

The Zoning Ordinance Of Somerset Township



ADOPTED JANUARY 18, 1973
EFFECTIVE FEBRUARY 27, 1973
AMENDED AUGUST 16, 1973
AMENDED SEPTEMBER 16, 1976
AMENDED JUNE 17, 1982
AMENDED OCTOBER 19, 1989
AMENDED JANUARY 4, 1991
AMENDED APRIL 18, 1991
AMENDED JULY 18, 1991
AMENDED FEBRUARY 20, 1992
AMENDED SEPTEMBER 17, 1992
AMENDED JUNE 16, 1994
AMENDED JULY 20, 1995
AMENDED DECEMBER 19, 1998
AMENDED SEPTEMBER 10, 1999
AMENDED JUNE 26, 2001
AMENDED NOVEMBER 22, 2001
AMENDED DECEMBER 6, 2001
AMENDED JANUARY 15, 2002
AMENDED OCTOBER 25, 2002

AMENDED MAY 6, 2003
AMENDED JULY 16, 2003
AMENDED MARCH 9, 2004
AMENDED FEBRUARY 17, 2005
AMENDED OCTOBER 20, 2005
AMENDED MAY 15, 2008
AMENDED NOVEMBER 19, 2009
AMENDED NOVEMBER 18, 2010
AMENDED DECEMBER 15, 2011
AMENDED JUNE 20, 2012
AMENDED APRIL 20, 2016
AMENDED JUNE 16, 2016
AMENDED MAY 24, 2017
AMENDED JUNE 29, 2017
AMENDED AUGUST 17, 2017
AMENDED OCTOBER 19, 2017
AMENDED JANUARY 18, 2017
AMENDED MAY 16, 2018
AMENDED NOVEMBER 26, 2019

TABLE OF CONTENTS

	Page
ARTICLE I. ENACTING CLAUSE, TITLE, AND PURPOSES	1
1.1 Enacting Clause	1
1.2 Title	1
1.3 Purposes	1
ARTICLE II. GENERAL PROVISIONS	3
2.1 Scope of Ordinance	3
2.2 Definitions	3
2.3 Undefined Terms	14
2.4 Application of Regulations	14
ARTICLE III. ESTABLISHMENT OF ZONING DISTRICTS	15
3.1 Establishment of Zoning Districts	15
3.2 Official Zoning Map	15
3.3 Interpretation of Zoning District Boundaries	15
ARTICLE IV. ZONING DISTRICT REGULATIONS	17
4.1 Open Districts	17
4.1.1 Agricultural District (AG-1)	17
4.2 Residential Districts.....	18
4.2.1 Rural Non-Farm Residential District (RNF-1)	19
4.2.2 Lake Residential District (RL-1)	20
4.2.3 Suburban Residential District (RS-1)	20
4.2.4 Urban Residential District (RU-1)	21
4.2.5 Multiple- Family Residential District (RM-1)	22
4.3 Commercial Districts	23
4.3.1 Local Commercial District (C-1)	23
4.3.2 General Commercial District (C-2)	24
4.3.3 Highway Service Commercial District (C-3)	24

	Page
4.4 Industrial District	26
4.4.1 Light Industrial District (I-I)	26
4.5 District Area, Yard, Height and Bulk Regulations	28
ARTICLE V. SUPPLEMENTAL REGULATIONS	35
5.1 Purpose	35
5.2 Sign Regulations	35
5.3 Off-Street Parking Requirements	39
5.4 Off-Street Loading and Unloading Requirements	42
5.5 Conditional uses	43
5.6 Site Plan Review and Approval	53
5.7 Nonconformities	56
5.8 Performance Standards	58
5.9 Storage of Materials	59
5.10 Mobile Homes and Travel Trailers	60
5.11 Visibility at Intersections	60
5.12 Access to Public Streets	61
5.13 Flood Plains	61
5.14 Home Occupation	61
5.15 Fences	61
5.16 Temporary Use	62
5.17 Essential Services	62
5.18 Curb Cuts and Driveways	62
5.19 Communication Towers	62
5.20 Condominium Subdivision Approval	65
5.21 Condominium Subdivision Approval Additions	67
5.22 Funneling	70
5.23 Bed and Breakfast Facilities	72
5.24 Outdoor Wood Furnaces	72

	Page
ARTICLE VI. ADMINISTRATION OF THE ORDINANCE	75
6.1 Purpose	75
6.2 Administration	75
6.3 Duties of Zoning Inspector	75
6.4 Zoning Compliance Permits	75
6.5 Certificate of Occupancy	76
6.6 Fees, Charges and Expenses	76
6.7 Violations and Penalties: Nuisance Per Se: Attachment	77
6.8 Public Hearing Notice Requirements	78
ARTICLE VII BOARD OF APPEALS	79
7.1 Board of Appeals Establishment	79
7.2 Duties of the Board of Appeals	79
7.3 Variance	79
7.4 Interpretation of the Zoning Ordinance	80
7.5 Appeals to Board of Appeals	80
ARTICLE VIII. AMENDMENT PROCEDURES	83
8.3 Initiating Amendments and Fees	83
8.4 Amendment Procedures	83
8.5 Conformance to Court Degree	83
ARTICLE IX. LEGAL STATUS	85
9.1 Conflicts with other laws	85
9.2 Validity and Severability Clause	85
9.3 Period of Effectiveness	85
9.4 Repeal of Ordinance	85
9.5 Effective Date	85

Article I

ENACTING CLAUSE, TITLE, PURPOSES

Section 1.1 – ENACTING CLAUSE

Zoning Ordinance (Ordinance) adopted under authority of, and in accordance with the provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended (Michigan Zoning Enabling Act) to establish comprehensive zoning regulations for the Township of Somerset (Township), County of Hillsdale (Hillsdale County), State of Michigan (Michigan), and to provide for the administration, enforcement and amendment thereof, and the repeal of all ordinances in conflict herewith.

Section 1.2 – TITLE

This Ordinance shall be known and may be cited as “The Zoning Ordinance of Somerset Township”. The Zoning Map referred to herein is entitled “Zoning Map, Somerset Township.”

Section 1.3 – PURPOSES

This Ordinance has been established for the purpose of:

- a. Promoting and protecting the public health, safety, and general welfare;
- b. Protecting the character and stability of the agricultural, recreational, residential, commercial, and industrial areas, and promoting the orderly and beneficial development of such areas;
- c. Preventing the overcrowding of land and undue concentration of population by regulating the intensity of use of land and the area of open spaces surrounding buildings and structures necessary to provide adequate light, air, and privacy to protect the public health;
- d. Lessing and avoiding congestion on public highways and streets;
- e. Providing for the needs of agriculture, recreation, residence, commerce, and industry in future growth to conform with the most advantageous use of land, resources, and properties, with reasonable consideration of other things, the general and appropriate trend and character of land, building, and population development as studied and recommended by the Planning Commission (Plng. Comm.) and the Township of Somerset.
- f. Encouraging the most appropriate use of lands in accordance with their character and adaptability, and prohibiting uses which are incompatible with the character of development permitted within specified zoning district;
- g. Conserving the taxable value of land and structures;
- h. Conserving the expenditure of funds for public improvements and services;

- i. Protecting against fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards in the interest of the people;
- j. Providing for the completion, restoration, reconstruction, extension or substitution of non-conforming uses.

Article II

GENERAL PROVISIONS

Section 2.1 - SCOPE

Every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building, or structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance, which are applicable in the zoning district in which such building, or structure, or lot is located.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or structure on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, provided that construction shall be completed within three hundred sixty-five (365) days of such effective date and be subject thereafter to the provisions of Section 5.7 of this Ordinance.

The adoption of this Ordinance shall not limit the construction of any Building or structure for which a zoning permit has been obtained prior to the effective date of adoption or amendment of this Ordinance even though such building or structure does not conform to the provisions of this Ordinance provided that work commence and be carried on within thirty (30) days of obtaining such permit and be subject thereafter to the provisions of Section 5.7.

Section 2.2 - DEFINITIONS

For the purpose of this Ordinance certain terms are herewith defined. When not inconsistent with the context, the present tense includes the future; the words used in the singular number include the plural number, and the plural, the singular. The word "shall" is always mandatory and not merely (suggestive). The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. The words "used" or "occupied" include the words "intended", "designed", or "arranged" to be used or occupied.

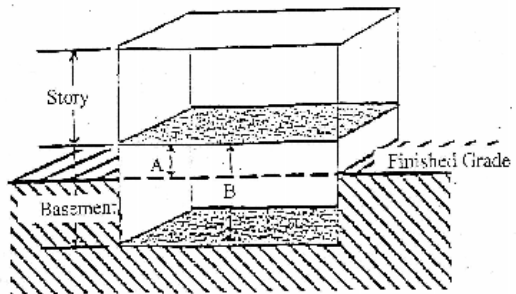
- 2.2.1 **Accessory Building/Structure, or Use:** A detached building/structure, or use on the same lot with, and of a nature customarily incidental and subordinate to the principal/structure of use. Accessory building/structure shall not be intended for human occupancy.
- 2.2.2 **Alley:** A public or private way not more than thirty-three (33) feet wide which affords only a secondary means of access to abutting property.
- 2.2.3 **Alter:** Any structural change in the supporting or load bearing member of a Building, such as bearing walls, columns, beams, girders, or foot jacks.
- 2.2.4 **Apartment:** A dwelling unit in an apartment house arranged, designed, or occupied as a residence by a single family, individual, or group of individuals.

- 2.2.5 **Automobile Service Stations:** Structures and premises used or designed to be used for the retail sale of fuels, lubricants, or grease, and other operating commodities for motor vehicles, including the customary space and facilities for the installation of such commodities; and including space for temporary minor repair, or servicing such as polishing, washing, cleaning, greasing, but not including bumping, painting, or refinishing thereof.
- 2.2.6 **Automobile Wrecking:** The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts.
- 2.2.7 **Basement:** A story of a building having more than one-half its height below grade.
- 2.2.8 **Boarding House or Rooming House:** A dwelling where meals and/or lodging are provided for compensation to persons by pre-arrangement for definite periods of time
- 2.2.9 **Building:** A covered structure erected in-site a mobile home or mobile structure, a pre-manufactures or pre-cut structure, above or below ground designed primarily for the shelter, support or enclosure of persons, animals, or property of any kind.
- 2.2.10 **Building/Substructure Height:** The vertical distance measure from grade to the highest point of the roof for flat roofs, to the deck line of measure roofs, and to the average height between eaves and ridges for gable, hip, or gambrel roofs.
- 2.2.11 **Building Setback line:** A line parallel to or concentric with property lines delineating the minimum allowable distance between the street right-of-way and the front of the building.
- a. **Camp:** A place where tents, huts, cabins, barracks, or other more or less temporary structures or group of these are put up for the purpose temporary lodging.
- b. **Campgrounds (includes camping grounds):** A place where a camp is set up or is allowed to be set up, for a fee.
- 2.2.12 **Central Sanitary Sewage System:** Any person, firm, corporation, municipal department, or board duly authorized to furnish or furnishing under federal, state, or municipal regulations to the public a central water system from a central location or plant.
- 2.2.13 **Central Water System:** Any person, firm, corporation, municipal department, or board duly authorized to furnish or furnishing under federal, state, or municipal regulations to the public a central water system from a central location or plant.
- 2.2.13a **Day Care Center:** A facility for the care of children under eighteen (18) years of age, as licensed and regulated by the State under Act No. 116 of the Public Acts of Michigan of 1973 (MCL 722.111 ET Seq. MSA 25.358 (11) ET Seq.) as amended, and the associated rules of the State Department of Social Services.
- 2.2.14 **District:** A portion of the Township of Somerset within which certain uniform regulations and requirements apply under the provisions or this Ordinance.
- 2.2.15 **Drive-In Establishment:** A business establishment so developed that its retail or service character is primarily dependent on providing a driveway approach or parking spaces for motor vehicles as well as within the building.
- 2.2.16 **Dwelling Unit:** One or more rooms with independent cooking facilities designed as a unit for residence by only one family.

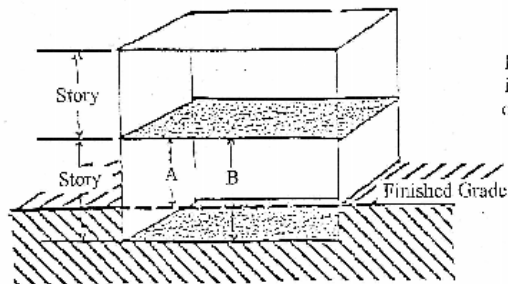
- 2.2.17 **Dwelling - Single Family:** A detached building, designed for or occupied by one family only, complying with the following standards.
1. It has a minimum living area of 750 sq. ft. for a one or two-bedroom dwelling plus 150 sq. ft. of additional living area for each additional bedroom beyond two.
 2. It has a minimum width along all exterior side elevations of 20 ft.
 3. It is firmly attached to a solid foundation constructed on the site in accordance with the Somerset Township Building Code and is co-extensive with the perimeter of the building, which attachment shall also meet all building codes, other state regulations, and, in the case of manufactured housing, the specifications of the manufacturer concerning foundation support.
 4. It does not have exposed wheels, towing mechanisms, undercarriage or chassis.
 5. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with no less than two exterior doors with one being in the front of the dwelling and the other being in either the rear or side of the dwelling, and with a roof pitch of 3-12.
 6. The compatibility of design and appearance shall be determined in the first instance by the Township Building Inspector upon review of the plans submitted for a particular dwelling subject to appeal by the aggrieved party to the Zoning Board of Appeals within a period of 15 days from the receipt of notice of said Building Inspector's decision. Any determination of compatibility shall be based upon: (a) The standards set forth in the within definition of "dwelling" as well as, (b) the character of residential development outside of mobile home parks and mobile home residential districts within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of said area or (c) where said area is not to be developed, by the character of residential development outside of mobile home parks and mobile home residential districts, throughout the Township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
 7. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
 8. The dwelling must comply with the National Electric Code and Township building, plumbing and fire codes, including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
 9. The dwelling contains no additions or rooms or other areas which are constructed with compatible materials and which are compatible in appearance and which have similar quality of workmanship as the original structure, including the above described foundation and permanent attachment to the principal structure.
 10. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the Township pertaining to such parks.

