in conformity with the approved tentative parcel map and which otherwise comply with the requirements of this Article. Such documents shall be maintained by the Administrator in the Township record of the approved land division.

D. The approval of the land division shall not, of itself, constitute an approval or permit required under other applicable Township ordinances. Approval of a division is not a determination that the resulting parcels comply with other Township ordinances or regulations.

E. Any parcel created which is inconsistent with, or in violation of, this Ordinance, where approval hereunder is required, shall not be eligible for issuance of building permits, zoning ordinance approvals or other land use or building approvals under other Township ordinance, no shall any such parcel be established as a separate parcel on the tax assessment roll.

Section 10.06 Standards for Approval of Land Divisions

A proposed land division shall be approved if the following criteria are met:

A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of pertinent Ordinances, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures or have received a variance from such requirement(s) from the appropriate Zoning Board of Appeals.

B. The proposed land division(s) comply(ies) with all requirements of the State Land Division Act and this Article.

C. All parcels created and remaining have existing adequate accessibility, or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of all applicable ordinances.

D. The ratio of depth to width of any parcel created by the division does not exceed the minimum ratio established by the applicable Zoning Ordinance, exclusive of access roads, easements, or non-development sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement. The width of a parcel shall be measured at the abutting road or right-of-way line, or as otherwise provided in any applicable Ordinances.

Section 10.07 Penalties and Other Remedies

A violation of this Article is a municipal civil infraction, for which the fine shall be not more than Five Hundred Dollars ($500.00) for the first offense and not more than One Thousand Dollars ($1,000.00) for a subsequent offense, in the discretion of the Court, and in addition to all other costs, damages, expenses and other remedies provided by law, including injunctive relief to prevent violation or continued violation of this Article. For the purpose of this section, a subsequent offense means a violation of this Article committed by the same person or party within one (1) year after a previous violation of the same provision of this Article for which such person or party admitted responsibility or was determined by law to be responsible.

Section 10.08 Severability

The provisions of this Article are severable if any provision or other part hereof is determined to be invalid or unenforceable by any court of competent jurisdiction such determination shall not affect the remaining provisions or other parts of this Article.

Section 10.09 Repeal

All ordinances or parts of ordinances in conflict with this Article are hereby repealed, except that this Article shall not be construed to repeal any provision of the applicable Zoning Ordinance, similar Ordinance or Building Codes.

Article 11 Agricultural District

Section 11.01 General Agriculture District, A-1

A. **Intent and Purpose.** This district is established to support stable, viable agricultural operations. The primary use of the district area is considered to be agriculture. The regulations of this district are designed to conserve and protect farm operations, including dairy farming, pasturage, cash cropping, stables (public and private), orchards, as well as other agricultural and related uses. It is the intent of this district to encourage consolidation of commercial and industrial agricultural uses. It is further the intent of this district to accommodate some residential growth in a managed setting so as to efficiently and effectively utilize land and limit conflicts with agriculturally productive lands. The regulations of the district are designed to exclude or discourage uses and structures that demand substantial public services, such as major thoroughfares, public sewer or water facilities, and other public services. With the exception of industrial parcels, all of Bengal Township is classified in the A-1 Zoning District.

B. **Relationship to Comprehensive Plan (Agricultural Preservation Areas).** To maintain and enhance the rural character of Bengal Township by retaining the Township's agricultural, forested, and natural landscape qualities.

Section 11.02 A-1 Permitted Uses

A. Agricultural uses and structures in compliance with the Right to Farm Act.

B. Data Center, Accessory, subject to Section 4.40.

C. Essential services and structures, subject to Section 4.02.

D. Federal, state, county and township owned park land.

E. Forest preserve, game refuge, and conservation area.

F. Government facilities and buildings.

G. Home occupation, subject to Section 4.31.

H. Roadside stand (farm related), subject to Section 11.05.

I. Rooftop or Small Freestanding Solar Energy Facility, subject to Article 6.

J. Single-family dwelling, subject to Section 4.15.

K. Stables, private.

Section 11.03 A-1 Special Land Uses

A. Accessory use, Subject to Section 4.12.

B. Adult Foster Care Family Home.

C. Campground.

D. Cemetery, public.

E. Child Group Day Care Home.

F. Church.

G. Cluster Housing Development

H. Commercial, non-farm related nursery and greenhouse.

I. Concentrated Animal Feeding Operation.

J. Domestic radio, television, broadcast station, receiving and broadcasting towers.

K. Farm implements sales and repair, fertilizer sales, feed or seed sales.

L. Game yard and hunting preserve.

M. General aviation and private airports.

N. Home based business.

O. Kennels.

P. Large Freestanding Solar Energy Facility, subject to Article 6.

Q. Livestock auction yard.

R. Mobile Home Park or manufactured housing community, subject to Section 4.15.

S. Private elementary, middle, and secondary school.

T. Recreation Facility, Outdoor.

U. Residential use associated with a conservation, educational, or recreation use.

V. Retail cider mill.

W. Rural Historical Institutional Structure.

X. Sawmill and kiln.

Y. Slaughterhouse.

Z. Solar Community Garden

AA. Stable, Commercial.

BB. Temporary housing for seasonal labor, subject to Section 4.13.

CC. Veterinary clinic, large animal.

DD. Wind Energy Systems and anemometer tower subject to Section 4.38 and Article 5.

EE. Wireless communication facility, subject to Section 4.11.

Section 11.04 Contiguous Zone

Where any other Zone is contiguous to a farm located in an Agricultural District and forms a part of the farm, all farm uses and activities permitted in the Agricultural District may be carried on such contiguous land.

Section 11.05 Roadside Stands

Roadside Stands shall be permitted only for the selling of farm products and these may be located along the highway right-of-way, providing this location is a part of the farm which produces the farm products.

Section 11.06 Mining or Removal of Topsoil

No topsoil shall be removed for purposes of resale from any residential area within an agricultural district nor any open-pit mining for the purposes of extracting sand, gravel or minerals be permitted within two hundred feet (200') of any public road or highway nor within one hundred and fifty feet (150') of any side or rear lot lines of any adjoining land used for residential use, unless the removal within said restricted areas shall have been first approved by the Board of Appeals. If any open- pit mine or gravel pit has any "attractive nuisance" feature, such as steep banks or deep holes that could be a hazard to the safety of children, it shall be promptly rough graded so as to remove such hazard or hazards. When an open-pit mine or gravel pit has ceased to be worked regularly for a period of one (1) year, it shall be rough graded in such a manner as to restore the land to contours harmonious with those of the surrounding terrain.

Article 12 Industrial District

Section 12.01 Light Industrial, I-1

This district is established to make available resources and services essential to high quality light industrial development, including manufacturing, office/research, warehousing and distribution, and other similar light and low impact industrial uses, while also guarding against the encroachment of these uses into districts where they may be considered incompatible. The district is further intended to be located in areas adequately served by public services, such as primary county roads.

A. **Intent and Purpose.** The intent is to provide a district whose location will permit heavy manufacturing types of use. Further, the district is intended to provide land for the more large-scale and intense manufacturing, fabricating and assembling uses. This district will also permit small scale commercial uses. While such uses may occasionally produce external physical effects noticeable to a limited degree beyond the boundaries of the site, nevertheless every possible effort shall be made to minimize such effects. The district is further intended to be located in areas adequately served by public services, such as primary county roads.

B. **Relationship to Comprehensive Plan (Growth Areas).** Focused around existing cities and villages and are intended to provide high to medium density uses similar to development patterns in incorporated communities. Importantly, these areas provide transition from urban to rural land uses *May be revised during Master Plan process.*

Section 12.02 I-1 Permitted Uses

A. Accessory use, subject to Section 4.12.

B. Agricultural wholesale and retail facility, including bulk storage of commodities in elevators and other transfer structures.

C. Ambulance station.

D. Billboard.

E. Body and paint shop.

F. Commercial garage

G. Contractor establishment, equipment and material storage yard.

H. Data Center, Accessory, subject to Section 4.40.

I. Essential services, subject to Section 4.02.

J. Government facilities and buildings.

K. Monument sales and yard.

L. Municipal equipment and material storage yard.

M. The manufacture, assembly, compounding, processing, packaging or treatment from previously prepared materials, or repair of such products: (a) Electric or neon signs; (b) Light sheet metal products, including heating and ventilating equipment, siding, and the like; (c) Textile goods; (d) Apparel and leather goods; (e) Furniture and fixtures; (f) Printing and publishing; (g) Jewelry, silverware and plated ware; (h) Converted paper and paper products; (i) Sporting goods; (j) Glass products (using purchased glass); (k) Office and artists supplies and materials; (l) Professional, scientific and controlling instruments, photographic and optical equipment supplies. (m) The processing of materials utilizing low level, low-heat chemical processing.

N. Rooftop or Small Freestanding Solar Energy Facility, subject to Article 6.

O. Veneer processing and/or manufacturing facility (including indoor raw timber and lumber processing).

P. Wholesale establishment, warehouse, cartage business, and truck terminal.

Q. Jobbing and Machine Shop, and Processing of Machine Parts.

Section 12.03 I-1 Special Land Uses

A. Airport, helicopter landing ports and aircraft landing field.

B. Blacksmith shop and welding shop.

C. Building material and lumber supply (sales and/or storage).

D. Bulk storage of refined petroleum products above or below ground.

E. Central dry cleaning plant.

F. Collection center for household waste material to be recycled.

G. Commercial outdoor storage.

H. Construction and farm equipment sales.

I. Data Center, Small-Scale, subject to Section 4.40.

J. Data Center, Medium-Scale, subject to Section 4.40.

K. Data Center, Hyperscale, subject to Section 4.40.

L. Experimental, film, or testing laboratory.

M. Fabricated metal products, excepting heavy machinery and transportation equipment.

N. Furniture and fixture sales.

O. Automobile Wrecking/junk yard.

P. Large Free standing Solar Energy Facility, subject to Article 6.

Q. Lumber, planning mill and saw mill.

R. Manufacture of monuments, cut stone, stone and clay products.

S. Municipal waste or water treatment facility.

T. Radio, television, telephone, transmitter tower.

U. Recreational vehicle storage yard.

V. Retail sales of goods assembled on the premises, provided the building floor area devoted to retail sales comprises no more than twenty-five (25%) percent of principal building floor area and the outdoor sales area comprises no more than twenty-five (25%) percent of the minimum required lot area.