- 2.2.18 **Dwelling – Two (2) Family:** A building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in Section 2.2.17.
- 2.2.19 **Dwelling – Multiple Family:** A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in Section 2.2.17.
- 2.2.20 **Easement:** Any private or dedicated public way other than a street or alley providing a secondary means of access to a property having a width of no less than twenty (20) feet.
- 2.2.21 **Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments, commissions, or boards, of underground, surface, or overhead gas, electric, steam or water transmission or distribution systems, collection of communication, supply or disposal systems, including poles, wires, drains, sewers, pipes, towers, conduits, cables, fire alarm boxes, police call boxes, similar equipment and accessories in connection therewith, for the general public health, safety, convenience, of welfare, but not including buildings, or maintenance depots.
- 2.2.22 **Family:** One or more persons living together in a room or rooms comprising a single housekeeping unit and related by blood, marriage, or adoption and including the domestic employees hereof. A family is distinguished from a group occupying a rooming-house, boarding-house, lodging-house, club, fraternity-house, hotel, motel, or tourist home.
- 2.2.22a **Funneling:**
- a. **Funneling/Keyholing.** The use of a riparian lot to provide access to non-riparian property owners.
 - b. **Common Use Riparian Lot.** A common use riparian lot (also referred to as a keyhole lot) is defined as any private site, platted lot or other parcel held in common by a subdivision, association, similar agency or group of individuals, or held in common by virtue of the terms of a plot of land of record which provides common use riparian access to non- riparian lot or land owners.
- 2.2.23 **Home Occupation:** An occupation that is traditionally and customarily carried on the home being primarily incidental to the principal residential use.
- 2.2.24 **Hotel:** A building containing guest rooms in which lodging is provided, with or without meals, for compensation and which is open to transient or permanent guests, or both, and where no provision is made for cooking in any guest room.
- 2.2.24a **Illustrations:**
1. Basement and Story Definition
 2. Basic Structural Terms
 3. Building Height Requirements
 4. Corner interior and double frontage lots.
 5. Lot terms
 6. Yard Requirements

Basement & Story Definition

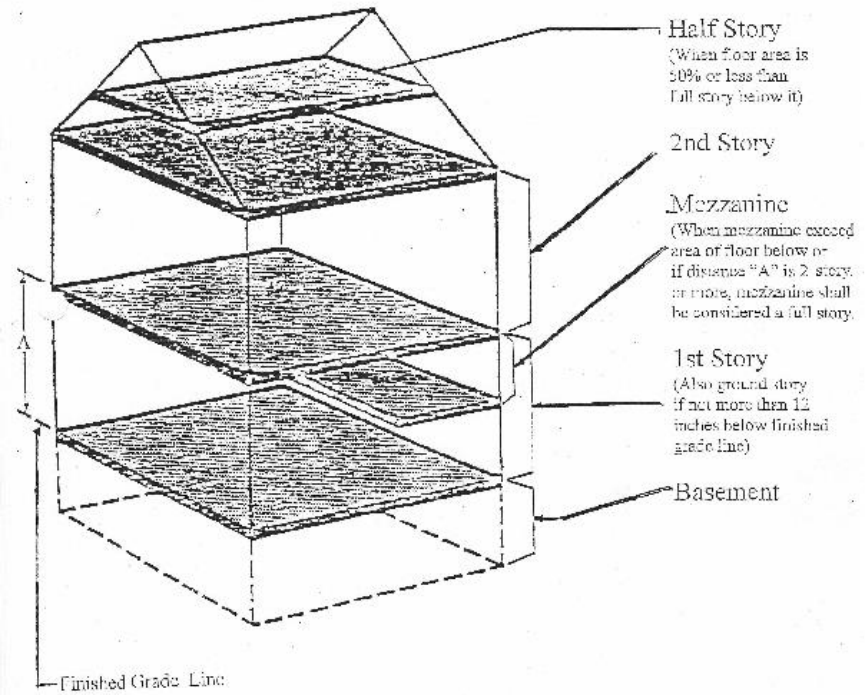


If the average of "A" is equal to or less than $\frac{1}{2}$ of "B", this is a basement.

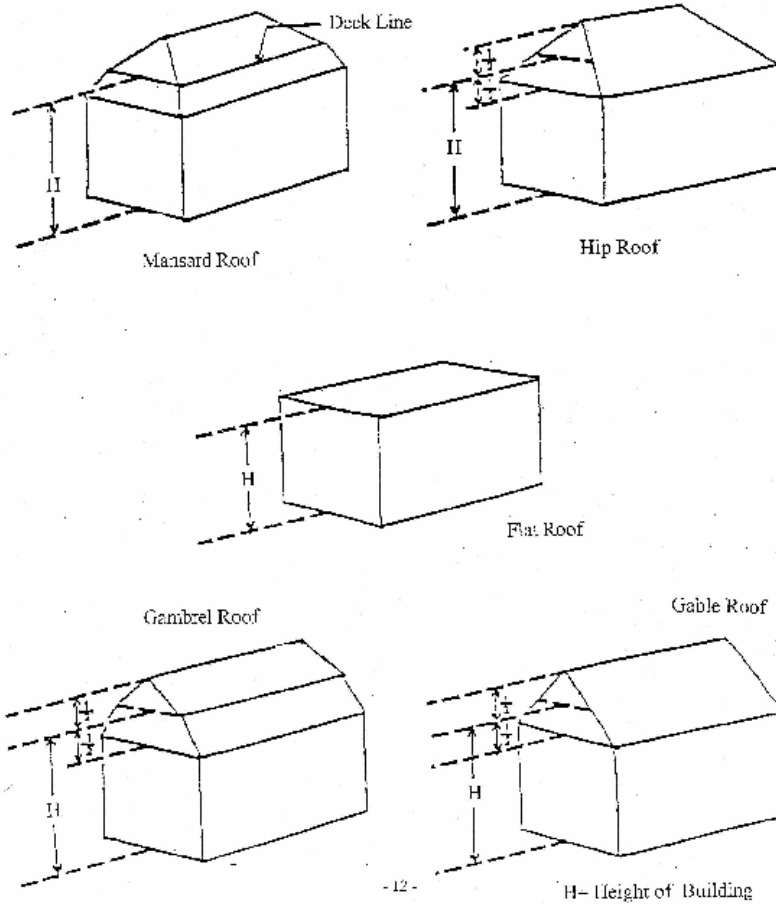


If the average of "A" is greater than $\frac{1}{2}$ of "B", this is a story.

Basic Structural Terms

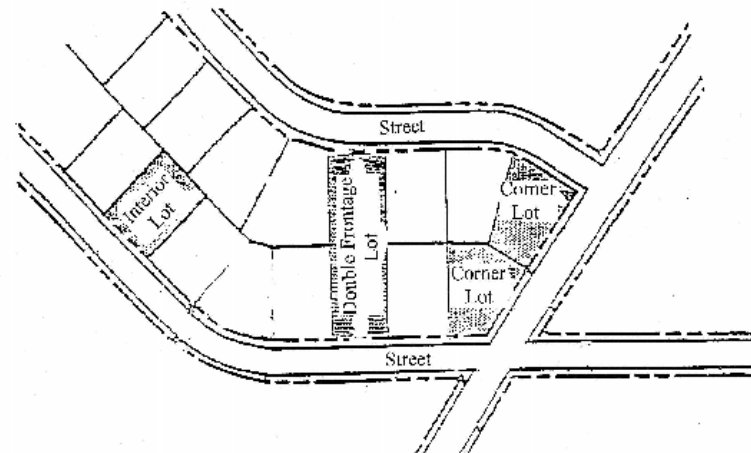


Building Height Requirements



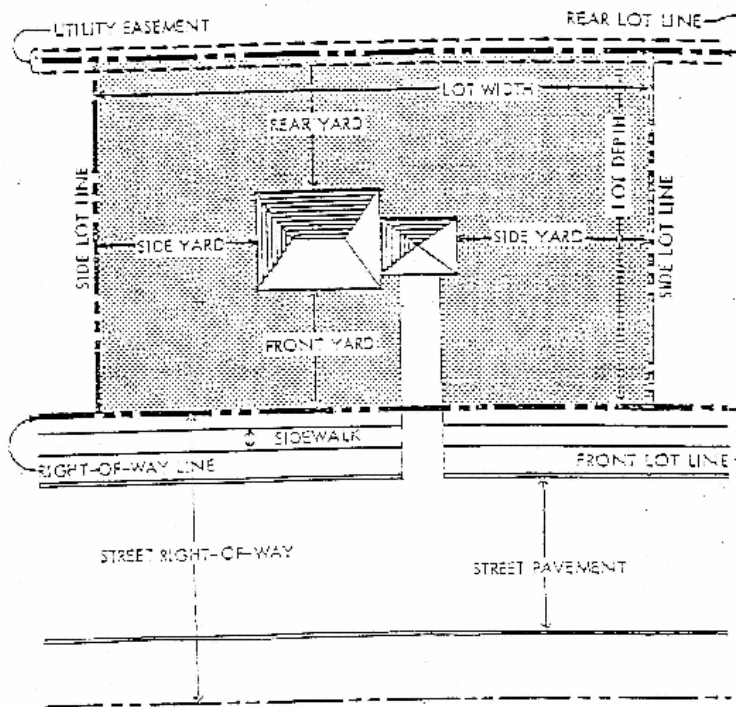
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Corner, Interior and Double Frontage Lots

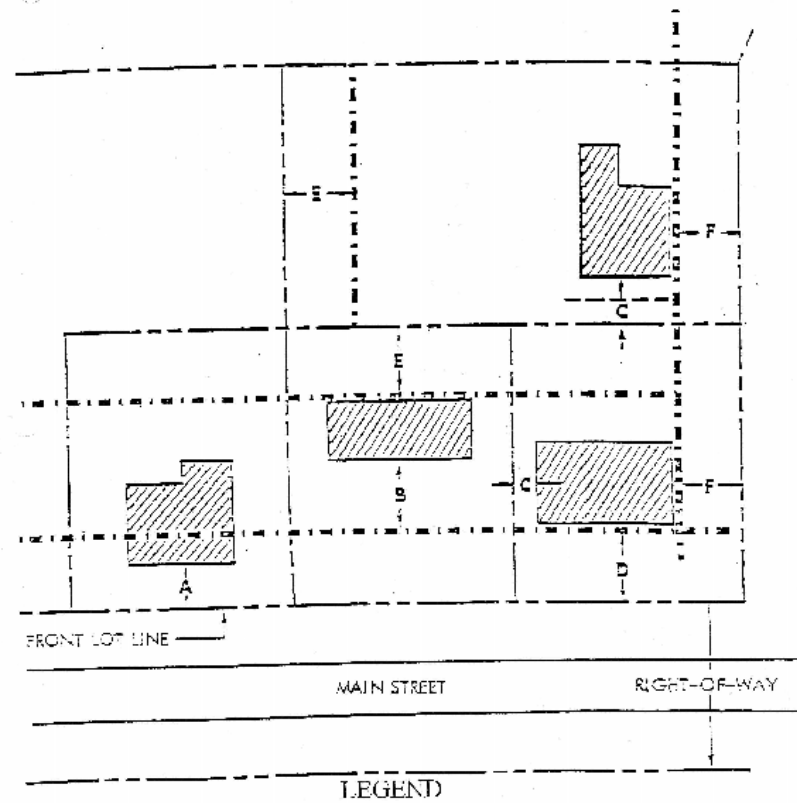


- 13 -

Lot Terms



Yard Requirements



LEGEND

- | | |
|--|---|
| A-----Deficient front yard | D-----Minimum front yard required
Also building setback line |
| B-----Front yard in excess of
minimum front yard required | E-----Minimum rear yard required |
| C-----Minimum side yard required | F-----Minimum yard required on
side corner when house lines |

Finished Grade means the finished ground level of an area adjoining the building after construction is completed. For purposes of measurement, the portion of the building that faces the roadway or having predominant road frontage shall be used.

[Editor's note: current 2.2.24a Illustrations 1-6 and subsequent drawings remain in effect.]