W. Sales, leasing, and storage of contractor's equipment and supplies.

X. Testing laboratory.

Y. Truck and trailer rental facility.

Z. Radio TV broadcasting, transmitting and receiving towers, satellite communications

AA. Scientific business/research.

BB. Vehicle service and repair (autos, farm, construction equipment and trucks).

CC. Warehousing and materials distribution center.

DD. Wholesale of goods and materials.

EE. Wooden containers and pallets.

FF. Wireless Communication Facility, subject to Section 4.11

GG. Self-storage facility

HH. Sexually Orientated Business, subject to Section 12.05.

Section 12.04 Building Placement and Design

A. Any building constructed in the I-1 District shall be located no closer than one hundred (100) feet from any boundary adjoining property zoned for single-family residential use.

B. The front walls of any building in the I-1 District shall be constructed or faced with stone, brick, decorative block, or other material similar and compatible to other buildings and uses in the surrounding area as approved by the Planning Commission.

Section 12.05 Sexually Oriented Business

A. **Purpose and Intent.** It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

B. **Uses Constituting Adult Uses.** Applicable uses considered under this section are found in Section 2.02, Definitions. Such terms include: "Sexually Oriented Businesses" and "Specified Sexual Activities" and "Specified Anatomical Areas."

C. **Required Spacing.** Sexually Oriented Businesses shall meet all of the following space requirements. Unless otherwise specified, the measurements shall be made in a straight line, without regard to intervening

structures or objects, from the nearest point of the building or structure used as part of the premises where a sexually oriented business is conducted to the nearest property line of a premise of the use listed below:

1. At least one-thousand (1,000) feet from any other Sexually Oriented Business. For this subsection, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

2. At least one thousand (1,000) feet from all churches, synagogues, mosques, temples or building which is used primarily for religious worship and related religious activities.

3. At least one thousand (1,000) feet from all public or private educational facilities including but not limited to child day care facilities, licensed child care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

4. At least one thousand (1,000) feet from all institutions providing human health services primarily for outpatients and medical care of the sick or injured including such facilities as doctor's offices and emergency care facilities.

5. At least one thousand (1,000) feet from any property containing any one-family or multiple-family residential use.

6. At least one thousand (1,000) feet from any entertainment business, pool or billiard hall, coin-operated amusement center, indoor and outdoor recreation, dance club catering primarily to teenagers, movie theaters, and similar uses frequented by minors under the age of 18.

7. At least one thousand (1,000) feet from any public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the County which is under the control, operation, or management of the Township, County or any municipal park and recreation authorities.

D. **Special Standards.**

1. The maximum size of the building shall be three thousand (3,000 sq. ft.) square feet.

2. The building and site shall be designed, constructed and maintained so material such as a display, decoration, or sign depicting, describing, or relating to activities or merchandise within the structure cannot be observed by pedestrians, motorists on a public right-of-way or from an adjacent land use.

3. Sexually Oriented Businesses shall be located within a free-standing building. A shared or common wall structure or shopping center is not considered to be a free-standing building.

4. The style, shape and color of the building materials shall be subject to approval by the Planning Commission and Township Board in consideration of the similarity and compatibility of said structure with other structures within a reasonable proximity.

5. In addition to provisions of Section 9.02, Landscaping, Greenbelts, Buffering and Screening for Industrial and Commercial Developments, a four and one-half (4-1/2) foot high brick or masonry wall shall be constructed to screen the parking lot from the adjacent public rights-of-way.

6. No person shall reside in or permit any person to reside in the premises of a Sexually Oriented Business.

7. No person operating a Sexually Oriented Business shall permit any person under the age of eighteen (18) to be on the premises of said use either as an employee or customer.

8. Sexually Oriented Businesses shall comply with all applicable federal, state, and local licensing regulations. Initial and annual proof of such compliance shall be a condition of special use approval and the continuance thereof.

9. Any sign or signs proposed for the Sexually Oriented Business shall comply with the provisions of this Ordinance of Section 4.08; may not otherwise include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas, specified sexual activities or obscene representations of the human form; and may not include animated or flashing illumination.

10. Entrances to the proposed Sexually Oriented Business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using clearly marked lettering no less than two (2) inches in height stating that: (1) "Persons under the age of 18 are not permitted to enter the premises," and (2) "No alcoholic beverages of any type are permitted within the premises.

11. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining right- of-way of a public street or private street or a neighboring property.

12. Hours of operation shall be limited to 12:00 NOON to 10:00 PM, Monday through Saturday. All Sexually Oriented Businesses shall remain closed on Sundays and legal holidays.

13. All off-street parking areas shall comply with this Ordinance and shall be illuminated after sunset during all hours of operation of the Sexually Oriented Business, and until one (1) hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one (1) foot candle, with a 3:1 uniformity ratio. The illumination shall not reflect on and shall be screened from adjoining properties.

14. Any booth, room or cubicle available in any Sexually Oriented Business, except an adult motel, that is used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities shall:

    (a) Be handicap accessible to the extent required by law;

    (b) Be unobstructed by any floor, lock or other entrance and exit control device;

    (c) Have at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;

    (d) Be illuminated such that a person of normal visual acuity can, by looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and

    (e) Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code authority.

E. **Conditions.** Prior to the granting of approval for the establishment of any adult use, the Planning Commission and the Township Board may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the special land use as in its judgment may be necessary for the protection of the public interest. Any evidence bond or other performance guarantee may be required, as proof that the conditions stipulated in connection therewith will be fulfilled.

Article 13
Non-Conformities

Section 13.01 Intent

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the ordinance or amendment. Such nonconformities are not compatible with the current or intended use of land in the district in which they are located. Therefore, it is the intent of this Ordinance to permit such nonconformities to continue under certain conditions, but to discourage their expansion, enlargement, or extension. Accordingly, the purpose of this section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.

The following table summarizes the nonconforming regulations contained in this article:

SUMMARY OF NONCONFORMING REGULATIONS

ISSUE	REQUIREMENTS
Period of nonuse before nonconformity must cease	Nonconforming use: 180 days Nonconforming structure: 12 months
Establishment of new conforming use	Nonconforming use must cease
Change in ownership	No effect on nonconformity
Nonconforming single-family use	May be enlarged, subject to conditions
Substitution of one nonconformity for another	Permitted under certain conditions
Nonconformity lots under same ownership	Must be combined
Expansion of nonconformity use within building	Permitted subject to conditions
Expansion of nonconformity use beyond existing building	Not permitted
Enlargement of nonconforming structure	Not permitted
Maintenance, structural repairs	Generally permitted
Renovation, modernization	Maximum value: 25% of fair market value
Rebuilding after catastrophe of pre-catastrophe fair market value	Permitted if damage is less than 50%

Section 13.02 Definitions

For the purposes of this article, the following words and phrases shall have the meaning ascribed to them:

A. **Effective date.** Whenever this article refers to the "effective date," the reference shall be deemed to include the effective date of any amendments to this Ordinance if the amendments created a nonconforming situation.

B. **Nonconforming building.** A building or portion thereof that does not meet the limitations on building size, location on a lot, or other regulations for the district in which such building is located.

C. **Nonconforming lot.** A lot existing at the effective date of this Ordinance, or amendments thereof, that does not meet the minimum area or lot dimensional requirements of the district in which the lot is located.

D. **Nonconforming sign.** A sign that on the effective date of this Ordinance does not conform to one or more regulations set forth in this Ordinance.

E. **Nonconforming use.** A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.

F. **Structural nonconformity.** A nonconformity that exists when the height, size, or minimum floor space of a structure, or the relationship between an existing building and other buildings or lot lines, does not conform to the standards of the district in which the property is located. Also sometimes referred to as a dimensional nonconformity.

Section 13.03 General Requirements

The following regulations shall apply to all nonconforming uses, structures and lots:

A. **Continuation of nonconforming uses and structures.** Any lawful nonconforming use existing on the effective date of this Ordinance or amendment thereto may be continued and shall not be considered to be in violation of this Ordinance; provided that, unless otherwise noted in this article, the building and land involved shall neither be structurally altered, nor enlarged unless such modifications conform to the provisions of this Ordinance for the district in which it is located. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

B. **Buildings under construction.** To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has begun preparatory to rebuilding, such work shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.

C. **Discontinuation of nonconforming uses and structures.**

1. **Nonconforming structure.** When a nonconforming use of a structure, or structure and land in combination is discontinued or abandoned for 12 consecutive months or discontinued for any period of time without a present intention to reinstate the nonconforming use, the structure or structure and land in combination shall not thereafter be used except in conformance with the provisions of the district in which it is located.

2. **Nonconforming uses of open land.** If any nonconforming use of open land ceases for any reason for a period of more than 180 days, any subsequent use of such land shall conform to the provisions set forth of the district in which it is located.