- 2.2.25 **Junkyard:** A structure or parcel of land where junk, waste, discard, salvage, or similar materials such old iron or other metal, wood, lumber, glass, paper, rags, cloth, leather, rubber, bagging, cording, barrels, containers, etc. are bought, sold, exchanged, stores, baled, packed, disassembled, or handled including auto wrecking yards, inoperative machines, used lumber yards, house wrecking, and structural steel materials, and equipment including establishments for sale, purchase, or storage of salvaged machinery and the processing of used, discarded, or salvaged materials, for any thirty (30) consecutive days.
- 2.2.26 **Kenel:** Any lot or premises on which three (3) or more dogs, four (4) months old or more are confined either permanently or temporarily.
- 2.2.27 **Lot:** A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area; and to provide such yards and other open spaces as herein required. Such lot may consist of a single lot of record; a portion of a lot of record; a combination of contiguous lots of record; or a parcel of land described by metes and bounds.
- 2.2.28 **Lot Area:** The area within the lot lines, but excluding that portion in a road or street right-of-way.
- 2.2.29 **Lot Corner:** A parcel of land at the junction of and fronting or abutting on two or more intersecting streets.
- 2.2.30 **Lot Depth:** The average distance between the front and rear line of a lot measured in the general direction of its side lot lines.
- 2.2.31 **Lot Coverage:** The part or percent of the lot occupied by buildings/structures, including accessory building/structures.
- 2.2.32 **Lot of Record:** A lot which is part of a subdivision and is shown on a map thereof which has been recorded in the Office of the Register of Deeds of Hillsdale County, or a lot described by metes and bounds, the deed to which has been recorded in said office.
- 2.2.33 **Lot Through (Double Frontage):** An interior lot having frontage on two parallel or approximately parallel streets.
- 2.2.34 **Medical Marijuana:** The following terms are associated with medical marijuana as regulated by the Township of Somerset:

- a. Marijuana: Marijuana, according to the Public Health Code (MCL 333.1101), "means all parts of the plant Cannabis sativa L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination."
- b. Medical marijuana: Medical marijuana, according to the MMMA (see below), "means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered patient's debilitating medical condition or symptoms associated with the debilitating medical condition."
- c. Michigan Medical Marijuana Act (MMMA): The MMMA (MCL 333.26421 et. seq.) is an initiation of legislation to allow under state law the medical use of marijuana; provide protections for the medical use of marijuana; and provide for a system of registry identification cards for qualifying patients and primary caregivers. The MMMA is supplemented by administrative rules promulgated by the Michigan Department of Community Health (R 333.101 et seq). The MMMA defines the following specific categories of people:
- d. Primary caregiver: A primary caregiver is an individual, as defined by the MMMA, and is authorized by and registered through the Michigan Department of Community Health (MCDH) to grow and distribute medical marijuana to qualified patients. The primary caregiver must have a valid registry card.
- e. Qualifying patient: A qualifying patient is an individual, as defined by the MMMA, that has been diagnosed by a licensed physician, as defined by the MMMA, as having a medical condition alleviated by the use of medical marijuana, and who is registered through the Michigan Department of Community Health (MCDH) to grow and/or consume medical marijuana. The qualifying patient must have a valid registry card.
- f. Medical marijuana caregiver grow operation: A medical marijuana caregiver grow operation is an establishment used by one (1) registered primary caregiver for the purposes of the growing and dispensing of medical marijuana outside the privacy of a personal dwelling for up to five (5) qualifying patients (as well as the caregiver if he or she is also a qualifying patient), but where there is no consumption of marijuana on the premises.
- g. Medical marijuana home use: A medical marijuana home use is a dwelling where a qualifying patient grows or uses medical marijuana for personal consumption in the privacy of their own dwelling, and/or where a registered primary caregiver, serving not more than one (1) qualifying patient who resides with the primary caregiver, grows or distributes

medical marijuana for the qualifying patient in the privacy of the primary caregiver's own dwelling, and is allowed as a use by right wherever dwellings are permitted.

- 2.2.35 **Mini-Storage or Self-Storage:** A building or group of buildings in a controlled access or fenced area that contains varying sizes of individual compartmentalized units, which are accessed by separate exterior doorways for each unit, designed for the storage of property for individuals, organizations, and businesses. These are also known as "self-storage facilities" or "mini-warehouse facilities".
- 2.2.35 **Mobile Home:** A detached portable residential dwelling unit with a floor area of at least four hundred (400) square feet, prefabricated on its own chassis and intended for long-term occupancy. The unit shall contain sleeping accommodations, a flush toilet, tub or shower, and eating a living quarters. It is designed to be transported on its own wheels or on a flatbed arriving at the site where it is to be occupied as a complete dwelling without permanent foundations and shall be connected to existing utilities. A travel trailer is not to be considered a home.
- 2.2.36 **Mobile Home Park:** A tract of land prepared and approved according to the procedures in this ordinance to accommodate mobile homes on rented or leased lots.
- 2.2.37 **Mobile Home Subdivision:** A legally platted residential subdivision accommodating mobile homes.
- 2.2.38 **Motel:** Any establishment in which individual cabins, courts, or similar substructures or units are let or rented to transients for periods of less than thirty (30) days. The term "motel" shall include tourist cabins and motor courts. A motor court or motel shall not be considered or construed to be either a multiple dwelling, a hotel, or a mobile home park.
- 2.2.39 **Off-Street Parking:** A facility providing vehicular parking spaces with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of automobiles.
- 2.2.40 **Parking Space, Area, Lot:** An off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customers, visitors, or employees.
- 2.2.40a **A Principal Building/Structure:** A building/structure in which the primary use of the lot on which the building/structure is located is conducted.
- 2.2.41 **Quarry:** Any pit, excavation, or mining operation for the purpose of searching for or removing from the premises any earth, rock, sand, gravel, clay, stone, slate, marble, or other non-metallic mineral in excess of fifty (50) cubic yards in any calendar year, but shall not include an excavation preparatory to the construction of a structure or public highway.
- 2.2.42 **Riding Academy:** Any establishment where horses are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch, or similar establishment.

- 2.2.43 **Roadside Stand:** A structure temporarily operated for the purpose of selling produce primarily raised or produced on the premises where situated, and its use shall not make a commercial district, nor shall its use be deemed a commercial activity.
- Sawmill:** motorized machine tools run by gasoline motors, diesel motors, electric motors or chainsaws and that is capable of being carried or moved about, and used by individuals, tradesman or professionals in producing limited volumes of boards cut from logs for personal use or profit.
- 2.2.44 **Sign:** Any device designed to inform, or attract the attention of persons not on the premises on which the sign is located; except, however, the following which shall not be included within this definition.
- (1) Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises not having commercial connotations;
 - (2) Flags and insignias of any government, except when displayed in connection with commercial promotion;
 - (3) Legal notices: identification, information, or directional signs erected or required by governmental bodies;
 - (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
 - (5) Signs directing and guiding traffic and parking to private property, but bearing no advertising matter.
- 2.2.45 **Sign Area:** The area of a sign consisting of the entire surface of any regular geometric form or combinations of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of such area.
- 2.2.46 **Sign, On-Site:** A sign advertising a product for sale or a service to be rendered on the immediate premises where the sign is located.
- 2.2.47 **Site Plan Review:** A review by the Zoning Board and the Township Board of certain buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns, and on adjacent land usage.
- 2.2.48 **Story:** That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling above it.
- 2.2.49 **Street:** A public or private thoroughfare which affords the principal means of access to abutting property having a right-of-way not less than sixty-six (66) feet in width.
- 2.2.50 **Structure:** Anything constructed, erected or placed with a fixed location on the surface of the ground.
- 2.2.51 **Travel Trailer:** A vehicle designed as a travel unit for occupancy as a temporary or seasonal living unit, capable of being towed by a passenger automobile.

- 2.2.52 **Yard, Front:** An open, unoccupied space extending the full width of the lot between the street right-of-way line and the nearest part of the principal building.
- 2.2.53 **Yard, Rear:** An open, unoccupied space extending the full width of the lot between the rear line of the lot and the rear line of the principal building/structure.
- 2.2.54 **Yard, Side:** An open, unoccupied space on the same lot with the principal building, between the side line of the principal building/structure and the adjacent side line of the lot and extending from the rear line of the front yard to front line of the rear yard, and if no front yard is required, the front boundary of the side yard shall be the front line of the lot.

Section 2.3 - UNDEFINED TERMS

Any term not defined herein shall have the meaning of common or standard use.

Section 2.4 - APPLICATION OF REGULATIONS

The regulations established by this Ordinance within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall not preclude the establishment of higher or more restrictive standards or requirements for the authorization of any conditional use permit, where such higher or more restrictive standards or requirements are found necessary by the Planning Commission to attain the purposes of this Ordinance.

Article III

ESTABLISHMENT OF ZONING DISTRICT

Section 3.1 – ESTABLISHMENT OF ZONING DISTRICTS

The Township of Somerset is hereby divided into the following zoning districts:

AG-1	Agricultural District
RNF-1	Rural Non-Farm Residential District
RL-1	Lake Residential District
RS-1	Suburban Residential District
RU-1	Urban Residential District
RM-1	Multiple-Family Residential District
C-1	Local Commercial District
C-2	General Commercial District
C-3	Highway Service Commercial District
I-I	Light Industrial District

Section 3.2 - OFFICIAL ZONING MAP

The zoning districts as provided in Section 3.1 of this Ordinance are bounded and defined on a map entitled, “Official Zoning Map of Somerset Township” dated November 17, 1983 which map, with all explanatory matter hereon, is hereby adopted as a part of this Ordinance.

3.2.1 Identification of Official Zoning Map: The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Clerk. The Official Zoning Map shall be located in the office of the Clerk and available for examination.

Section 3.3 – INTERPRETATION OF DISTRICT BOUNDARIES

Except where specifically designated on the Official Zoning Map, the zoning district boundary lines are intended to follow lot lines, the center lines of streets or alleys, the center lines of creeks, streams, or rivers, the center lines of streets or alleys projected, center lines of railroad rights-of-way lines, section lines, one-quarter section lines, one-eighth section lines, or a corporate limit line, all as they existed at the time of the enactment of this Ordinance, as subsequently modified and designated as such boundary line. Where a district boundary does not coincide with any of the above lines, the district boundary lines shall be dimensioned on the Official Zoning Map.

When the location of a district boundary is uncertain, the Board of Appeals shall interpret the exact location of the district boundary.

Article IV.

ZONING DISTRICTS REGULATIONS

The intent, permitted uses, conditional uses, height, area, density, and sign regulations of each district are set forth in this section

Section 4.1 – OPEN DISTRICTS

Open districts are established to protect land best suited for open use from the encroachment of incompatible land uses, to preserve valuable agricultural land for agricultural uses, and to retain land suited for open space and recreation use for the future.

4.1.1 Agricultural District (AG-1): The intent of this district is to set aside land suitable for agricultural development and agricultural related uses.

a. Permitted Uses:

1. General and specialized farming and agricultural activities except feedlots, but including the raising or growing and storage or preservation of crops, sod, livestock, poultry, rabbits, fur-bearing animals, and other farm animals, and plants, trees, shrubs, and nursery stock.
2. Sale of agricultural products raised or grown on the farm premises including roadside stand for said sales.
3. Single-family detached dwellings.
4. Home occupations only in accordance with the regulations specified in Article V. Section 5.14.
5. Kennels.
6. Conservation and/or recreation areas including forest preserves, game refuges, nature reservations, hunt clubs, and similar areas of low intensity use.
7. On-site signs only in accordance with the regulations specified in Article V, Section 5.2.2.
8. Essential services and structures of a non-industrial character, but not including maintenance depots and warehouses only in accordance with the regulations specified in Article V, Section 5.17.
9. Accessory uses or structures.
10. Medical marijuana home use (subject to the provisions of Section 5.25 (B))

b. Conditional Uses:

1. Quarries.

2. Golf Courses.
3. Group or organized camps, camping grounds, and general or specialized resorts.
4. Airports.
5. Public and private nurseries primary or secondary non-profit schools, and college and universities.
6. Convalescent homes, nursing homes, hospitals, sanitariums and orphanages.
7. Riding academies and stables.
8. Churches and other buildings for religious worship.
9. Cemeteries.
10. Golf driving ranges.
11. Travel trailer parks.
12. Commercial feedlots.
13. Animal hospitals.
14. Sanitary landfills.
15. Radio and microwave towers.
16. Communications Towers.
17. Funneling.
18. Commercially operated OTV (Off Road Vehicles) parks/trails.
19. Wind Energy Conversion Systems.
20. Sawmill

c. **Area, Yard, Height, and Bulk Requirements:**

See Section 4.5

Section 4.2 – RESIDENTIAL DISTRICTS

The Rural Non-Farm Residential District, Lake Residential District, Suburban Residential District, Urban Residential District, and Multiple-Family Residential District are designated principally for residential use and are limited to dwellings and uses normally associated with residential neighborhoods in order to encourage a suitable and healthy environment for family life. The residential districts are designed to regulate the location

of residential uses and dwellings according to a well-considered plan which reflects the different types of residential uses and dwellings, the different densities of population and the intensity of land use desired; potential nuisances and hazards which may cause unhealthy conditions; and the relationship of residential uses and dwellings to other areas and areas devoted to agricultural, commercial, or industrial use and to street. The purpose of each residential district is further stated below.