3. **Seasonal uses.** In applying this subsection to seasonal uses, the time during the off-season shall not be counted.

D. **Purchase or condemnation**. In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Township, pursuant to Section 208, Public Act 110 of 2006, as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of nonconforming uses.

E. **Recording of nonconforming uses and structures.** The building official shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in existence on the effective date of this Ordinance. Failure on the part of a property owner to provide the building official with necessary information to determine legal nonconforming status may result in denial of required or requested permits.

F. **Establishment of a conforming use or structure.** In the event that a nonconforming principal use or structure is superseded by a conforming principal use or structure on a site, the nonconforming use or structure shall be immediately and permanently removed.

G. **Change of tenancy or ownership.** In the event there is a change in tenancy, ownership, or management, an existing nonconforming use or structure shall be allowed to continue provided there is no change in the nature or character of such nonconformity.

H. **Exceptions and variances.** Any use for which a special exception or variance has been granted as provided in this Ordinance shall not be deemed a nonconformity.

I. **Unlawful nonconformities.** No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

J. **Nonconforming single-family uses.** Notwithstanding the limitations outlined in this article, any structure used for single-family residential purposes and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements.

K. **Substitution.** A nonconforming use may be changed to another nonconforming use upon approval of the zoning board of appeals provided that no structural alterations are required to accommodate the new nonconforming use, and that the proposed use is equally or more appropriate in the district than the existing nonconformity. In permitting such a change, the zoning board of appeals may require conditions to accomplish the purposes of this Ordinance.

L. **Change of location.** Should a nonconforming structure be moved to another parcel or to another location on the same parcel for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 13.04 Nonconforming Lots of Record

The following regulations shall apply to any nonconforming lot of record or nonconforming lot described in a deed or land contract executed and delivered prior to the effective date of this Ordinance or amendment thereto:

A. **Use of nonconforming lots.** Any nonconforming lot shall be used only for a use permitted in the district in which it is located. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of in existence record at the effective date of adoption or amendment thereto. This provision shall apply even though such single-family lot fails to meet the requirements for area or width, or both, provided that:

1. The lot width, area, and open space are not less than 75 percent of the requirements established for the district in which the lot is located; and

2. The lot can be developed as proposed without any significant adverse impact on surrounding properties or the public health, safety and welfare.

B. **Variance from area and bulk requirements.** If the use of nonconforming lot requires a variation from the area or bulk requirements, then such use shall be permitted only if a variance is granted by the zoning board of appeals.

C. **Nonconforming contiguous lots under the same ownership.** If two or more lots or combination of lots with contiguous frontage in single ownership are of record at the time of adoption or amendment of this Ordinance, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lots involved shall be considered to be an individual parcel for the purposes of this Ordinance. No portion of said parcel shall be used, occupied, or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of a parcel be made which creates a lot with width or area less than the requirements stated in this Ordinance. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by an existing home.

D. **Combination of nonconforming lots.** Upon application to the township board, the township board may permit the combination, in whole or in part, of nonconforming lots of record into building sites less than the size requirements established by this Ordinance; provided that the combination of lots reduces the degree of nonconformity and results in a parcel which is capable of accommodating a structure that is in conformance with the building area, setback, and side yard requirements of this Ordinance.

Section 13.05 Modification to Nonconforming Uses or Structures

No nonconforming use or structure shall be enlarged, extended, or structurally altered, nor shall any nonconformity be changed to a different nonconformity which increases the intensity of use or nonconformity, except as specifically permitted by the regulations which follow:

A. **Applicability.** The following regulations shall apply to any nonconforming use or structure, including:

1. Nonconforming uses of open land.

2. Nonconforming use of buildings designed for a conforming use.

3. Nonconforming use of buildings specifically designed for the type of use which occupies them but not suitable for a conforming use.

4. Buildings designed and used for a conforming use but not in conformance with area and bulk, parking, loading, or landscaping requirements.

5. Nonconforming structures, such as fences and signs.

B. **Enlargement, extension or alteration.**

1. **Increase in nonconformity prohibited.** Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of any nonconformity. For example, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

   (a) An increase in the total amount of space devoted to a nonconforming use; or

   (b) Greater nonconformity with respect to dimensional restrictions, such as setback requirements, height limitations, density requirements, or other requirements in the district in which the property is located.

2. **Permitted extension.** Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building. No nonconforming use of land shall be enlarged, increased, or extended to occupy a greater area of land, nor shall any such use be moved in whole or in part to any portion of the lot or parcel than was occupied on the effective date of this Ordinance or amendment thereto.

3. **Alterations that decrease nonconformity.** Any nonconforming structure or any structure or portion thereof containing a nonconforming use, may be altered if such alteration serves to decrease the nonconforming nature of the structure or use. The zoning board of appeals shall determine if a proposed alteration will decrease the degree of nonconformity.

4. **Variance to area and bulk requirements.** If a proposed alteration is deemed reasonable by the zoning board of appeals by virtue of the fact that it would decrease the nonconforming nature of a structure or use, but such alteration requires a variation of the area or bulk requirements, then such alteration shall be permitted only if a variance is granted by the zoning board of appeals.

C. **Repairs, improvements and modernization.**

1. **Required repairs.** Repairs or maintenance deemed necessary by the building official to keep a nonconforming building structurally safe and sound are permitted. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the building official, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.

2. **Additional permitted improvements.** Additional repairs, improvements, or modernization of nonconforming structures, beyond what is required to maintain the safety and soundness of the structure, shall be permitted provided such repairs or improvements do not exceed 25 percent of the market value (as determined by the township assessor) of the structure during any period of 12 consecutive months. Any such repairs, improvements, and modernization shall not result in enlargement of the cubic content of the nonconforming structure. The provisions in this subsection shall apply to all structures except as otherwise provided in this article for single-family residential uses and for reconstruction of structures damaged by fire or other catastrophe.

D. **Damage by fire, flood or other catastrophe.**

1. Any nonconforming structure or structure housing a nonconforming use that is damaged by fire, flood or other catastrophe in excess of 50 percent of the structure's pre-catastrophe fair market value (as determined by the township assessor) shall not be rebuilt, repaired or reconstructed except in complete conformity with this Ordinance.

2. Any nonconforming structure or structure housing a nonconforming use that is damaged by fire, flood or other catastrophe by less than or equal to 50 percent of the structure's pre-catastrophe fair market value (as determined by the township assessor) may be restored to its pre-catastrophe status.

3. Proposals to rebuild, repair, reconstruct or restore require appropriate township building department approvals and permits.

Article 14
Prohibited Uses

Section 14.01 Any Obnoxious Uses

No building or structure or any part thereof shall be erected, altered or used or land or premises used in whole or in part, for any of the following uses in any District under This Ordinance: any process or activity resulting in the emission of odor, fumes, dust, smoke, waste, noise or vibration which shall make it obnoxious to the public interest, health, or welfare.

Article 15
Administration

Section 15.01 Zoning Administration

A Zoning Administrator shall be appointed by and on terms as shall be determined by the Bengal Township Board. The administrator shall perform such duties as the Township Board may prescribe by This Ordinance.

Section 15.02 Eligibility

To be eligible for appointment the Zoning Administrator shall be generally informed on good building construction, on good practice in fire prevention and the proper installation of safety, health and sanitary facilities. They shall be in good health and capable of fulfilling their duties. In case they have a personal interest in the construction of any building subject to the provisions of This Ordinance, the Township Board shall designate some other person to examine the plans, to inspect such building and to issue the necessary permits, approvals and certificates.

Section 15.03 Duties

It shall be the duty of the Zoning Administrator to receive applications for Land Use Permits and issue or deny the same; to inspect buildings, structures for Land Use Permits and issue or deny the same; to inspect buildings, structures or sites; to determine compliance with the Land Use Permits issued in compliance with This Ordinance, and to be in charge of the enforcement of This Ordinance.

Section 15.04 Zoning Compliance Permits

Any individual, corporation, association, Officer, department, board or bureau of the Federal, State, County or Township; planning to erect a building or structure, or to alter any existing structure, requiring the use of more land area, or to establish a new use for any premises in any zoning district, shall file an application in writing with the Zoning Administrator for a Zoning Compliance Permit. Applications for such permits shall include a legal description, length and width of lot, dimensional size and location of all structures to be erected, water supply and sewage system. The Zoning Administrator, at his or her discretion, can require an applicant to obtain and submit a professional property survey of the project area, that is both signed and sealed by a licensed surveyor, prior to issuing the applicant a Zoning Compliance Permit.

For any “Special Land Use Permitted by Special Approval,” application for approval shall be accompanied by a Site Plan of the proposed use. Said Site Plan shall establish, in the opinion of the Planning Commission, that the proposed use will not adversely affect, damage or destroy through alteration or development the health or welfare of Township residents, the natural features, the environmental sensitivity and or archeological or historical significance of said land or the Site Plan will not be approved by the Planning Commission. Requirements for the contents of Site Plans are contained in Article 16. A Site Plan, if required, must be approved by the Planning Commission prior to commencement of any site activities.

Any structure requiring a Zoning Compliance Permit must be completed on the exterior surface with a suitable finishing material, within one (1) year from date of issuance of the Zoning Compliance Permit, except that in such cases where the Permit is issued for the building only of a "basement home" such a home shall be considered a partial home and the superstructure shall be built and completed on the exterior as described above within three (3) years from date of issuance of the original Zoning Compliance Permit. If hardship can be shown, only on approval of the Zoning Board of Appeals a Zoning Compliance Permit may be renewed for one (I) additional year by payment of an additional fee.

A Zoning Compliance Permit does not preclude the need for approvals or permits from other Federal, State, County, or Municipal authorities as may be required by law. Permittee further agrees to indemnify and not to sue Bengal Township and all of its departments, agencies, boards, commissions, Officers, employees, or agents from any and all liability arising under or in any manner related to the issuance of the Permit or the privileges granted under a Permit.

Section 15.05 Distribution of Zoning Compliance Permits

Each Zoning Compliance Permit shall be in triplicate and the copies shall be distributed as follows: one to the applicant which s/he is to retain until construction is completed; one to the Township Supervisor; and one to be retained by the Zoning Administrator as a part of the permanent records of the Township.

Section 15.06 Denial of Permits

The Zoning Administrator shall promptly inform the applicant of the denial of a "Zoning Compliance Permit" if, in their opinion, such planned building or structure or land use does not comply with the provisions of This Ordinance. The reason for denial will be indicated on the application and a copy provided to the applicant. The denial will be the applicant's basis for appeal if desired. See Article 20 on Appeals.

Section 15.07 Fees

Administrative fees shall be set annually by the Township Board.

Section 15.08 Public Notification

All meetings and actions requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006 and the other provisions of this section with regard to public notification.

A. **Responsibility.** When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Bengal Township and mailed or delivered as provided in this Section.

B. **Content.** All mail, personal and newspaper notices for public hearings shall:

C. **Describe the nature of the request.** Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.

D. **Location.** Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or

including a map showing the location of the property. Street addresses need not be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

1. When and where the request will be considered. Indicate the date, time and place of the public hearing(s).

2. Written comments: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

3. Handicap access: Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

E. **Personal and Mailed Notice.**

1. **General:** When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:

   (a) The owner(s) of the property for which approval is being considered, and the applicant, if different than the owner(s) of the property.

   (b) Except for rezoning requests involving eleven (11) or more adjacent properties or ordinance interpretation not involving a specific property, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of Bengal Township. In the case of hearings regarding Wireless Communication Facilities, Section 4.11 of this Ordinance, all persons to whom real property is assessed within the radius of the separation distance between towers for the application under consideration will be given personal or mailed notice. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

   (c) All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice to Section 15.09 (below), Registration to Receive Notice by Mail.

   (d) Other governmental units or infrastructure agencies within (insert distance, such as 1 mile) of the property involved in the application.

2. **Notice by mail/affidavit:** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered. If another delivery service is used the Zoning Administrator shall make a record of the service used and the manner in which it was addressed to the recipient.

F. **Timing of Notice.** Unless otherwise provided in the Michigan Zoning Enabling Act, PA110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

1. For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval. For those receiving personal notice, notice must be received by mail or personal notice not less than fifteen days before the hearing.

Section 15.09 Registration to Receive Notice by Mail

A. **General.** Any Neighborhood organization, public utility, company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval pursuant to Section 15.08.C.c, Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.

B. **Requirements.** The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must re-register bi-annually (or some other period) to continue to receive notification pursuant to this Section.

Section 15.10 Amendments

A. Any individual, association, department, board or bureau of the State, County or Township affected by this Ordinance may submit a petition in writing to the Secretary of the Planning Commission, requesting that consideration be given to amendment of this Ordinance in the particulars set out in the petition. The person submitting such petition, if it is a request for rezoning, shall furnish the Secretary of the Planning Commission with the legal description of the property involved and an original and three (3) copies of a good and sufficient plot of the property showing all boundary dimensions and the relationship of all adjoining properties (including those access roads and streets). Upon receipt of such petition, the Secretary will present the petition to the Planning Commission at the next regularly scheduled meeting. The Township Planning Commission shall then, within forty-five (45) days, hold a public hearing to consider such petition.

B. Notice of the public hearing will be made according to the Public Notification Section 15.08 of this Zoning Ordinance.

C. Proposed additions or amendments to this Ordinance will be forwarded to the County Planning Commission for review and comment. The Township Planning Commission shall review the County Planning Commission's comments and then forward the additions or amendments to the Township Board for consideration for approval and adoption into the Ordinance. The Township Board may adopt or decline to adopt the proposed additions or amendments as submitted by the Township Planning Commission; or refer the proposed additions or amendments back to the Township Planning Commission with recommendations for further consideration.

D. The Township Board shall grant a hearing on a proposed addition or amendment to a Bengal Township property owner who requests a hearing by certified mail, addressed to the Bengal Township Clerk.

Section 15.11 Traffic Impact Studies

Bengal Township recognizes the direct correlation between land use decisions and traffic operations. The intent of this Section is to permit accurate evaluation of expected impacts of proposed projects to assist in decision-making.

A. **Applicability.** A traffic impact analysis, statement or assessment may be required for any petition for any zoning amendment, site plan, or special land use plan filed under the provisions of this Ordinance. The type of study required shall be dependent upon the type and scale of the proposal and existing traffic conditions and initiated at the request of the Planning Commission if one of the following situations exist:

1. **Zoning Amendment Traffic Impact Study.**

   (a) A proposed zoning amendment consistent with the Comprehensive Plan, but when the timing of the change may not be appropriate due to traffic issues. This threshold applies when a zoning amendment would permit uses that could generate 100 or more directional trips during the peak hour, or at least 1,000 more trips per day, than the majority of the uses that could be developed under current zoning.

   (b) A proposed zoning amendment which is inconsistent with the Comprehensive Plan when permitted uses could generate at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets or over seven hundred fifty (750) trips in an average day.

   (c) A site along any corridor identified as a critical, congested, or safety management corridor by the metropolitan planning organization, long range transportation plan, or the Comprehensive Plan.

   (d) Proposed amendments to the Comprehensive Plan which would contemplate or recommend uses, or change future land use categories that would generate higher traffic volumes.

   (e) The requirements of the Zoning Amendment Traffic Impact Study may be waived or modified by the Planning Commission.

2. **Regional Traffic Impact Analysis.** Regional Traffic Analysis: The type of study which is much more comprehensive, focusing on the impacts over a long period. In most cases, a regional traffic analysis will need to be prepared using a computer model which simulates daily traffic on the transportation network. The model projects traffic based on the expected future development pattern and roadway network. A regional traffic analysis may involve evaluation of a number of optional routes, including future roadways. Such a study may also involve a number of projects being developed separately in the same general area.

   (a) A Regional Traffic Impact Analysis may be required for projects that generate over 500 peak-hour directional trips or significant traffic volumes impacting a wide geographic area.

   (b) A Regional Traffic Impact Analysis may be required for projects that are located along a “critical”, safety management or “congested corridor” as defined by the metropolitan planning organization, or as identified in the Comprehensive Plan, or long range transportation plan.

   (c) The requirements of the Regional Traffic Impact Analysis may be waived or modified by the Planning Commission.

3. **Development Proposal Traffic Impact Statement, or Assessment.** Site plans, plats, and mobile home parks. A traffic impact assessment is recommended for smaller scale projects which should not have a significant impact on the overall transportation s system, but will have impacts at the site access. The analysis for this type of study focuses on site access points. The traffic impact statement evaluates impacts at site access points and appropriate nearby intersections.

   (a) A Traffic Impact Statement may be required for any proposed development which would be expected to generate over one hundred (100) directional trips during the peak hour of the traffic

generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day.

(b) A Traffic Impact Assessment may be required for projects that could generate 50-99 directional trips during a peak hour.

(c) A Traffic Impact Statement may be required for any proposed development along a corridor identified in the Comprehensive Plan, or long range transportation plan, or by the metropolitan planning organization as a critical, congested, or safety management corridor which would be expected to generate over fifty (50) directional trips during the peak hour of the traffic generator or the adjacent streets, or over five hundred (500) trips in an average day.

(d) Traffic Impact Statement or Assessment, based on the thresholds in the first and second bullets above, may be required for new phases or changes to a development where a traffic study is more than two (2) years old and roadway conditions have changed significantly (volumes increasing more than 2 percent annually).

(e) A Traffic Impact Assessment may be required for a change or expansion at an existing site where the increased land use intensity is expected to increase traffic by at least fifty (50) directional trips in a peak hour or result in at least 750 vehicle trips per day for the entire project. A Traffic Impact Statement shall be required if the traffic is expected to increase by over 100 directional trips in the peak-hour.

4. **Other Traffic Impact Assessment/Statement/Analysis.**

(a) Special (conditional) land uses, planned unit developments, and other uses that are specifically required to provide a traffic impact study in the zoning ordinance. The type of study shall be based on the thresholds listed subsections one (1), two (2) and three (3), above.

(b) A change in a Planned Unit Development (PUD) to a more intense use, which is determined by the Planning Commission on a case-by-case basis or using thresholds similar to those above.

(c) Where required by the applicable road agency to evaluate access issues.

Article 16
Procedures for Site Plan Review

Section 16.01 Requirements for Site Plan

Site Plan Review and approval of all development proposals listed below are required by the provisions of this Section. All single-family residential developments are exempt from site plan review, except as noted in A below. The intent of this Section is to provide for consultation and cooperation between the developer and the Planning Commission so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding land uses consistent with the requirements and purposes of this Ordinance. One or more provisions of this Section may be waived by the Planning Commission if, in the opinion of the Planning Commission, those provisions are not applicable to the proposed development. Through the application of the following provisions, the attainment of the aims of the Bengal Township Comprehensive Plan will be assured and the Township will develop in an orderly fashion.