4.2.1 **Rural Non-Farm Residential District (RNF-1):** This district is established to provide suitable areas for single-family dwellings at low densities to preserve a pre-dominantly rural character in these areas fit for concentrated residential use because of the ability of the soil to absorb sewage wastes from individual septic tanks.

a. **Permitted Uses:**

1. Single-family detached dwellings.
2. Home occupations, only in accordance with the regulations specified in Article V. Section 5.14.
3. On-site signs, only in accordance with the regulations specified in Article V. Section 5.2.3.
4. Essential services, only in accordance with the regulations specified in Article V. Section 5.17.
5. Accessory uses or structures.
6. Medical marijuana home use (subject to the provisions of Section 5.25 (B))

b. **Conditional Uses:**

1. Planned-unit residential developments.
2. Golf courses, but not including golf driving ranges.
3. Country clubs; private swimming pools; recreation centers, and parks; playgrounds, and playfields.
4. Churches and other buildings for religious worship.
5. Public and private nursery; primary and secondary non-profit schools.
6. Essential service structures of a non-industrial character, but not including maintenance depots or warehouses.
7. Government- or community-owned buildings.
8. Communication Towers.
9. Funneling.
10. Wind Energy Conversion Systems.

c. **Area, Yard, Height, and Bulk Regulations**

See Section 4.5

4.2.2 **Lake Residential District (RL-1):** This district is designed to preserve and enhance areas which are suitable for lakefront residential development, principally single-family dwellings at moderate densities, with consideration to protecting the lake waters from potential pollutants.

a. **Permitted Used:**

1. Single-family detached dwellings.
2. On-site signs, only in accordance with the regulations specified in Article V, Section 5.2.3
3. Essential services, only in accordance with the regulations specified in Article V, Section 5.17.
4. Accessory use or structures.
5. Home occupants in accordance with regulations specified in Section 5.14
6. Medical marijuana home use (subject to the provisions of Section 5.25 (B))

b. **Conditional Uses:**

1. Planned-unit residential developments
2. Parks and playgrounds.
3. Churches and other buildings for religious worship.
4. Essential service structures of a non-industrial character, but not including maintenance depots or warehouses.
5. Funneling.

c. **Area, Yard, Height, and Bulk Regulations:**

See Section 4.5

4.2.3 **Suburban Residential District (RS-1):** This district is designed to provide residential areas principally for moderate suburban densities where necessary urban services and facilities, including central sewerage and water supply systems can be feasibly provided.

a. **Permitted Uses:**

1. Single-family detached dwellings.
2. Home occupations, only in accordance with the regulations specified in Article V, Section 5.14.

3. On-Site signs, only in accordance with the regulations specified in Article V, Section 5.17.
4. Essential Services, only in accordance with the regulations specified in Article V, Section 5.17.
5. Accessory uses or structures.
6. Medical marijuana home use (subject to the provisions of Section 5.25 (B))

b. Conditional Uses:

1. Planned unite residential developments.
2. Country clubs, recreation centers, public swimming pools, parks, playgrounds, and playfields.
3. Churches and other buildings for religious worship.
4. Public and private nurseries, primary and secondary non-profit schools.
5. Essential service structures of a non-industrial character, but not including maintenance depots or warehouses.
6. Government or community owned buildings.
7. Golf Courses, but not including golf driving ranges.
8. Funneling.
9. Wind Energy Conversion Systems.

c. Area, Yard, Height and Bulk Regulations:

See Section 4.5

4.2.4 Urban Residential District (RU-1): This district is designed to provide areas principally for high-density single family residential dwellings where necessary urban services and facilities can be feasibly provided, including central sanitary and central water systems.

a. Permitted Uses:

1. Single family detached dwellings.
2. On site signs in accordance with regulations specified in Section 5.2.3.
3. Essential services in accordance with regulations specified in Section 5.17.
4. Accessory uses or structures.
5. Home occupations, only in accordance with the regulations specified in Article V, Section 5.14.

6. Medical marijuana home use (subject to the provisions of Section 5.25 (B))

b. **Conditional Uses:**

1. Planned unit residential developments.
2. Recreation centers, public swimming pools, parks, playgrounds, and playfields.
3. Churches and other buildings for religious worship.
4. Public and private nursery, primary and secondary non-profit schools.
5. Essential service structure of a non-industrial character, but not including maintenance depots or warehouses.
6. Government or community owned buildings.
7. Funneling.
8. Wind Energy Conversion Systems.
9. Golf Course

c. **Area, Yard, Height and Bulk Requirements:**

See Section 4.5

4.2.5 **Multiple Family Residential District (RM-1):** This district is designed to permit a high density of population and a high density of land use in those areas which are served by a central water supply system and a central sanitary sewer system, and which abut or are adjacent to such other uses or amenities which support, complement or serve such a density and intensity.

a. **Permitted Uses:**

1. Multiple family dwellings.
2. Two family dwellings.
3. Single family dwellings.
4. On site signs, only in accordance with the regulations specified in Article V, Section 5.2.3
5. Essential services, only in accordance with the regulations specified in Article V, Section 5.17
6. Accessory uses or structures.
7. Rooming houses and boarding houses.
8. Home occupations, only in accordance with the regulations specified in Article V, Section 5.14.

b. **Conditional Uses:**

1. Planned unit residential developments.
2. Public swimming pools, recreation centers, parks, playgrounds and playfields.
3. Churches and other buildings for religious worship.
4. Public and private nurseries, primary and secondary non-profit schools and colleges and universities.
5. Medical and dental clinics.
6. Hospitals, convalescent or nursing homes, sanitariums and orphanages.
7. Essential service structures of a non-industrial character, but not including maintenance depots or warehouses.
8. Funneling.
9. Mobile home parks and subdivisions.
10. Offices
11. Government or community owned buildings.
12. Funeral establishments.
13. Single Family dwellings.

c. **Area, Yard, Height, and Bulk Regulations:**

See Section 4.5.

SECTION 4.3 – COMMERCIAL DISTRICTS

The Local Commercial District, General Commercial District, and Highway Service Commercial District are designed to limit compatible commercial enterprises at appropriate locations to encourage efficient traffic movement, parking and utility services; advance public safety; and protect surrounding property. The commercial districts are designed to regulate the locations of these business uses according to a well-considered plan which determined the types of such uses and the intensity of land, street and highway use in each such district; potential nuisances and hazards which may cause unsafe conditions; and the relationship of commercial uses to each other and to other areas devoted to agricultural, residential, or industrial use and to streets and highways. The purpose of each commercial district is further stated below.

- 4.3.1 **Local Commercial District (C-1):** This district is designed to encourage planned and integrated grouping of stores that will retail convenience goods and provide personal services to meet regular and recurring needs of the neighborhood resident population. To these

ends, certain uses, which would function more effectively in other districts and would interfere with the operation of these activities and the purpose of this district, have been excluded.

a. **Permitted Uses:**

1. Personal services, including barber shops and beauty salons; medical and dental clinics; dry cleaners and self-serve Laundromats; and sale repair shops for watches, shoes, radios and televisions.
2. Business services including banks, loan offices, real estate offices, and insurance offices.
3. Offices of an executive, administrative, or professional nature.
4. Retail sale of foods, drugs, hardware, notions, books, and similar convenience goods.
5. On-site signs, only in accordance with the regulations as specified in Article V, Section 5.4.2.
6. Essential services and structures of a non-industrial character.
7. Accessory uses or structures.

b. **Conditional Uses:**

1. Planned-commercial unit developments.
2. Churches or other buildings of religious worship.
3. Government-or community-owned buildings, but not including schools.
4. Eating and drinking establishments, but not including drive-in types.
5. Marinas.
6. State licensed group day-care centers.
7. Communication Towers.
8. Wind Energy Conversion Systems.

c. **Area, Yard, Height, and Bulk Regulations:**

See Section 4.5.

- 4.3.2 **General Commercial District (C-2):** This district is intended to encourage planned and integrated groupings of retail, service, and administrative establishments which will retail convenience and comparison goods and provide personal and professional services for the entire area and to accommodate commercial establishments which cannot be practically provided in a neighborhood commercial area.

a. **Permitted Uses:**

1. Any use permitted in the Local Commercial District.
2. Business schools; including dance schools, music schools, and art schools.
3. Indoor retail sales establishments.
4. Indoor commercial amusement and recreation services, including theaters, bowling alleys, and roller and ice skating rinks.
5. Eating and drinking establishments, but not including drive-in types.
6. Clubs and lodges.
7. Funeral homes.
8. Printing establishments.
9. On-site signs, only in accordance with the regulations as specified in Article V, Section 5.2.5.
10. Accessory uses or structures.
11. Essential services and structures of a non-industrial character.

b. **Conditional Uses:**

1. Automobile service stations.
2. Hotels and motels.
3. Small animal clinics.
4. Drive-in business services.
5. Churches and other buildings for religious worship.
6. Government- or community-owned buildings, but not including schools.
7. Communications Towers.
8. Wind Energy Conversion Systems

c. **Area, Yard, Height, and Bulk Regulations:**

See Section 4.5

4.3.3 **Highway Service Commercial District (C-3):** This district is intended to provide various commercial establishments offering accommodations, supplies, and services to local as well as through automobile and truck traffic. This district should be provided at locations along major thoroughfares or adjacent to the interchange ramps of a limited access highway facility into centers and discourage dispersion of these activities.

a. **Permitted Uses:**

1. Automobile service stations.
2. Sales, rental, and service of motor vehicles, trailers, and boats.
3. Drive-in retail and service establishments, except drive-in theaters.
4. On-site and off-site signs, only in accordance with the regulations as specified in Article V, Section 5.2.5 and 5.2.6.
5. Motel and hotels.
6. Eating and drinking establishments.
7. Essential services and structures of a non-industrial character.
8. Accessory uses or structures.
9. Indoor and outdoor commercial amusements.
10. Any use permitted in the Local or General Commercial District.

b. **Conditional Uses:**

1. Automobile repair garages.
2. Drive-in theaters.
3. Communication Towers.
4. Wind Energy Conversion Systems.
5. Adult Entertainment (subject to the regulations specified in Somerset Township ordinance #34).

c. **Area, Yard, Height, and Bulk Regulations:**

See Section 4.5

Section 4.4 - INDUSTRIAL DISTRICT

It is recognized by the Ordinance that the value to the public of designating certain areas for certain type of industrial uses is represented in the employment opportunities afforded to citizens and the resultant economic benefits conferred upon the Township of Somerset. In order that this value may be maintained and this use encourages, this Ordinance established one zoning district designed to regulate the location of industrial uses according to a well-considered plan which reflects the types of such uses and the intensity of land, street, and highway use in each such district; potential nuisances and hazards which may cause unsafe and unhealthy conditions; and the relationship of industrial uses to each and to other areas devoted to agricultural, residential, or commercial use and to streets, highways, and other means of transportation. To these ends, certain uses which would function more effectively in other districts and would interfere with the operation of these industrial activities and the purpose of these districts have been excluded. The purpose of this industrial district is further stated below.

4.4.1 Light Industrial District (I-1): This district is designed to provide suitable space for light industrial uses which operate in a safe, non-objectionable and efficient manner, and which are compatible in appearance with and require a minimum of buffering measures from adjoining non-industrial zoning district. These uses generate a minimum of noise, glare, odor, dust, vibration, air and water pollutants, fire, explosive and radioactive hazards, and other harmful or obnoxious matter.

a. Permitted Uses:

1. Wholesale merchandising or storage warehouses.
2. Vehicle repair garages, but not including auto junk yards.
3. Trucking terminals.
4. Farm machinery and equipment sales and repair.
5. Contractor's yard.
6. Lumber yard.
7. Industrial office buildings.
8. General service and repair establishments including dyeing, cleaning, or laundry works and upholstery or appliance repair.
9. Assembly and manufacture, from prefabricated parts, of household appliances, electronic products, machinery and hardware products, and similar products; or the processing or assembling of parts for production of finished equipment.
10. Skilled trade services including plumbing, electric, heating, printing and painting establishments.
11. Research and testing laboratories.
12. Essential services and structures.