A. **Uses Requiring Site Plan Review.** A site plan shall be submitted to the Planning Commission for approval of any buildings, structures, and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development and shall also be required in the following situations:

1. All Special uses in all districts.
2. Any use of development for which the submission of a site plan is required by any provision of this Ordinance.
3. Any development, except single-family residential, for which off-street parking areas are provided as required in this Ordinance.
4. Any proposed multifamily or nonresidential use lying contiguous to or across a street from a single-family residential use within the agricultural district and/or use or agricultural district and/or use.
5. Any use except single-family residential which lies contiguous to a major thoroughfare or collector street.
6. All other developments, except single family residences, in which ownership interests in land are transferred for the purpose of development of a physical structure and which do not fall under the requirements of the Land Division Act of 1996 as amended (MCLA 560.101 et seq.).
7. All developments in wetlands or 100-year floodplain area, including individual single- family homes for which a permit is required by the DEQ.
8. All additions to existing non-conforming uses.
9. Any new or expanded private road.

B. **Application for Site Plan Review.** An application for Site Plan Review shall be submitted to the Zoning Administrator. The detailed site plan presented for consideration shall contain all information required in this Ordinance. The Zoning Administrator shall determine that the Site Plan Application is administratively complete before submitting it to the Planning Commission.

1. Each submittal for Site Plan Review shall be accompanied by an application and site plan in the quantities specified in E of this Section. The application shall at a minimum, include the following:

   (a) The applicant's name, address, and phone number in full.

   (b) Proof of property ownership, and whether there are any options on the property, or any liens against it.

   (c) A signed statement that the applicant is the owner of the property or officially acting on the owners behalf.

   (d) The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).

   (e) The address and/or property tax number of the property.

   (f) Name and address of the developer (if different from the applicant).

   (g) Name and address of the engineer, architect and/or land surveyor.

   (h) Project title.

   (i) Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by this ordinance.

   (j) A vicinity map drawn at a scale of 1" = 2000' with north point indicated.

   (k) The gross and net acreage of all parcels in the project.

   (l) Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.

   (m) Project completion schedule/development phases.

   (n) Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.

2. The site plan shall consist of an accurate, reproducible drawing at a scale of 1" =100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:

   (a) Location of proposed and/or existing property lines, dimensions, legal description, setback lines and monument locations.

   (b) Existing topographic elevations at two-foot intervals, proposed grades and direction of drainage flow.

   (c) The location and type of existing soils on the site and any certifications of borings.

   (d) Location and type of significant existing vegetation.

(e) Location and elevations of existing watercourses and water bodies, including county drains and man-made surface drainage ways, floodplain and wetlands.

(f) Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building.

(g) Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.

(h) Location of existing public roads, rights-of-way, and private easements of record and abutting streets.

(i) Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.

(j) Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.

(k) Location, size, and characteristics of all loading and unloading areas.

(l) Location and design of all sidewalks, walkways, bicycle paths and areas for public use.

(m) Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention and detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems if applicable.

(n) Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.

(o) Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.

(p) Location, size and specifications of all signs and advertising features with cross- sections.

(q) Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.

(r) Location and specifications for all fences, walls, and other screen features with cross- sections.

(s) Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

(t) Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.

(u) Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.

(v) Identification of any significant site amenities or unique natural features.

(w) Identification of any significant views onto or from the site to or from adjoining areas.

(x) North arrow, scale and date of original submittal and last revision.

(y) Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan, if same is required to secure a building permit.

(z) Deed restrictions, Master Deed restrictions, and bylaws as applicable, for Township review to insure that any use or development which requires site approval, its Master Association, and the applicant have provided for the continual maintenance of the development's services and facilities, to insure protection of the natural environment; compatibility with adjacent uses of land in a socially and economically desirable manner.

C. **Site Plan Review and Approval.**

1. The Planning Commission as specified in this Section, shall review and approve, review and approve with conditions, or review and deny all site plans submitted under this Ordinance. Each site plan shall comply with the "Standards for Granting a Site Plan Approval" as described in H of this Section. Each action taken with reference to site plan review shall be duly recorded in the official record of action by the Planning Commission. The Zoning Administrator shall forward any site plan received to the Planning Commission for review. Prior to any final decision, the Bengal Township Planning Commission may seek the recommendation of the Clinton County Inspections Department, Planning Director, appropriate community fire chief, the Clinton County Road Commission, Clinton County Health Department, Clinton County Drain Commissioner, the Department of Transportation, the Michigan Department of Environmental Quality, and any other agency or official deemed necessary and having jurisdiction in the area of the proposed development. After approval of a site plan there shall be a seven (7) day waiting period, to allow for any appeals to the site plan to be filed.

2. All site plans shall be acted upon within ninety (90) days of receipt by the Bengal Township Planning Commission of a complete application and site plan meeting the requirements in B of this Section. This review period may be extended upon written agreement between the applicant and the Planning Commission. Following approval of a site plan and after the seven (7) day waiting period for appeals, the petitioner shall apply for the appropriate County and/or State permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

D. **Procedures for Submission and Review of Application for Major Projects.**

1. All developments ten thousand (10,000) square feet, or greater, of structure or greater than ten (10) acres in size, are major projects which require preliminary site plan review by the Planning Commission pursuant to the requirements below. All other projects are either minor projects (see E below) subject to review and approval by the Planning Commission or amendments to existing site plans which are processed pursuant to the requirements in M of this Section below.

2. **Submission Requirements.** The applicant shall complete and submit the required number of copies of an application for Site Plan approval, site plans, and other information where applicable (see F: Distribution of Required Copies and Action Alternatives). Compliance with the requirements of the Zoning Ordinance is mandatory. The applicant or his/her representative must be present at each scheduled review or the matter will be tabled for a maximum of two consecutive meetings due to lack of representation. After two meetings, reapplication for site plan review will be necessary. The procedure for processing major project site plans includes three phases: conceptual review via a pre- application conference, preliminary site plan review and final site plan approval.

3. **Pre-application Conference.** During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on the availability of public infrastructure are discussed. A prospective applicant with the Planning Commission and Zoning Administrator schedules this conference. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for a variance.

4. **Preliminary Site Plan Review.** The second phase is called Preliminary Site Plan Review. At this step, a preliminary site plan meeting is scheduled. This meeting will be handled as a public hearing. Notice of the public hearing will be made according to Act 110 of Public Acts of 2006 Public Notification Section of the Township Zoning Ordinance. Verification of the Applicant's compliance with the submittal requirements of this Ordinance (see G in this Section) is reviewed by the Planning Commission, and the changes necessary, if any, for final site plan approval are indicated in writing to the applicant.

5. **Final Site Plan Review.** Final Site Plan approval shall be considered by the Planning Commission at a regular meeting. The Planning Commission shall indicate in writing that all requirements of the Ordinance, including those of other reviewing agencies within Bengal Township, have been met, including any conditions that may be necessary. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.

6. Data submittal requirements are be specified in F of this Section.

E. **Procedures for Submission and Review of Application for Minor Projects.**

1. All developments less than ten thousand (10,000) square feet of structure, and ten (10) acres in size or smaller, are minor projects which may be reviewed by the Planning Commission pursuant to the requirements below. All other projects are either major projects (see D of this Section) subject to review and approval by the Planning Commission or amendments to existing plans which are processed pursuant to the requirements in M of this Section.

2. The Planning Commission may review and approve the following site plans:

   (a) Accessory uses incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all the requirements of this Ordinance.

   (b) Expansion and/or addition to an existing conforming use where said site plan conforms with all the requirements of this Ordinance and does not increase the size of the existing use or structure more than ten percent (10%) of the present size.

   (c) Accessory storage buildings in all Zoning Districts.

   (d) Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces in commercial and industrial Zoning Districts, and landscape improvements as required by this Ordinance.

   (e) For those conditional land uses so specifically identified in this Ordinance.

   (f) Amendments to approved site plans.

   (g) Final site plans.

(h) Any other site plan review not delegated for review by the Planning Commission.

3. The Planning Commission shall apply all applicable standards and procedures of this Ordinance in approving, conditionally approving or denying site plans.

4. Data submittal requirements shall be as specified in F.6 below.

F. **Distribution of Required Copies and Action Alternatives.** Where Site Plan Review is required by this Ordinance, an applicant for Site Plan Approval shall complete and submit copies of an Application for Site Plan Approval, site plans, and other information where applicable, as set forth below.

1. The Application for Site Plan Approval must be obtained from the Planning Commission. The applicant is asked to keep one copy for his/her records. The applicant shall return the original and four (4) copies of the application and five (5) copies of the Site Plan to the Planning Commission at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission for the purpose of preliminary site plan review.

2. At the same time the original and four (4) copies of the application are returned to the Planning Commission, the applicant shall distribute an additional three (3) copies of the site plan for review to the local Fire Department, County Inspections Department, and Clinton County Planning Department. Application fees as found in the Bengal Township Fee Schedule must be paid when the application is submitted and sufficient escrow account must be established to cover the projected review costs.

3. The applicant shall submit three (3) copies of the Application for Site Plan review and six (6) copies of the site plan to the following agencies: One (1) application and two (2) site plans to the County Road Commission; one (1) application and two (2) site plans to the County Drain Commission; and one (1) application and two (2) site plans to the Clinton County Health Department. These agencies will keep the application and one copy of the site plan. Upon delivery of the application and site plans; the applicant shall obtain a receipt from the agencies as proof of delivery or a stamped, signed site plan indicating no comment. Three (3) copies of the site plan, one from each agency, should be returned, with comments from each agency, if any, to the Planning Commission. Without these copies, the site plan will not be processed.

4. For preliminary review purposes, an application for major project Site Plan Reviews will be placed on the agenda of a regular meeting of the Planning Commission for discussion and action only after receipt of the comments from State and County agencies, unless the site plan has been in the possession of the review agencies for thirty (30) days without review and/or comment.