13. On-site and off-site signs only in accordance with the regulations as specified in Article V, Section 5.2.5 and 5.2.6.
14. Medical marijuana caregiver grow operation (Subject to the provisions of Section 5.25(B)).
15. Medical marijuana home use in permitted dwellings and legally nonconforming dwellings (Subject to the provisions of Section 5.25(B)).
16. Mini-Storage or Self-Storage

b. Conditional Uses:

1. Generally including those light manufacturing uses similar to the permitted uses in this district which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, line, odors, heat, or glare than that which is generally associated with light industries of the type specifically permitted.
2. Communications Towers.
3. Wind Energy Conversion Systems.
4. Adult Entertainment (subject to the regulations specified in Somerset Township Ordinance #34).

c. Area, Yard, Height and Bulk Regulations:

See Section 4.5

Section 4.5 – DISTRICT AREA, YARD, HEIGHT, AND BULK REGULATIONS

Zoning District	Zoning Symbol	Lot Requirements			Max. Yard Requirements			Max. Bldg. Height Requirements		Minimum Transition Strip Requirements	
		Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Front	Side	Rear	Principal	Accessory		
Agricultural	AG-1	1 Acre	120'	30%	35'	10' 25' tot. 35' (1)	20'	2-1/2 story or 35'	80'		
Rural Non-Farm Residential	RNF-1	1 Acre	120'	30%	35'	10' 25' tot. 35' (1)	20'	2-1/2 story or 35'	25'		

Zoning District	Zoning Symbol	Lot Requirements			Max. Yard Requirements			Max. Bldg. Height Requirements		Minimum Transition Strip Requirements	
		Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Front	Side	Rear	Principal	Accessory		
Lake Residential	RL-1	10,000 sq.′	80′	30%	35′	10′	25′	2-1/2 story or 35′	25′		Single-family detached dwelling units with central sewerage and water systems.
		15,000 sq.′	120′			25′ tot. 35′ (1)					Single-family detached dwelling units with central sewerage and water systems
		1 Acre	120′								All other uses (5)
Suburban Residential	RS-1	10,000 sq.′	100′	30%	35′	10′	20′	2-1/2 story or 35′	25′		Single-family detached dwelling units with central sewerage and water systems.
		15,000 sq.′	120′			25′ tot. 35′ (1)					Single-family detached dwelling units with central sewerage and water systems
		1 Acre	120′								All other uses (5)
Urban Residential	RU-1	7,500 sq.′	60′	30%	35′	10′	25′	2-1/2 story or 35′	25′		Single-family detached dwelling units
		1 Acre				25′ tot.					All other uses (5)
Multi-Family Residential	RM-1	5,000 sq.′	30′	50%	10′	10% of lot width or 6′ feet – whichever is greater	10′	2-1/2 story or 35′	25′		Single-family dwellings

Zoning District	Zoning Symbol	Lot Requirements			Max. Yard Requirements			Max. Bldg. Height Requirements		Minimum Transition Strip Requirements	
		Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Front	Side	Rear	Principal	Accessory		
Multi-Family Residential	RM-1	10,000 sq.′	80′	25%	25′	10′ 25′ tot. 35′ (1)	25′	2-1/2 story or 35′	25′		Two-family detached dwelling units with central sewerage and water systems.
		15,000 sq.′	120′								Two-family detached dwelling units with central sewerage and water systems
		15,000 sq.′	120′								15,000 sq.′ for 1 st 3 dwelling units plus 2,000 sq.′ for each add'l dwelling units
		½ Acre	120′								All other uses (5) Single Family Dwelling
Local Commercial	C-1	10,000 sq.′	75′	25%	35′	25′ tot. 35′ (1)	35′	35′		15′ wide and fence, wall, or hedge 4′ to 6′ height is abutting a residential district. 20′ wide landscaped strip if fronting a public street.	With central sewerage and water systems.
		15,000 sq.′	100′								Without central sewerage and water systems
General Commercial	C-2	10,000 sq.′	75′	25%	35′	25′ tot. 35′ (1)	20′	35′		15′ wide and fence, wall, or hedge 4′ to 6′ height is abutting a residential district. 20′ wide landscaped strip if fronting a public street.	With central sewerage and water systems.
		15,000 sq.′	100′								Without central sewerage and water systems

Zoning District	Zoning Symbol	Lot Requirements			Max. Yard Requirements			Max. Bldg. Height Requirements		Minimum Transition Strip Requirements	
		Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Front	Side	Rear	Principal	Accessory		
Highway Service Commercial	C-3	15,000 sq.′	100′	25%	35′	25′ tot. 35′ (1)	20′	35′		15′ wide and fence, wall, or hedge 4′ to 6′ height is abutting a residential district. 20′ wide landscaped strip if fronting a public street.	
Light Industrial	I-1	20,000 sq.′	80′	50%	35′	25′ tot. 35′ (1)	35′	35′		15′ wide and fence, wall, or hedge 4′ to 6′ height is abutting a residential district. 20′ wide landscaped strip if fronting a public street.	
(1) Corner lot, side yard requirement on street side of lot. (2) Reserved. (3) Regulations apply only to Mobile Home Parks. (4) In Central Business district, no yard requirements or transition strips are required, only side yard and rear yard when abutting Residential District. (5) No accessory buildings permitted without a principal residential building on the property.											

4.5.1 Compliance with Regulations:

- a. Notwithstanding the requirements of section 4.5, in local commercial and general commercial districts, the zoning inspector and/or the Board of Appeals and/or the Township Board may permit lots to be not less than 20 feet wide and lots to contain an area not less than 1500 square feet only in instances where such lots are contained within a platted subdivision which is irrevocably dedicated to use for commercial purposes and where central sewage and water systems are available.
- b. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth for the district in which the yard or lot is located. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

- c. No part of a yard or other open space required for or in connection with, any structure for the purpose of complying with this Ordinance, shall be included as part of a yard or open space similarly required for any other structure.

4.5.2 Yard Measurements:

- a. Lots which abut on more than one street shall provide the required front yards along every street.
- b. All front, side and rear yards shall be the minimum perpendicular distance measured from the lot line to the principal structure, excluding all projections not exceeded three (3) feet in length from the structure wall.
- c. A three (3) sided lot shall be considered to have a front and two (2) sides. The street lot line will be considered the front line except on a lot abutting the water; then the front will be interpreted to be the water side.

4.5.3 Lot Width: Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width, except in the case of lots on the turning circle of cul-de-sacs, where the eighty (80) percent requirements shall not apply.

4.5.4 Height Exceptions: The limitations affecting the height of structures shall not apply to the following appurtenant appendages and structures provided they comply with all other provisions of this or other applicable ordinances; parapet walls, chimney, smokestacks church spires, flagpoles, radio and television towers, penthouses for mechanical equipment, water tanks, anemometers and wind energy conversion systems.

- b. **Increased Height:** Building height in excess of the height above average ground level allowed in any district may be permitted provided all minimum front, side, and rear yard depths are increased one (1) foot for each additional one (1) foot of height and provided that adequate fire protection can be demonstrated.

4.5.5 Accessory Building/Structure:

a. General

1. Accessory Building structures in all districts except AG-1 Agricultural shall be subject to the regulations in this section, except as otherwise specified in this Ordinance.
2. Section deleted.
3. Accessory buildings/structures shall be customarily incidental and subordinate to the existing principal building/structure or use permitted and existing on the site.
4. Accessory buildings/structures included, but are not limited to, garages, carports, pole barns and storage sheds, which shall be constructed for permanent use and of materials which the Zoning Inspector determines are normally recognized building materials for the type of accessory building/structure being constructed.

5. Mobile homes, portable structures, structures constructed of fabric or vinyl, vehicles and trailers, shall not be considered accessory structures and are not permitted to be used as garages or accessory buildings/structures.
6. Permit-required: Any accessory building shall require a zoning compliance permit, except one (1) accessory building under one-hundred-fifty (150) square feet shall be allowed without a zoning compliance permit.
7. Required setbacks (detached, less than 150 square feet total floor area). Detached building structure less than one-hundred-fifty (150) square feet of total floor area shall be at least four (4) feet from any principal building, and at least four (4) feet from any property line.
8. Restrictions in front yard: Accessory building shall not be erected in any front yard, except accessory buildings are permitted in the front yard on waterfront lots in the RL-1 district.
9. Shoreline lots: a separate deck or patio of two hundred (200) square feet or less shall be permitted along the waterside property line, with a maximum length along the waterside property line of twenty (20) feet and a maximum height of twenty-four (24) inches above mean grade. Lots with boundary lines located in the water, deck or patio may be constructed within four (4) feet of the ordinary high-water mark of the lake or stream.

b. Area, Height and Number Limitations.

1. No detached accessory building/structure shall be located closer than ten (10) feet to any other building/structure.
2. Yard requirements for residential districts:
 - (a) In no instance shall such building/structure be near the side yard or rear lot line than as referred in Section 4.5.
 - (b) Detached garages in residential districts may be located in the side yard, providing setback requirements for the main building/structure are maintained.
 - (c) In the case of lakefront property, an accessory building/structure is permitted in the front yard, provided the same front and side yard setbacks required for a principal building/structure in the property are complied with.
3. All accessory buildings/structures in commercial and industrial districts shall be subject to the same standards and requirements for principal buildings/structures.
4. An accessory building/structure shall not occupy more than twenty-five percent (25%) of a required rear yard, not more than forty percent (40%) of any non-required rear yard (see Rear Yard Lot Coverage for section). In no instance shall the ground floor area of any accessory building/structure exceed 150% of the main building/structure in any regulated district.
5. No accessory building/structure shall be constructed prior to the commencement of its principal building/structure.

- 4.5.6 **Distance Between Grouped Buildings:** In addition to the required setback lines provided elsewhere in this Ordinance, in group dwellings (including semi-detached and multiple dwellings) the following minimum distances shall be required between each said dwelling.
- a. Where buildings are front to front or front to rear, three (3) times the height of the taller building, but not less than seventy (70) feet.
 - b. Where buildings are side to side, one (1) times the height of the taller building but not less than twenty (20) feet.
 - c. Where buildings are front to side, rear to side, or rear to rear, two (2) times the height of the taller building but not less than forty-five (45) feet.

Article V

SUPPLEMENTAL REGULATIONS

Section 5.1 – PURPOSE

It is the purpose of this Article of this Ordinance to provide regulations and requirements that supplement the provisions contained under the respective district regulations in Article IV, and may not apply in all zoning districts.

Section 5.2 - RESERVED

Section 5.25 - MEDICAL MARIJUANA

- a. **Medical Marijuana Caregiver Grow Operation.** The following regulations shall apply to all medical marijuana care giver grow operations within the Township of Somerset.
 1. An application for a medical marijuana facility certificate of occupancy shall be made in writing to the Township Zoning Administrator, who is authorized to create application forms and to receive and process applications and to thereafter grant, deny, suspend, or revoke said certificate of occupancy as set forth in this article. Applications shall be on forms supplied by and to be filed with the Township Zoning Administrator. Such application shall be signed and dated by the applicant. The application shall contain the following information, plus any other information deemed necessary by the Township Zoning Administrator:
 - a. The name and any alias used, address, and telephone number of the applicant;
 - b. The location of the medical marijuana facility and a brief description of the amount of marijuana to be distributed, or number of plants to be grown on the premises, if any;
 - c. Caregiver must disclose only the date of birth of the qualifying patient, the date of issuance and expiration date of the medical marijuana registry identification card and the random identification number assigned to each qualified patient;
 - d. The applicant's criminal record, if any;
 - e. An authorization for the Township Zoning Administrator and/or the Somerset Township Police Department to carry out a background investigation on the applicant;
 - f. If the applicant is not the owner of the proposed location of the medical marijuana facility, a notarized statement from the owner of the property authorizing submission of the application;

- g. An acknowledgment by the applicant that he or she, as well as his or her qualifying patients, may be subject to prosecution under federal laws relating to the possession and distribution of controlled substances, and that Township of Somerset accepts no legal liability in connection with the approval and operation of the medical marihuana caregiver grow facility; and
- h. A statement that the information provided is true and accurate and that, if a certificate of occupancy is granted, the applicant will abide by all applicable ordinance and statutes.

The names and other identifying information of any qualifying patient or registered primary caregiver gathered for the purposes of this chapter shall be exempt from disclosure pursuant to the Michigan Medical Marijuana Act.

2. All certificates of occupancy are subject to the following conditions, which shall be noted on the application form:
 - a. The applicant shall permit inspection of the premises and/or activity at reasonable times by any authorized representative of the Township;
 - b. The applicant shall not operate a medical marijuana facility at any time after the certificate of occupancy is suspended or revoked; and
 - c. No certificate of occupancy shall be issued unless and until the applicant, if deemed necessary by the Township of Somerset Police Department, submits to being fingerprinted and photographed as part of the background investigation.
3. Any person who has been under any sentence, including parole, probation, or actual incarceration, for the commission of a felony within five (5) years preceding the date of application shall be disqualified from receiving a certificate of occupancy to operate a medical marihuana caregiver facility.
4. The Township Zoning Administrator shall issue a certificate of occupancy to the applicant if the Township Zoning Administrator is satisfied that the applicant has met the requirements of this article and all applicable state and local laws, and the applicant has paid the certificate of occupancy fee.
5. A certificate of occupancy issued pursuant to this article does not eliminate the need for the applicant to obtain other licenses and permits (i.e., building, mechanical, electrical, plumbing, water and sewer, etc.) required for the operation of a medical marihuana facility. The pertinent inspector must provide a report confirming that all lights, plumbing, equipment, and all other means proposed to be used to cultivate marihuana plants are in accordance with applicable code(s).
6. Medical marijuana caregiver grow operation shall not be permitted as home occupation (see Sec. 5-14).
7. No medical marijuana caregiver grow operation may operate in close proximity to sites where children are regularly present or in a residential zoning district. Such operations must adhere to the following minimum distances:
 - a. More than one thousand (1,000) feet from a daycare facility (see PA 110 of 2006);

- b. More than one thousand (1,000) feet from a church, synagogue, mosque, or other religious institution;
 - c. More than one thousand (1,000) feet from a public park or community center, library, or Township Hall;
 - d. More than one thousand (1,000) feet from a public or private preschool, elementary school, high school, community college (recognizing drug-free school zones), including all other schools that have different name references but serve students of the same age;
 - e. More than one thousand (1,000) feet from an adult use as defined by this Ordinance;
 - f. More than one thousand (1,000) feet of another medical marijuana grow facility or a medical marijuana home use; and
 - g. More than one thousand (1,000) feet of a residential zoning district.
8. The primary caregiver may cultivate up to sixty (60) marihuana plants provided that no more than twelve (12) marijuana plants are cultivated per qualifying patient, not including the caregiver. The primary caregiver may cultivate up to twelve (12) additional marijuana plants if he or she is also a qualifying patient. The plants maintained for each qualifying patient must be kept in a separate locked facility, as defined by the MMMA, and accessible only to the primary caregiver and the qualifying patient.
 9. The primary caregiver may possess up to twelve and one half (12½) ounces of marijuana provided that not more than two and one half (2½) ounces are possessed per qualifying patient, not including the caregiver. The primary caregiver may possess up to two and one half (2½) ounces of additional marijuana if he or she is also a qualifying patient. An incidental amount of seeds, stalks, and roots may also be retained by the primary caregiver.
 10. Consumption or use of medical marijuana shall not be permitted on the site of a medical marijuana caregiver grow operation.
 11. No person under the age of eighteen (18) shall be permitted on the site of the medical marijuana caregiver grow operation unless the person is a registered qualifying patient.
 12. A caregiver grow operation shall not be permitted to have drive-through facilities.
 13. The operator of a medical marijuana caregiver grow operation shall keep a written record in English, on a form available from the Township, of all marijuana located on the premises and of all marihuana or marihuana products distributed and such other information designated on the form. Copies of registry cards for all current qualifying patients and the care giver must be maintained with this record.
 14. There is no authorization for marihuana-related stores, dispensaries, cooperatives, or other businesses that do not meet the regulations set by this section for a medical marijuana caregiver grow facility or medical marijuana home use and may not market to a wide customer base (see Michigan Attorney General Opinion No. 7259 of 2011.)

- b. **Medical Marijuana Home Use:** The following regulations shall apply to all medical marijuana home uses within the Township of Somerset.
1. No person may engage in the activities of a primary caregiver in a residential district unless a qualifying patient also resides in the home. The primary caregiver may only grow plants for use by the qualifying patient and the primary caregiver if he or she is also a qualifying patient.
 2. A person engaging in the activities of a primary caregiver in a residential district may only grow marijuana plants in his or her primary residence.
 3. No more than twenty-four (24) marijuana plants may be grown in a medical marijuana home use, this number being twelve (12) plants for a registered qualifying patient, not including the caregiver, plus twelve (12) plants if the primary caregiver is also a registered qualifying patient. The plants maintained for each qualifying patient must be kept in a separate locked facility, as defined by the MMMA, and accessible only to the primary caregiver and the qualifying patient.
 4. A primary caregiver, on behalf of a qualifying patient with whom the primary caregiver resides, may possess an amount of medical marijuana that does not exceed two and one half (214) ounces of usable marijuana (and an additional two and one half (214) ounces if the primary caregiver is also a qualifying patient), plus an incidental amount of seeds, stalks, and roots.
 5. The use of the dwelling unit as a medical marijuana home use must be clearly incidental and subordinate to its use for residential purposes and no more than twenty percent (20%) of the gross floor area of the dwelling may be used in any way for the medical marijuana home use.
 6. No change may occur to the outside appearance of the dwelling and no signs may be posted on the dwelling or lot advertising the medical marijuana home use.
 7. Equipment not normally used for purely domestic or household purposes or any portion of the dwelling where energy use and heat generation resulting from the growth of marijuana exceeds levels reasonably attributable to residential uses are permitted if the Zoning Administrator, or his or her designee, approves such use. The Zoning Administrator must approve of such use if he or she is satisfied that the intensity of use will not be increased to a level that will adversely impact any lot within three hundred (300) feet of the dwelling and that any energy use and heat generation resulting from the growth of marijuana exceeding levels reasonably attributable to residential uses has been approved by the Township's Fire Chief and the Township Building Inspector.
 8. No activity related to the medical marijuana home use occurring on the premises may adversely impact the surrounding neighborhood or the right of surrounding residents to quiet enjoyment of their property, including but not limited to, the creation of noise, vibrations, odors, heat, glare, unnatural light, or electrical interference detectable beyond the property line.

9. Storage and manufacture of medical marijuana shall only be permitted inside of an enclosed, locked facility such as a closet, room or other closed area equipped with locks or other security devices that only permit access by the qualifying patient or registered primary caregiver.
10. Qualifying patients, and their primary caregivers, may be subject to prosecution under federal laws relating to the possession and distribution of controlled substances, and Township of Somerset accepts no legal liability in connection with the approval and operation of the medical marijuana home use; and
11. There is no authorization for marijuana-related stores, dispensaries, cooperatives, or other businesses that do not meet the regulations set by this section for a medical marijuana home use or medical marijuana caregiver grow facility and may not market to a wide customer base (see Michigan Attorney General Opinion No. 7259 of 2011).

Section 5.3 - OFF-STREET PARKING REQUIREMENTS

In all districts, there shall be provided at the time of any building, structure, or use is established, enlarges, or increased in capacity, off-street parking spaces for motor vehicles with the requirements herein specified. Such off-street parking spaces shall be maintained and shall not be encroached upon by structures or other uses so long as the principal building, structure, or use remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

- 5.3.1 **Plans:** Plans and specifications showing required off-street parking spaces, including the means of access and interior circulation, shall be submitted to the Zoning Inspector for review at the time of application for a zoning compliance permit for the erection or enlargement of a building.
- 5.3.2 **Location of Off-Street Parking Areas:** Required off-street parking facilities shall be located on the same lot as the principal building or on a lot within three hundred (300) feet thereof except that this distance shall not exceed one hundred fifty (150) feet for single family and two-family dwellings. This distance specified shall be measures from the nearest point of the lot occupied by the building or use that such facility is required to serve.
- 5.3.3 **Reserved:**
- 5.3.4 **Off-Street Parking Area Design:**
 - a. Each off-street parking space for automobiles shall be not less than two hundred (200) square feet in area, exclusive of access drives or aisles, and shall be of usable shape and condition.
 - b. There shall be provided a minimum access drive of ten (10) feet in width, and where a turning radius is necessary, it will be of such an arc as to reasonable allow an unobstructed flow of traffic.
 - c. Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of parking spaces. The minimum width of such isles shall be:

1. For ninety (90) degree or perpendicular parking, the aisle shall not be less than twenty-two (22) feet in width.
 2. For sixty (60) degree parking, the aisle shall be less than eighteen (18) feet.
 3. For forty-five (45) degree parking, the aisle shall not be less than ten (10) feet in width.
 4. For parallel parking, the aisle shall not be less than ten (10) feet in width.
- d. All off-street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence, or compact planting strip exists as a parking barrier along the property line.
 - e. All on-street parking areas shall be drained so as to prevent drainage to abutting properties and shall be constructed of materials which have a dust-free surface resistant to erosion.
 - f. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining residential lot or institutional premises.
 - g. Any off-street parking area providing space for five (5) or more vehicles shall be effectively screened on any side which adjoins or faces property adjoining a residential lot or institution, by a wall, fence, or compact planting not less than four (4) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
 - h. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of one-or two-family dwellings.

5.3.5 **Collective Parking:** Requirements for the provision of parking facilities with respect to two or more property uses of the same or different types may be satisfied if the permanent allocation of the requisite number of spaces designated is not less than the sum of individual requirements.

5.3.6 **Determining Requirements:** For the purposes of determining off-street parking requirements the following units of measurement shall apply:

- a. **Floor Area:** In the case where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that such floor area need not include any area used for parking within the principal building and need not include any area used for incidental service storage, installations of mechanical equipment, penthouse housing ventilators and heating systems, and similar uses.
- b. **Places of Assembly:** In stadiums, sports arenas, churches, and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.

- c. **Fractions:** When units of measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

5.3.7 **Schedule of Off-Street Parking Spaces:** The minimum required off-street parking spaces shall be set forth in the following Schedule of Off-Street Parking Spaces. Where a use is not specifically mentioned, the parking requirements of a similar or related use shall apply.

Use	Parking Space Requirements
Automobile or Machinery Sales and Service Charges	One (1) space for each two hundred (200) square feet of showroom floor area plus two (2) spaces for each service bay plus one (1) space for each two (2) employees.
Bank, Business and Professional Offices	One (1) space for each two hundred (200) square feet of gross floor area.
Barber Shops and Beauty Parlors	One (1) space for each chair plus one (1) space for each employee.
Bowling Alleys	Seven (7) spaces for each alley.
Churches, Auditoriums, Stadiums, Sports Arenas, Theaters, Dance Halls, Assembly Halls other than schools.	One (1) space for each four (4) seats.
Dwelling Unit	Two (2) spaces for each family or dwelling unit.
Funeral Homes and Mortuaries	Four (4) spaces for each parlor or one (1) space for each fifty (50) square feet of floor area plus one (1) space for each fleet vehicle, whichever is greater.
Furniture, Appliance Stores, Household Equipment and Furniture Repair Shops	One (1) space for each four hundred (400) square feet of floor area.
Hospitals	One (1) space for each bed excluding bassinets plus one (1) space for each two (2) employees.
Hotels, Motels, Lodging Houses, Boarding Homes	One (1) space for each living unit plus one (1) space for each two (2) employees.
Automobile, Service Stations	One (1) space for each eight hundred (800) square feet of floor area plus one (1) space for each four (4) employees.
Manufacturing, Fabricating, Processing and Bottling Plants, Research and Testing Laboratories	One (1) space for each two (2) employees on maximum shift.

Use	Parking Space Requirements
Medical and Dental Clinics	One (1) space for each two hundred (200) square feet of floor area plus one (1) space for each employee.
Restaurants, Beer Parlors, Taverns, and Night Clubs	One (1) space for each two (2) patrons of maximum seating capacity plus one (1) space for each two (2) employees.
Self-Service Laundry or Dry Cleaning Stores	One (1) space for each three (3) washing and/or dry cleaning machines.
Elementary and Junior High Schools, and Private or Public	One (1) space for each employee normally engaged in or about the building or grounds plus one (1) space for each thirty (30) students enrolled.
Senior High School and Institution of Higher Learning, Private or Public	One (1) space for each employee in or about the building or grounds plus one (1) space for each four (4) students.
Super Market, Self-service Food and Discount Stores	One (1) space for each two hundred (200) square feet of floor area plus one (1) space for each two (2) employees.
Wholesale Establishments and Warehouses	One (1) space for each four hundred (400) square feet of floor area plus one (1) space for each two (2) employees.

5.3.8 **Exception:**

The parking requirements for all uses proposed on a lot shall be cumulative, unless the Plan. Comm. shall find that the parking requirements of a particular land use occur at different hours from those of other contiguous land uses, such that particular land use parking areas can be advantageously used during non-conflicting hours by the other contiguous land use, in which event the required parking spaces for such particular land use may be reduced by the Plng. Comm. to a minimum of the greatest number of spaces required for any of such contiguous land uses.

Section 5.4 – OFF STREET LOADING AND UNLOADING REQUIREMENTS

In connection with every building, structure, or use hereafter erected, except single- and two-family dwelling unit structures, which customarily receive or distribute material or merchandise by vehicle, there shall be provided on the same lot with such buildings, off- street loading and unloading space.

5.4.1 **Plans:**

Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the Zoning Inspector for review at the time of application for a zoning compliance permit.

5.4.2 **Off-Street Loading Area Design:**

- a. Each off-street loading and unloading space shall not be less than ten (10) feet in width and fifty-five (55) feet in length with not less than fifteen (15) foot in height clearance.
- b. Any loading-unloading space shall not be closer than fifty (50) feet to any other lot located in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, fence, or compact planting not less than six (6) feet in height,
- c. All off-street loading and unloading facilities that make it necessary to back out directly into a public road shall be prohibited.

5.4.3 **Off-Street Loading Area Space Requirements:**

- a. In the case of mixed uses on one lot or parcel, the total requirements for off-street loading-unloading facilities shall be the sum of the various uses computed separately.
- b. All retail sales facilities having over five thousand (5,000) square feet of gross floor area shall be provided with at least one (1) off-street loading-unloading space, and for every additional twenty thousand (20,000) square feet of gross floor space, or fraction thereof, one (1) additional loading-unloading space.
- c. All industrial and wholesale commercial land uses shall provide one (1) loading space for each ten thousand (10,000) square feet of floor space, with a minimum of not less than two (2) loading spaces.

Section 5.5 – CONDITIONAL USES

The formation and enactment of this Ordinance is based upon the division of the Twp. of Somerset into districts in each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses however, there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts, but because of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the Twp. of Somerset. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

5.5.1 **Authority to Grant:** The Plng. Comm. As hereinafter provided, shall have the authority to recommend to the Somerset Twp. Board to grant conditional use permits, subject to such conditions of design, operation, and safeguards as the Somerset Twp. Board may determine for all conditional uses specified in the various provisions of this Ordinance.

5.5.2 **Application and Fee:** Application for any conditional use permit permissible under the provisions of this Ordinance shall be made to the Plng. Comm. through the Somerset Township Clerk by filling in an official conditional use permit application form; submitting required data, exhibits, and information; and depositing the required fee as established by resolution of the Somerset Twp. Board, except that no fee shall be required of any governmental body or agency. No part of such fee shall be returnable to the applicant.