5. The Planning Commission will consider all applications for site plan review submitted to it for approval, revision, or disapproval at a scheduled meeting:

(a) The Planning Commission shall prepare a report of each and every site plan submitted in accordance with this section, containing a synopsis of the relevant facts contained in and related to this site plan, together with the Planning Commission's proposed determination.

(b) Upon determination of the Planning Commission that a site plan is in compliance with the Zoning Ordinance and other plans or regulations, it shall be so indicated on the site plan.

(c) Upon determination of the Planning Commission that a site plan is in compliance, except with minor revisions, said changes shall be so indicated. When these changes have been adequately provided, the petitioner shall resubmit the site plan to the Planning Commission for final site plan approval.

(d) If extensive revisions to the site plan are necessary to meet the Zoning Ordinance, and other applicable plans and regulations, the site plan shall be disapproved and the applicant requested to

prepare an alternate site plan. In this case, "DISAPPROVAL" shall be written on the plan and reasons for disapproval indicated in the Planning Commission's resolution.

6. Any site plans reviewed and approved by the Planning Commission pursuant to 5 of this Section and all final site plans shall have the same submittal requirements and action alternatives as for preliminary site plans described in the above requirements with the following exceptions.

   (a) Five (5) copies of the final site plan and related information shall be submitted.

   (b) Up to six (6) copies may be distributed to other reviewing agencies as determined necessary by the Planning Commission.

   (c) Initial action shall be taken within thirty (30) DAYS.

   (d) Approval of a final site plan shall be by the Planning Commission.

7. When a site plan is reviewed and approved or disapproved by the Planning Commission, and all steps completed, three (3) copies of the site plan will be marked by the Planning Commission for the following distribution:

   (a) One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission including any conditions of approval.

   (b) One (1) copy forwarded to the County Inspections Department for filing.

   (c) One (1) copy forwarded to the Planning Commission for filing.

8. Upon Final Site Plan Approval by the Planning Commission, and after a seven (7) day waiting period, for appeals, a building permit may be obtained subject to review and approval of the County Inspections Department.

9. Failure to initiate construction of an approved site plan within 365 days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. Thirty (30) days prior to the expiration of an approved site plan, an applicant may make application for a one (1) year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. The applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission. No more than one (1) extension shall be granted.

10. After such an appearance, the Planning Commission may revoke a previously "Approved Site Plan" for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

    (a) an error in the original approval is discovered either because of inaccurate information supplied by the applicant or an administrative error by a staff member or other agency;

    (b) zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;

    (c) a change in state law, local charter, or other local ordinance affecting the previous approval has occurred;

    (d) pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved;

(e) if more than one (1) year has lapsed or two (2) years, if an extension was granted, since approval of the final site plan, pursuant to G(h). above.

11. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The County Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.

12. Any subsequent re-submittal shall be processed as a new request with new fees, except for minor amendments pursuant to M of this Section.

G. **Standards for Granting Site Plan Approval.**

1. Each site plan shall conform to all applicable provisions of this Zoning Ordinance and the standards listed below:

(a) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

(b) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

(c) Site plans shall fully conform to published surface water drainage standards of the County Drain Commission.

(d) Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring property owners.

(e) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

(f) All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides.

(g) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

(h) There shall be provided a pedestrian circulation system that is insulated as completely as reasonably possible from the vehicular circulation system.

(i) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential uses within the agricultural district or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant material no less than six (6) feet in height.

(j) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

(k) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are a part of an existing or planned street pattern which serves adjacent

development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified by the County Road Commission.

(l) All streets shall be developed in accordance with the Land Division Act and the County Road Commission specifications.

(m) Site plans shall fully conform to the driveway and traffic safety standards of the Michigan Department of Transportation and/or the County Road Commission.

(n) Site plans shall fully conform to the applicable fire safety and emergency vehicle access requirements of the State Construction Code and/or local Fire Code.

(o) Site plans shall fully conform to the Soil Erosion and Sedimentation Control

(p) Site plans shall fully conform to the requirements of the Michigan Department of Public Health and the District Health Department.

(q) Site plans shall fully conform to all applicable state and federal statutes.

(r) Site plans shall conform to all applicable requirements of local, state and federal statutes and approval shall be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

H. **Conditional Approvals.**

1. The Planning Commission may conditionally approve a site plan in conformance with the standards of another local, county or state agency, such as but not limited to a Water and Sewer Department, County Drain Commission, County Road Commission, State Highway Commission or Environmental Quality Department. They may do so when such conditions:

   (a) would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,

   (b) would protect the natural environment and conserve natural resources and energy,

   (c) would insure compatibility with adjacent uses of land, and

   (d) would promote the use of land in a socially and economically desirable manner.

2. The Planning Commission may conditionally approve a site plan for its conformance with fencing, screening, buffering or landscaping requirements of this Ordinance and may collect a performance guarantee consistent with the requirements of K of this Section (below) to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:

   (a) that such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;

   (b) that absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

I. **Conformity to Approved Site Plan Required.** Following final approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this Ordinance and subject to the sanctions of this Ordinance.

J. **Performance Guarantee Required.** In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of Bengal Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission, subject to Township Board approval, may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

1. Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of improvements to be made as determined by the applicant and verified by the Bengal Township Planning Commission, subject to Township Board approval.

2. When a performance guarantee is required, said performance guarantee shall be deposited with the Bengal Township Clerk prior to the issuance of a building permit by the County Building Inspector for the development and use of the land. Upon the deposit of the performance guarantee the Bengal Township Clerk shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest- bearing account to the applicant.

3. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.

4. In the event the performance guarantee is a cash deposit or certified check, the Bengal Township Clerk shall rebate to the applicant fifty (50%) percent of the deposited funds when sixty (60%) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50%) percent of the deposited funds when one hundred (100%) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with the Zoning Ordinance standards and the specifications of the approved site plan.

5. Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the Zoning Administrator, the Bengal Township Clerk shall return to the applicant the performance guarantee deposited and any interest earned thereon.

6. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township's administrative costs in completing the improvements, with any balance remaining being refunded to the applicant. If the applicant has been required, prior to the Bengal Township conditional approval, to post a performance guarantee or bond with another governmental agency other than Bengal Township to insure completion of an improvements associated with the proposed use, the applicant shall not be required to deposit with the Township a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Bengal Township Clerk and prior to the issuance of a building permit, the applicant shall enter into an agreement incorporating the provisions herein with the Township regarding the performance guarantee.

K. **Operation Guarantee Required.** The Township Board, if so empowered by State or Federal Statute, may require an appropriate guarantee to assure continued operation of any portion of use or a development, which requires site approval.

L. **Amendments to Approved Site Plans.**

1. Amendments to an approved site plan may be made by the Planning Commission provided that such changes conform to the Zoning Ordinance and the landowner agrees. Minor changes to an approved site plan may be approved by the Planning Commission after construction has begun provided no such change results in any of the following.

   (a) A significant change in the use or character of the development.

   (b) An increase in overall coverage of structures.

   (c) A significant increase in the intensity of use.

   (d) A reduction in required open space.

   (e) A reduction in required off-street parking and loading.

   (f) A reduction in required pavement widths or utility pipe sizes.

   (g) A significant increase in traffic on public streets or an increase in the burden on public utilities or services.

2. No fees shall be required for the following minor amendments:

   (a) Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s). Relocation of building entrances or exits, or shortening of building canopies.

   (b) Changing to an equal or more restricted use provided there is no reduction in the amount of off-street parking as originally provided.

   (c) Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or in reduction of aisle width below ordinance requirements.

(d) Moving of ingress or egress drives a distance of not more than 100 ft. if required by the appropriate state, county or other local road authority with jurisdiction.

(e) Substituting landscape plan species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effect.

(f) Changing type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of the light at the property boundaries.

(g) Increase peripheral yards.

(h) Changing the location of an exterior building wall or location no more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.

3. If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change, he/she shall notify the permit holder, the County Building Inspector, and the Planning Commission in writing that site plan approval has been suspended pending approval by the Planning Commission, of the proposed amendment. The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop work order shall be issued by the County Building Inspector for that portion of the project, which is not in compliance with the Ordinance. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the Ordinance requirements, or of restarting the Site Plan Review process. When the issue has been resolved, the Zoning Administrator shall send written notice to the permit holder, the County Building Inspector, and the Planning Commission that the project's site plan has again been approved. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

M. **Appeals of Final Site Plans.**

1. The Bengal Township Planning Commission shall give final approval to all Site Plans.

2. Any person aggrieved by a decision of the Planning Commission in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.

3. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

N. **As-Built Site Plan.** Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator three (3) copies of an "as built" site plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as built plans among the appropriate departments for review to insure conformity with the approved site plan and other County requirements. Once each department has approved the as built plans the Zoning Administrator will make the final inspection and then notify the County Inspections Department of approval or disapproval.

O. **Land Clearing.** Prior to site plan approval, or prior to the lapse of the seven (7) day waiting period, after approval, no person shall undertake or carry out any such activity or use, including any grading, clear, cutting

and filling, excavating, or tree removal associated therewith for which site plan approval is first required by this Ordinance. Nor shall such activity commence prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or flood plains permits. Any violation of this provision is subject to the fines and penalties prescribed in this Ordinance for each day of the violation from the day of discovery of the incident until an approved restoration plan, or an approved site plan is granted.

P. **Fines and/or Penalties.** A fine and/or penalty may be assessed by the Zoning Administrator for any violation of the Bengal Township Zoning Ordinance. The amount assessed will be based upon the nature of the violation, along with any other relevant facts and/or circumstances.

Article 17
Special Land Uses

Section 17.01 Intent

The procedures and standards in this article are intended to provide a consistent and uniform method for review of proposed special land uses. Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district. This article contains standards for review of each special land use proposal individually on its own merits to determine if it is an appropriate use for the district and specific location where it is proposed

Section 17.02 Procedures and Requirements

Special land use proposals shall be reviewed in accordance with the procedures in Article 16 for site plan review, except as follows:

A. **Public hearing required.** The township administration (supervisor or his/her designee) shall schedule a public hearing in accordance with section 103 of the Michigan Zoning Enabling Act.

B. **Planning commission final action.** The planning commission shall review the application for special land use, together with the public hearing findings and reports and recommendations the Township's consultants and other reviewing agencies. The planning commission shall then take action based on the requirements and standards of this Ordinance. The planning commission may approve, approve with conditions, or deny an application for approval of a special land use.

Section 17.03 Standards for Granting Special land Use Approval

Approval of a special land use proposal shall be based on the determination that the proposed use will comply with all applicable requirements of this Ordinance, including site plan review, development standards for specific uses, and the following standards:

A. **Compatibility with adjacent uses.** The proposed special land use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design of the proposed special land use shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:

   1. The location and screening of vehicular circulation and parking areas in relation to surrounding development.

   2. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.

3. The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.

4. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.

5. Proposed landscaping and other site amenities. Additional landscaping over and above the requirements of this Ordinance may be required as a condition of approval of a special land use.

B. **Compatibility with the master plan.** The proposed special land use shall be consistent with the general principles and objectives of the township's master plan and shall promote the intent and purpose of this Ordinance.

C. **Public services.** The proposed special land use shall be located so as to be adequately served by essential public facilities and services, such as highways, streets, police and fire protection, drainage systems, water and sewage facilities, and schools, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the special land use is established.

D. **Impact of traffic.** The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:

1. Proximity and access to major thoroughfares.

2. Estimated traffic generated by the proposed use.

3. Proximity and relation to intersections.

4. Adequacy of driver sight distances.

5. Location of and access to off-street parking.

6. Required vehicular turning movements.

7. Provisions for pedestrian traffic.

E. **Detrimental effects.**

1. The proposed special land use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental or hazardous to public health, safety and welfare.

2. In determining whether this requirement has been met, consideration shall be given to the level of traffic, noise, vibration, smoke, fumes, odors, dust, glare and light.

F. **Isolation of existing uses.** The location of the proposed special land use shall not result in a small residential area being substantially surrounded by nonresidential development, and further, the location of the proposed special land use shall not result in a small nonresidential area being substantially surrounded by incompatible uses.

G. **Based on need.** The planning commission and township board shall find that a need for the proposed use exists in the community at the time the special land use application is considered.

H. **Economic well-being of the community.** The proposed special land use shall not be detrimental to the economic well-being of those who will use the land, residents, businesses, landowners, and the community as a whole.

I. **Compatibility with natural environment.** The proposed special land use shall be compatible with the natural environment and conserve natural resources and energy.

Article 18
Open Space Preservation

Section 18.01 Intent

It is the intent of this Article to establish and implement the goals of the Bengal Township Comprehensive Master Plan, which, in part, directs the Township to provide for Articles to “maintain the rural character of the community” and “to protect and preserve our natural resources.” This Article intends to provide incentives to developers to design projects in such a way as to help the Township achieve its stated objectives of preserving agriculturally productive land, protect and preserve the natural environment and site housing in a manner that preserves the rural views of the neighborhood. This article recognizes the need to balance the growth of the population with the goals and objectives cited above. This balance is integral to meeting the Comprehensive Plan goal “to establish and maintain the vitality of the community.” This Article incorporates density bonuses for developers whose Site Plans support these agricultural and environmental objectives.

Section 18.02 Design Objectives for Clustered Developments

The following objectives are presented in order to give the Applicant guidelines of what Bengal Township is trying to achieve with Open Space Preservation and to assist in the preparation of the Site Plan. A Clustered Development Applicant should, to the most reasonable and feasible extent possible:

A. Protect and preserve all wetlands, floodplains and steep slopes (25% or greater) from clearing, grading, filling, or construction.

B. Preserve existing fields, orchards, and pastures, and creation of sufficient buffer areas to minimize conflicts between residential and agricultural uses.

C. Minimize the impacts on woodlands, especially those located on prime timberland soils or important farmland soils.

D. Preserve or create an undisturbed upland buffer of native vegetation of at least 100 feet (in depth) from adjacent surface waters.

E. Preserve the elevation of any rooftop in relation to the elevation of any ridgeline as seen from any public way. Existing trees should be retained or new plantings be made to lessen the visual impact of new construction sited near hilltops or ridges as seen from any public way.

F. Conform to surrounding land uses and preserve wildlife corridors.

G. Protect the rural roadside character and public safety by avoiding development fronting directly onto existing public roads.

H. Preserve sites of historic, archaeological, or cultural value.

I. Provide that open space land shall be as contiguous as possible.

Section 18.03 General

A. **District Requirements.** Clustered housing developments shall be permitted as a Special Use in the A-1 district. In addition to meeting the requirements in this Article, clustered developments must meet the requirements of Article 4, General Provisions. Clustered developments shall also go through the process and meet all the standards and criteria set forth in Section 16.01, Requirements for Site Plan Review. Additionally, in maintaining compliance with Bengal Township's Mission Statement outlined in its Ten Year Comprehensive Plan, cluster housing developments would be encouraged to locate in areas with public water and sewage systems.

B. **Conveyance.** Open Space shall be permanently preserved through an irrevocable conveyance acceptable to the Township Board and upon review of the Township's Attorney

C. **Maximum Density.** The maximum number of dwelling units permitted in a clustered housing development shall not be greater than that allowed by right in the A-1 Zoning District.

D. **Roads.** Roads within the clustered development will be Private and shall meet the requirements of any and all local, County or State ordinances, rules and/or regulations.

E. **Sewage Disposal.** Clustered housing developments require sewage disposal systems. All Cluster Projects shall receive all necessary local, State and Federal permits as a condition of the Special Land Use Permit.

F. **Dwelling Types.** Dwelling types shall meet the Township minimum dwelling requirements and may include multiple family dwellings. Dwelling types shall be identified in the application and shown on the site plan.

Section 18.04 Standards for Clustered Housing

A. **Total Number of Units Allowed/Clustering Options.** The total number of dwelling units allowed within a clustered housing development will depend on the total gross acreage of the property, the underlying maximum density, and the amount of Open Space provided. The following Open Space option is offered:

1. A clustered housing development that retains greater than or equal to 50% of the buildable land in the parent parcel as Open Space (excluding otherwise non-buildable land) shall be allowed a maximum number of dwelling units equal to the total buildable area of the property times the open space acreage of the property times the allowable density in the agricultural district. For example, a 100 acre parcel with 20 acres of wetlands entering into a clustered development in the Agricultural Zoning District with 50% dedicated Open Space would be allowed a maximum of 80 dwelling units. (100 acres – 20 acres = 80 acres x 50% = 40 acres x 2 units per acre = 80 units).

2. Increasing the retained open space to 60% would increase the allowable density to 96 units as follows: (100 acres – 20 acres = 80 acres x 60% = 48 acres x 2 units per acre = 96 units)

B. **Calculating Open Space.**

1. Calculations of Open Space and gross acreage shall be performed to the nearest hundredth of an acre (0.01).

2. The Total Allowable Units amount shall be rounded down to the nearest whole number.

3. Roads and road easements or right-of ways may be included in the Open Space computation, however, the footprint of any existing or proposed buildings in the Open Space shall not be included.

4. In no case shall the Total Allowable Units be less than the number of units that could be achieved by having a non-clustered development on the same property. It shall be the responsibility of the Applicant to prove how many units could be achieved with the non- clustered project by providing a Site Plan.

5. Any future or (unused) allowable residential units shall be accounted for on the Site Plan. Future divisions of the Open Space for residential use will be prohibited.

C. **Calculating Total Allowable Units in Multiple Districts**. The Total Allowable Units for a clustered development that is located in more than one zoning district shall be determined by calculating the Total Allowable Units in each individual district (gross acreage in district divided by allowable density within district) and adding the individual district results together.

D. **Off-Premises Open Space.** The Open Space requirement of a clustered development may be partially achieved by using dedicated Open Space from a separate Agriculturally zoned property in Bengal Township and must meet the following conditions:

1. At least half of the Open Space required shall be located on the parcel in which the development is located.

2. Wetlands and natural water courses in the off-premises parcel shall not be included in the calculation of Open Space.

E. Only sixty five percent (65%) of the Open Space in the off-premises Agricultural property parcel shall be credited toward the Open Space Requirement of the principle parcel.

F. **Minimum Standards for Clustered Developments.** In order to encourage flexibility and creativity consistent with the open space preservation concept, a clustered housing development may depart from the normal dimensional standards for lot size, setbacks, lot width, and lot coverage, however, the following minimum standards shall apply.

1. The minimum setback shall be 10' from any lot line, easement line, or right-of-way line

2. Clustered lots that have a lot line which borders on a development boundary shall maintain the normal zoning district side or rear setback on that line.

3. All lots shall have a minimum of 30 feet of frontage on an approved road

Section 18.05 Open Space

A. **Ownership of Open Space.** Open Space may be owned in one or more of the following forms.

1. Public Ownership if accepted by the Township Board or another public agency.

2. Common Ownership by homeowners within the project.

3. Private Ownership by one or more individual owners. This form could include farms or large estate parcels.

B. The Applicant, at the time of application, shall submit a statement or documents showing the manner and form of future ownership.