- 5.5.3 **Data, Exhibits, and Information Required in Application:** An application for a conditional use permit shall contain the applicant's name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved; an accurate survey drawing of said property showing the existing and proposed location of all structures thereon, the type thereof, and their uses; and a statement of supporting data, exhibits, information, and evidence regarding the required findings set forth in this Ordinance.
- 5.5.4 **Public Hearings:** Refer to Section 6.8 of the Ordinance.
- 5.5.5 **Required Standards and Findings for Making Determinations:** The Plng. Comm. shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information, and evidence showing that such a use on the proposed site, lot, or parcel meets the following requirements:
- a. Will be harmonious with and in accordance with the general objectives, intent, and purposes of the Ordinance.
 - b. Will be designed, constructed, operated, maintained, and manages so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity.
 - c. Will be served adequately by essential public facilities and services, such as: highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately and such service.
 - d. Will not be hazardous or disturbing to existing or future neighboring uses.
 - e. Will not create excessive additional requirements at public costs for public facilities and services.
- 5.5.6 **Determination and Imposition of Conditions:** If the facts in the case do not establish beyond a reasonable doubt that the findings and standards set forth in the Ordinance shall apply to the proposed use, the Township Planning Commission shall not recommend to the Township Board that said should grant a conditional use permit. In recommending that a conditional use permit should be granted by the Township Board, the Township Planning Commission shall recommend such conditions of use as it deems necessary to protect the best interest of the Township and the surrounding property, and to achieve the objectives of the Ordinance. The decision on a conditional land use shall be incorporated in a statement of findings and conclusions relative to the conditional land use which specified the basis of the decision and any conditions imposed.
- 5.5.7 **Approval, Grant or Permit:** Upon holding a public hearing and the finding that the requirements of subsection 5.5.2 through 5.5.6 of the Ordinance have been satisfactorily met by the applicant, the Township Planning Commission shall within thirty (30) days recommend approval or disapproval to the Township Board. The recommendation shall be incorporated in a statement of findings and conclusions which specified the basis for the recommendation and any conditions applied. When the Township Board gives approval, a conditional use permit shall be issued to the applicant. The township Board shall forward a copy of the permit to the applicant, the

Township Clerk, the Township Zoning Inspector, and the Township Planning Commission. The Township Zoning Inspector shall not issue a zoning compliance permit until he/she has received a copy of the conditional use permit approved by the Township Board.

5.5.8 **Voiding of Conditional Use Permit:** Any conditional use permit granted under this Ordinance shall become null and void and fees forfeited unless construction and/or use is commenced within two hundred ten (210) days and completed within five hundred and seventy-five (575) days of the day of issuance. A violation of a requirement, condition, or safeguard shall be considered a violation of this Ordinance and grounds for the Plng. Comm. to terminate and cancel such conditional use permit.

5.5.9 **Additional Development Requirements for Certain Uses:** A conditional use permit shall not be issued for the uses specified in this subsection unless complying with the site development requirements as herein specified. The Plng. Comm. may impose additional conditions and safeguards when deemed necessary by that body.

a. **Quarries:** The removal of soil, sand, gravel, stone, and other earth materials shall be subject to the following conditions:

1. There shall be not more than one (1) entrance way from a public road to said lot for each five hundred (500) feet of front lot line.
2. Such removal, processing, transportation, and activities relating to storage such as stockpiling shall not take place before sunrise or after sunset.
3. On said lot no digging or excavating shall take place closer than one hundred (100) feet to any lot line.
4. On said lot, all roads, driveways, parking lots, and loading and unloading areas within one hundred (100) feet of any lot line shall be paved, oiled, watered, or chemically treated so as to limit adjoining lots and public roads the nuisance caused by wind-borne dust.
5. Any odors, smoke, fumes, or dust generated on said lot by any digging, excavating, processing, stockpiling, or transportation operation and borne or able to be borne by the wind shall be confined within the lines of said lot as much as it is possible so as not to cause a nuisance or hazard on any adjoining lot or public road.
6. Such removal processing or storage shall not be conducted as to cause the pollution by any material of any surface or subsurface, water-course, or body outside the lines of the lot on which such use shall be located.
7. Such removal processing or storage shall not be conducted as to cause or threaten to cause the erosion by water of any land outside of said lot or of any land on said lot so that earth materials are carried outside of the lines of said lot, that such removal shall not be conducted as to alter the drainage pattern of surface or subsurface waters on adjacent property, and that in the event that such removal, processing, or storage shall cease to be conducted it shall be the continuing responsibility of the owner or operator thereof to assure that no erosion or alteration of drainage patterns, as specified in this paragraph, shall take place after the date of the cessation of operation.

8. All fixed equipment and machinery shall be located at least one hundred (100) feet from any lot line and five hundred (500) feet from any residential zoning district, but that in the event the zoning classification of any land within five hundred (500) feet of such equipment or machinery shall be changed to residential subsequent to the operation of such equipment or machinery the operation of such equipment or machinery may continue henceforth but in no case less than one hundred (100) feet from any lot line.
 9. There shall be erected a fence not less than six (6) feet in height around the periphery of the development. Fences shall be adequate to prevent trespass, and shall be placed no closer than fifty (50) feet to the top of any slope.
 10. All areas within any single development shall be rehabilitated progressively as they are worked out of abandoned to a condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding ground form so as to appear reasonably natural.
 11. The operator shall file with the PIng. Comm. and the Zoning Inspector a detailed plan for the restoration of the development area which shall include the anticipated future use of the restored land, the proposed final topography indicated by contour lines of not greater interval than five (5) feet, steps which shall be taken to conserve topsoil; proposed and final landscaping; and the location of future roads, drives, drainage courses, and-or other improvements contemplated. Said plans shall be subject to review and modification from time to time by the PIng. Comm. The anticipated cost of carrying out the plans or restoration shall be included with said plans.
 12. The operator shall file with the Township Board a performance bond, payable to the Township of Somerset and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The amount of the required bond which will reflect the anticipated cost of restoration shall be fixed by the Somerset Township Board. The bond shall be released upon written certification of the Zoning Inspector that the restoration is complete and in compliance with the restoration plan.
- b. **Junk Yards:** In addition to and as an integral part of development, the following provisions shall apply:
1. It is recognized by this Ordinance that the location of such materials in an open area included in this Ordinance's definition of "junk yard" will cause the reduction of the value of adjoining property. To the end that the character of the district shall be maintained and property values conserved, a solid, unpierced fence or wall at least seven (7) feet in height, and not less than the height of the materials on the lot on which a junk yard shall be operated, shall be located on said lot no closer to the lot lines than the yard requirements for buildings permitted in this district. All gates, doors, and access ways through said fence or wall shall be of solid, unpierced material. In no event shall any materials included in this Ordinance's definition of "junk yard" be located on the lot on which a junk yard shall be operated in the area between the lines of said lot and the solid, unpierced fence or wall located on said lot.

2. All traffic ingress or egress shall be on major streets, and there shall be not more than one (1) entrance way to the lot on which a junk yard shall be operated from each public road on which said lot abuts.
 3. All roads, driveways, parking lots, and loading and unloading areas within any yard of a junk yard shall be paved, oiled, watered or chemically treated so as to limit adjoining lots and public roads the nuisance caused by wind-borne dust.
- c. **Drive-In Theaters:** In addition to and as an integral part of development, the following provisions shall apply:
1. Drive-in theaters shall be enclosed for their full periphery with a solid screen fence at least seven (7) feet in height. Fences shall be of sound construction, painted, or otherwise finished neatly and inconspicuously.
 2. All fenced-in areas shall be set back at least one hundred (100) feet from any front street or property line.
 3. All traffic ingress or egress shall be on major streets and all local traffic movement shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements into or out of the public thoroughfare. All points of entrance to the exit of motor vehicles shall be located closer than two hundred (200) feet from the intersection of any two (2) streets or highways.
- d. **Mobile Home Park:**
- All mobile home parks shall comply with the Department of Consumer and Industry Services, Manufactures Housing Commission, General Rules (by the authority conferred on the Mobile Home Commission by Sections 4, 5, 9, 21, to 24, 27, and 38 of Act. No. 96 of the Public Acts of 1987, as amended and executive Reorganization Order No. 1996-2, being SS 125.2304, 125.2305 to 125.2324, 125.2327, 125.2328, 24.231, to 24.264 and 445.2201 of the Michigan Compiled Laws.
- e. **Mobile Home Subdivision:**
1. All mobile homes to be erected at permanent residences in mobile home subdivisions shall meet the requirements of the Twp. of Somerset Building Code and shall be approved by the Zoning Inspector prior to erection on the lots.
 2. Each mobile home approved for erection on a mobile home subdivision lot shall be mounted on a solid concrete apron no less than twelve (12) feet in width, six (6) feet in length and four (4) inches in thickness or a suitable foundation.
 3. Lot areas where a mobile home is to be erected, altered, or used as a single-family dwelling shall contain not less than seventy-five hundred (7,500) square feet of lot area if the lot is served by a central sanitary sewerage system. Where a lot is not so served, there shall be provided a minimum of fifteen thousand (15,000) square feet of lot area for each mobile home.
 4. The minimum lot width for lots served with a central sanitary sewerage system shall be sixty (60) feet. Where a lot is not so served, the minimum lot width shall be one hundred twenty (120) feet.
 5. The maximum lot coverage shall not exceed thirty (30) percent.

6. Each lot in a mobile home subdivision shall have a front yard of not less than thirty-five (35) feet.
 7. Each lot in a mobile home subdivision shall have two (2) side yards and the least width of either yard shall not be less than ten (10) feet, but the sum of the two (2) side yards shall not be less than twenty-five (25) feet.
 8. Each lot in a mobile home subdivision shall have a rear yard of not less than twenty (20) feet.
 9. No building or structure, or part thereof, shall be erected to a height exceeding fifteen (15) feet.
 10. All mobile homes to be erected and used in a mobile home subdivision shall contain a gross floor area of not less than five hundred (500) square feet.
- f. **Planned-Unit Development:** The purpose of this section is to permit flexibility for residential, commercial, and industrial development where large tracts of land are planned with integrated and harmonious design, and where the overall design of such units is so outstanding as to warrant modification by the Plng. Comm. of the regulations. Any planned-unit development to be eligible under this provision must comply with the following requirements.
1. The tract of land to be developed shall have a minimum area of not less than ten (10) acres.
 2. The owner of the property shall submit to the Plng. Comm. a plan for the use development of the total tract of land as a planned- unit development in accordance with the provisions of SECTION 5.6, SITE PLAN REVIEW AND APPROVAL. In addition to the site plan data specified in SECTION 5.6, the application shall contain such other pertinent information as may be necessary to make a determination that the contemplated arrangement or use may make it desirable to apply regulations and requirements differing from those ordinarily applicable under this Ordinance.

The plan shall contain such proposed covenants, easements, and other provisions relating to the bulk, location, and density of structures, accessory uses thereto, and public facilities as may be necessary for the welfare of the planned-unit development and not inconsistent with the best interests of the entire Township of Somerset.
 3. The average density of structures of the tract shall not be greater than the density requirements in the district in which the planned unit devolvment is located.
 4. The use of the land shall be in conformance with the permitted uses of the district in which the proposed plan is to be located.
 5. The proposed devolvment shall be served by adequate public facilities and service, such as: highways, streets, police and fire protection, drainage, structures, and refuse disposal. These facilities may be provided by a governmental or private organization.
 6. The proposed unit shall be of such size, composition, and arrangement that its construction, marketing, and operation is feasible, as a complete unit, without dependence on any subsequent unit or devolvment.

7. The common open-space, common properties, individual properties, and all other elements of the planned unit devolvment shall be so planned that they will achieve a uniformed environmental scheme, with open spaces and all other elements in appropriate locations, suitable related to each other, the site, and surrounding land.
 8. The applicant may be required to dedicate land for street and park purposes by appropriate covenants, to restricting areas perpetually for the duration of the Planning Development as open spaces for common use. The devolvment as authorized shall be subject to all conditions so imposed, and shall be exempt from other provisions of this Ordinance only to the extent specified in the authorization.
- g. **Conditional Residential Use in a Commercial District:** To encourage and provide for the economic vitality of the central business district, residential occupancy shall be permitted.
1. Businesses may occupy any number of total floors.
 2. In those instances where residential uses are proposed to occupy the same floor as the business use, the Planning Commission shall review such mixed use and may approve such mixed use based on findings that compatibility of the business with residential occupancy will occur. Such findings may include by are not limited to:
 - a. Compatible hours of operation.
 - b. Noise of operation or occupancy that would be detrimental to the business operation or vice versa.
 - c. Excess foot traffic.
 3. A use once established shall not require Planning Commission review when a change of occupancy occurs provided such change of occupancy is to the same or a similar type use.
 4. Each dwelling unit shall have a minimum floor area as follows:
 - a. Efficiency dwelling unit – 400 square feet
 - b. One-bedroom dwelling unit – 500 square feet
 - c. Two- bedroom dwelling unit – 700 square feet
 - d. Three-bedroom dwelling unit – 800 square feet
 5. Off street parking shall be provided in accordance with Section 5.3.7 and shall be provided in designated off-street parking areas within 1,000 feet of the dwelling unit the area to serve.
- h. **ORV Park/Trails:** Commercially operated ORV /park/trails for use by Off Road Vehicles, Dune Buggies, Snowmobiles, Off Road Motorcycles and similar types of recreational vehicles subject to the following terms:

1. Any such site shall be located in existing compromised sites, such as borrow pits, mines or quarries with a minimum lot area of 160 acres.
2. Any such site shall minimize any adverse effect on adjacent properties.
3. The site shall be so planned as to provide all ingress and egress directly onto a county primary road or state highway. There shall be adequate parking on-site.
4. Trails or operation area shall be located at least two hundred (200') feet from any property line unless otherwise shown that a lesser set back would not adversely impact the adjoining property.
5. Where such facilities adjoin property owned by third parties, there shall be adequate signage, clearly marking the borders and warning against trespass.
6. A site plan shall be submitted to the Planning Commission for review and approval in accordance with Section 5.6.
7. The site shall stay in compliance with the Michigan State ORV noise regulations and any other applicable standards for protection of the natural resources and avoidance of undue interference with the use and enjoyment of adjacent property owners. The site shall comply with any applicable standards regarding participants and guests.

i. **Wind Energy Conversion System:**

1. The Township of Somerset (Township) promotes the effective and efficient use of Wind Energy Conversion Systems (WECS) with minimum regulation respecting their siting, design, and installation so that the public health, safety and welfare of neighboring property owners or occupants will not be jeopardized. This provision is not a guarantee or right to establish access to wind.
2. Definitions:
 - a. WECS shall mean any device such as a wind charger, windmill or wind turbine that converts wind energy to a form of usable energy.
 1. Agriculture WECS shall mean any WECS that is accessory to a permitted farm or agricultural operation, and is designed and built to serve the needs of the farm or agricultural operation.
 2. Private WECS shall mean any WECS that is accessory to a principal non-farm, or non-agricultural use located on the same lot, and is designed and built to serve the needs of the principal use.
 3. Commercial WECS shall mean any WECS that is designed and built to provide electricity to an electric utility's power grid.