C. **Conveyance of Open Space.** Open Space shall be permanently preserved through an irrevocable conveyance acceptable to the Township Board and upon review of the Township's Attorney. A Special Land Use Permit will only be issued upon conveyance and recording with the Clinton County Register of Deeds.

D. **Permitted Uses in the Open Space.** Unless otherwise described in this Article, uses that are allowed in the zoning district in which the clustered development is located may be allowed in the Open Space including access roads, road easements or rights-of-way, commercial agricultural production of food and fiber and passive recreational uses shall be allowed. Only Structures associated with passive recreational use subject to planning commission approval shall be allowed. The intent is to limit structures with in the dedicated open space. Proposed uses that, under current district standards, require a Special Use Permit shall meet all applicable standards. The applicant, at the time of application, shall submit a statement or documents showing the proposed or allowed uses and restrictions within the Open Space

E. **Prohibited Uses in the Open Space.** The following uses shall be prohibited within the Open Space:

1. Motorized Recreational Facilities.
2. Golf Courses
3. Mining
4. Above ground/visible Septage/Sewage Storage facilities

Section 18.06 Procedure for Approving Clustered Housing Developments

A. All applicants are encouraged to schedule a pre-application conference with the Township Planning Commission for the purpose described in Section 16.01.D of the Bengal Township Zoning Ordinance.

B. Clustered Housing Developments shall follow the procedures established in Section 16.01

C. The Applicant shall submit as part of the application a statement or documents showing the method of Open Space conveyance, as well as the proposed or allowed uses and restrictions within the Open Space.

Article 19
Nuisance Per Se: Enforcement Penalties for Violation

Section 19.01 Nuisance per se

Uses of land, and dwellings, buildings or structures, including mobile homes, used, erected, altered, razed or converted in violation of any provision of This Ordinance or regulations adopted under authority of This Ordinance, are hereby declared to be a Nuisance per se. The Court shall on complaint of the Zoning Administrator made on behalf of the Township or any resident of the Township, order such nuisance abated, and the owner and or agent in charge of such land, dwelling, building, structure, tent or mobile home shall be adjudged guilty of maintaining a Nuisance per se.

Section 19.02 Penalties

A. **Violation a Municipal Civil Infraction.** Any building erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this Ordinance is declared to be a Municipal Civil Infraction, and shall be punishable as described in this Section.

B. **Civil Infraction Bureau.** The Bengal Township Municipal Civil Infractions Violations Bureau (hereafter Bureau) is hereby established pursuant to Public Act 12 of 1994, as amended, for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions, and to collect and retain civil fines/costs for such violations as prescribed herein. The Bureau shall be located at the Township Offices. All personnel of the Bureau shall be Township employees. The Township Treasurer is hereby designated as the Bureau Clerk with the duties prescribed in this Section, as well as those duties which otherwise may be delegated by the Township Board.

C. The Bureau shall have authority to accept admissions of responsibility (without explanation) for municipal civil infractions for which a municipal ordinance violations citation has been issued and served, and to collect and retain the scheduled civil fines/costs for such violations specified pursuant to this Ordinance or other applicable ordinance. The Bureau shall not accept payment of fines/costs from any person who denies having committed the alleged violation. The civil fines and costs collected shall be delivered to the Township Treasurer at such intervals as the Treasurer shall require and shall be deposited in the general fund of the Township.

D. **Enforcement Officer.** The Township Board shall authorize one or more persons as Enforcement Officers, and authorize them to issue and serve municipal civil infractions citations. The Board may authorize any person as an Enforcement Officer, except those prohibited by state law or Township Ordinance.

E. **Municipal Civil Infraction Citation.**

1. A municipal civil infraction action may be commenced upon the issuance, by an authorized Township official, of a municipal infraction citation. The municipal civil infraction shall be delivered to the property in question. In addition, a copy of the citation shall be sent by mail to the property owner's last known address.

2. A municipal ordinance citation shall contain information required by the State of Michigan on the current State of Michigan Notice of Municipal Civil Infraction.

3. The citation shall inform that the alleged violator may do one of the following:

   (a) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance, and pay the required fine.

   (b) Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation, and pay the fine.

   (c) Deny responsibility for the municipal civil infraction by doing either of the following:

      (i) Appearing in person for an informal hearing before a judge or District Court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the Township.

      (ii) Appearing in District Court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

4. The citation shall also inform the alleged violator of all of the following:

   (a) That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the District Court in person, by mail, by telephone or by representation within the time specified for appearance, and obtain a scheduled date and time for an appearance.

   (b) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the District Court in person, by mail, by telephone or by representation within the time specified for appearance, and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.

   (c) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the Township.

5. In additional to the municipal civil infraction citation, the Township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of any Township ordinance.

F. **Warnings and Fines.** The following system of warnings and fines shall apply to municipal civil infractions.

1. Upon first becoming aware of an alleged violation, the Enforcement Officer may issue a written warning. The warning shall be delivered to the property in question. The warning shall also be mailed, or e-mailed, to the resident, business owner, or property owner. If a warning is issued, the Enforcement Officer shall wait 14 days after issuing the warning before issuing a ticket.

2. For all violations, except those that are remedied after the issuance of a warning, the Enforcement Officer shall issue a municipal civil infraction citation, including a fine of $100 per day that the violation persists. Each day shall be considered a separate violation.

3. The Enforcement Officer shall have the authority to refrain from issuing additional daily fines, upon submission to the Township of a Violation Correction Plan, which shall state the process for correcting the violation, including a date certain that the violation will be remedied. If the Violation Correction Plan is approved by the Enforcement Officer and Zoning Administrator, no further citations shall be issued until the date listed in the approved Plan. The Township shall be under no obligation to approve any proposed Violation Correction Plan. If the Violation Correction Plan is approved, but not followed by the property owner, then the fine shall be $500 per day that the property is out of compliance with the Violation Correction Plan. Subsequent Violation Correction Plans may be submitted, but the per-day fines for each failure to follow an approved Violation Correction Plan shall double each time a new plan is approved, as shown below:

   (a) Fine for First Failure to Execute Violation Correction Plan: $500

   (b) Fine for Second Failure to Execute Violation Correction Plan: $1,000

   (c) Fine for Third Failure to Execute Violation Correction Plan: $2,000

   (d) Fine for Fourth Failure to Execute Violation Correction Plan: $4,000

Article 20
Zoning Board of Appeals

Section 20.01 Creation

A Board of Appeals is hereby established.

Section 20.02 Membership

There shall be five (5) members of the Board of appeals as follows:

A. Three electors residing in the Township, chosen for a term of three (3) years, by the Township Board: One of the members shall be a member of the Township Planning Commission. One of the members may be a member of the Township Board, but shall not serve as chairperson of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals.

B. The Township Board shall appoint two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

C. Vacancies must be filled within one month.

Section 20.03 Per Diem

Members of the Board of Appeals will be paid as determined by the Township Board on an annual basis prior to the Township's fiscal year end closing.

Section 20.04 Procedures

The Board of Appeals shall elect one (1) of its members to be Chairman and one (1) to be Secretary, and it shall establish rules and regulations to govern its procedure when acting upon appeals. A majority vote of its members shall be required to reverse any decision or determination of the Zoning Administrator or to approve any variation in the application of This Ordinance.

Section 20.05 Public Meetings

All meetings of the Board of Appeals shall be open to the public and the press.

Section 20.06 Powers

The Board of Appeals is empowered to act upon the following matters, and upon no others:

A. Questions arising in the administration of this Ordinance, including interpretation of the Bengal Township Zoning Map.

B. All matters which This Ordinance properly refers to the Board of Appeals for determination.

C. Appeals from actions of the Zoning Administrator.

D. Cases in which strict application of the provisions of This Ordinance would result in practical difficulty, provided, that the spirit of This Ordinance is observed, even though certain restrictions may be waived and a non-use variance granted, to provide substantial justice.

Section 20.07 Appeals, How Made

An appeal to the Zoning Board of Appeals may be taken by a person aggrieved or by an Officer, department, board, or bureau of the state or local unit of government. Such appeal shall be made in such time as shall be prescribed by the Board of Appeals by general rule by the filing with the body or Officer from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for appeal. The body or Officer from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all of the papers constituting the record upon which the action appealed is based. The Township Board on an annual basis will set the fee.

Section 20.08 Stay of Proceedings

An appeals stays all proceedings in the action appealed.

Section 20.09 Hearings

The Board of Appeals shall fix a reasonable time for hearing of an appeal, and shall give due notice thereof to all parties concerned and in accordance with the Public Notification Section of the Township Zoning Ordinance. A decision on the issue will be made in a reasonable time, said decision to provide that the spirit of This Ordinance shall be observed, public safety secured, and substantial justice done.

Section 20.10 Further Appeal

Any decision of the Board of Appeals may be appealed to a Court of competent jurisdiction.

Article 21
Separability

Section 21.01 Validity

If any clause, sentence, sub-sentence, paragraph, section or part of This Ordinance be adjudged by any Court of competent jurisdiction to be invalid, such judgment, shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub- sentence, paragraph, section or part directly involved in the controversy in which said judgment shall have been rendered.

Article 22
Effective Date

Section 22.01 Effective Date

This Zoning Ordinance is hereby declared and certified to have been duly adopted by the Bengal Township Board, Clinton County, State of Michigan, at a meeting of said Board duly called and held on December 11, 2019, published as required by Michigan Law and effective seven (7) days from the date of publication. This Zoning Ordinance became effective December 28, 2019. The Ordinance was subsequently amended, effective on the following dates:

February 26, 2021

May 8, 2022

February 1, 2023

May 25, 2025

August 26, 2026