- b. Manual and Automatic Controls shall mean that which protects a power grid and limits the speed of rotation of WECS' blades at or below the designated limits of the conversion system.
 - c. Authorized Factory Representative shall mean an individual who has received WECS technical training, including instruction in installation and maintenance, and is certified by the applicable WECS manufacturer.
 - d. Professional Engineer shall mean any appropriately licensed engineer registered in the State of Michigan (State).
 - e. Facility Abandonment shall mean a WECS which is out of production for a period of time of at least twelve months.
3. Approval Required: It shall be unlawful to construct, erect, install, alter, or locate any WECS within the Township unless a special use permit has been obtained pursuant to this Ordinance. The special use permit shall be applied for on forms provided by the Township and in addition to that required by Section 5.5 shall include the requisite permit fee and the following information:
- a. Plot plan which details the location of the WECS pole or tower, guy line anchor bases, and their distance from all property boundaries.
 - b. How the base of the WECS pole and/or other ground apparatus shall be appropriately protected and screened.
4. General Standards applicable to all WECS in the Township
- a. Design Safety Certification certified by a Professional Engineer and in compliance with the special use permit application. Specifically, the Professional Engineer must certify that the rotor and over-speed control design and fabrication conform to applicable design standards. The Professional Engineer must also certify that the WECS meets or exceeds the manufacturer's construction and installation standards.
 - b. Manual and automatic controls which limit the rotation of blades to a speed at or below the designated limits of the WECS. No changes or alterations from certified design shall be permitted unless accompanied by a Professional Engineer's certification of such.
 - c. Electrical components, storage facilities, wire conduit, cables and interconnections with an electric utility shall conform to national and local electrical codes.
 - d. The WECS shall be in compliance with all applicable ordinances of the Township.
 - e. The WECS must have a setback from all property boundaries at a distance equal to or greater than 150% of the height of the structure, measured from the base of the structure to the highest reach of its blade.
 - f. Private WECS shall conform to the maximum height standards for the applicable zoning district. Commercial WECS shall be exempt from the height requirements subject to the special use permit and sustained compliance with FAA regulations.

- g. The owner/operator of the WECS must submit acceptable documentation which would determine whether the WECS would in any way cause interference with microwave transmissions, residential television reception, radio reception or other similar reception.
 - h. The WECS shall have no fuel sources such as vegetation in the immediate vicinity electrical gear and connections.
 - i. All solid wastes, whether generated from supplies, equipment parts, packaging, operation or maintenance of the WECS, including old parts and equipment, shall be removed from the site immediately and appropriately disposed. All hazardous wastes generated by the WECS, including but not limited to the lubricating materials, shall be immediately removed from the site and properly disposed of according to all applicable law.
 - j. The sound from the WECS shall not exceed 55 decibels when measured from any surrounding boundary line.
 - k. The installation and operation of the WECS shall be properly and adequately insured with a bond acceptable to the Township for a Private WECS accessory to the principal residence, the owner must provide proof of adequate homeowner's insurance with specific coverage for the WECS.
5. Additional Standards for Commercial WECS
- a. Towers and blades shall be painted any neutral color acceptable to the Township or as otherwise required by law.
 - b. Prior to the grant of the special use permit by the Township, the Commercial WECS shall have all applicable permits including that of the FAA; specifically, there shall be a determination by the FAA that there is no significant impact to air navigation.
 - c. There shall be posted visible warning signs of "High Voltage."
 - d. Commencing twelve months from the actual month start date of the energy conversion, an Authorized Factory Representative or Professional Engineer shall annually inspect the Commercial WECS and certify to the Township that the Commercial WECS is in good working condition and not a hazard to the public. Such certification shall be part of the continuing special use permit.
 - e. If deemed necessary by the Township, the Township may require an avian study conducted by a qualified professional to determine any potential impacts on bird migration by the Commercial WECS.
 - f. All towers or poles must be non-climbable by design or protected by anti-climbing devices such as:
 - 1. Fences with locking portals at least six feet high.
 - 2. Anti-climbing devices twelve feet from the base of the pole.

3. Anchor points for guy wires supporting the tower shall be enclosed by a six-foot-high fence or shall be located within the confines of the property which is completely fenced; or
 4. Some other security method
- g. There shall be a Decommissioning Plan to ensure proper decommissioning upon the end of the project life or facility abandonment. The Decommissioning Plan shall include the following:
1. The removal of all surface structures (such as transmission equipment and fencing), debris, and the establishment or restoration of vegetation within six months, commencing with the month in which ended the project life or facility abandonment.
 2. How the Commercial WECS shall be decommissioned; the Professional Engineer's estimated cost of the decommissioning; and the financial resources available to accomplish this decommissioning.
 3. An agreement with the Township that the financial resources for decommissioning shall be in the form of a surety bond or deposit with an escrow agent acceptable to the Township; the Township shall have access to the escrow funds if the Commercial WECS is not decommissioned within six months of the end of the project life or facility abandonment; The Township is granted access to the property to assure the Commercial WECS has been appropriately decommissioned and/or to complete the decommissioning; and the Township is granted the right to seek injunctive relief, to seek monetary compensation in excess of the funds available through the escrow as needed to fulfill these obligations, and to resort to other remedies such as a lien whether against the applicant or successor in order to appropriately and reasonably complete the decommissioning.

Section 5.6 – SITE PLAN REVIEW AND APPROVAL

It is recognized by the Ordinance that there is a value to the public in establishing safe and convenient traffic movement to high density sites, both with the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this Ordinance requires a site plan review by the Zoning Administrator for certain uses, buildings and structure that can be expected to have a significant impact on natural resources, traffic patterns, and in adjacent land usage.

5.6.1 Buildings, Structures and Uses Requiring Site Plan

The zoning inspector shall not issue a zoning compliance permit for the construction of buildings and structures identified in this section unless a detailed site plan has been reviewed by the Zoning Administrator and the Township of Somerset Board.

- a. Multiple family developments
- b. Mobile home park

- c. All uses requiring a conditional use plan
- d. All commercial uses
- e. All industrial use
- f. Site condominium developments
- g. Subdivision plats
- h. Commercially operated ORV park/trails
- i. Any development in a commercial or industrial district

5.6.2 **Application and Fee for Site Plan Review**

Any person may file a request for a site plan review by the Zoning Administrator by filing with the Clerk the completed application upon the forms furnished by the Clerk and payment of a fee established by resolution of the Township Board. As an integral part of said application, the applicant shall file at least four (4) copies of a site plan.

5.6.3 **Zoning Administrator Review of Site Plan**

Upon receipt of such application from the Clerk, the Zoning Administrator shall undertake a study of the same and shall, within thirty (30) days, approve or disapprove of the site plan, advising the applicant in writing of the recommendation, including any changes or modifications in the proposed site plan as are needed to achieve conformity to the standards specified in this Ordinance.

5.6.4 **Required Data for Detailed Site Plan:** Every site plan submitted to the Zoning Administrator shall be in accordance with the following requirements:

- a. The site plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet not less and one (1) inch equals two hundred (200) feet and of such accuracy that the Zoning Administrator can readily interpret the site plan, and shall include more than one (1) drawing where required for clarity.
- b. The property shall be identified by lot lines and location, including dimensions, angles and size, and correlate with the legal description of said property. Such plan shall further include the name and address of the property owner, developer, and designer.
- c. The site plan shall show the scale; north point; boundary dimensions; topography (at least two (2) foot contour intervals); and natural features, such as, wood, lots, streams, rivers, lake drains, and similar features.
- d. The site plan shall show existing man-made features, such as buildings, structures; high tension tower; pipe lines; and existing utilities, such as water and sewer lines, excavations, bridges, culverts, drains, and easements, and shall identify adjacent properties and their existing uses.

- e. The site plan shall show the location, proposed finished floor and grade line elevations, size of proposed principal and accessory buildings, their relation one to another and to any existing structure on the site, the height of all buildings, and square footage of floor space. Site plans for residential development shall include a dwelling schedule showing the unit type and number of each unit type.
- f. The site plan shall show the proposed streets, driveways, sidewalks, and other vehicular and pedestrian circulation features within and adjacent to the site; also, the location, size and number of parking spaces in the off-street parking area, and the identification of service lanes and service parking.
- g. The site plan shall show the proposed location, use, and size of open spaces; and the location of any landscaping, fences, or walls on the site. Any proposed alterations to the topography and other natural features shall be indicated. The site plan shall further show any proposed location of connections to existing utilities and proposed extensions thereof.
- h. A vicinity map shall be submitted showing the location of the site in relation to the surrounding street system.

- 5.6.5 **Standards for Site Plan Review:** In reviewing the site plan, the Zoning Administrator shall ascertain whether the proposed site plan is consistent with all regulations of this Ordinance. Further, in consideration of each site plan, the Zoning Administrator shall find that provisions of subsections 5.6.3 and 5.6.4 of this Ordinance as well as the provisions of the zoning district in which said buildings, structures and uses as indicated in the proposed site plan have been satisfactorily demonstrated and met by the applicant.
- 5.6.6 **Somerset Township Board Approval of Site Plan:** Upon the Zoning Administrator recommended approval of a site plan and the Somerset Township Board approval of the site plan. The clerk shall, within ten (10) days transmit to the zoning administrator one (1) copy with the Clerk's certificate affixed thereto; certifying that the approved site plan conforms to the provisions of the Ordinance as determined. If the site plan is disapproved by the Zoning Administrator or the Township Board notification of such disapproval shall be given to the applicant within ten (10) days after such action. The zoning administrator shall not issue a zoning compliance permit until he has received a certified approval site plan.
- 5.6.7 **Expiration of Site Plan Certificate:** The site plan certificate shall expire, and be of no effect, three hundred sixty-five (365) days after the date of issuance thereof, unless within such time the Zoning Inspector has issued a zoning compliance permit for any proposed work authorized under a said site plan certificate.
- 5.6.8 **Amendment, revision of Site Plan:** A site plan, and site plan certificate, issued thereon, may be amended by the Planning Commission upon the request of the applicant. Such amendment shall be made upon application and in accordance with the procedure provided in Section 5.6 of this Ordinance. Any fees paid in connection with such application may be waived or refunded at the discretion of the Planning Commission.

Section 5.7 – NONCONFORMITIES

Where within the districts established by this Ordinance, or by amendments, there exists lots, structures, and uses of land and structures which were lawful before this Ordinance was adopted or amended and which would be prohibited, regulated, or restricted under the terms of this Ordinance, or future amendment; it is the intent of this Ordinance to be incompatible with the lots, structures, and uses permitted by this Ordinance in certain districts. It is further the intent of this Ordinance that such nonconformities shall not be enlarged, expanded, or extended except as provided herein; nor to be used as ground for adding other lots, structures or uses prohibited elsewhere in the same district.

- 5.7.1 **Nonconforming Uses of Land:** Where, on the date of adoption or amendment of this Ordinance, a lawful use of land exists that is no longer permissible under the provisions of this Ordinance, such use may be continued as long as it remains otherwise lawful, subject to the following provisions:
- a. No such nonconforming use of land shall be enlarged, expanded, or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this Ordinance; and no accessory use or structure shall be established therewith.
 - b. No such nonconforming use of land shall be moved in whole or in part to any other portion of such land not occupied on the effective date of adoption or amendment of this Ordinance.
 - c. If such nonconforming use of land ceases for any reason for a period of more than one hundred eighty (180) consecutive days, the subsequent use of such land shall conform to the regulations and provisions set by this Ordinance for the district in which such land is located.
- 5.7.2 **Nonconforming Structures:** Where, on the effective date of adoption or amendment of this Ordinance, a lawful structure exists that could not be built under the regulations of this Ordinance by reason of restrictions upon lot area, lot width, lot coverage, height, open spaces, or other characteristics of such structure or its location upon a lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions.
- a. No such structure shall be enlarged, expanded, extended, or altered in a way which increases its nonconformance.
 - b. Should any such structure be destroyed by any means to an extent of more than fifty (50) per cent of its replacement cost at the time of destruction, it shall not be reconstructed excepted in conformity with the provisions of this Ordinance.
 - c. Should any such structure be moved for any reason, of any distance, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
- 5.7.2 **Nonconforming Uses of Structures:** Where, on the date of adoption or amendment of this Ordinance, a lawful use of a structure exists that is no longer permissible under the regulations of this Ordinance, such use may be continued so long as it remains otherwise lawful subject to the following provisions.

- a. No nonconforming use of a structure shall be enlarged, expanded, extended, or altered except in changing the use of such structure to a use permitted in the district in which such structure is located.
- b. When a nonconforming use of a structure is discontinued or abandoned for more than one hundred eighty (180) consecutive days, the structure shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- c. Any structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repairs or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not to exceed ten (10) percent of the then current replacement value, of the structure, provided that the volume of such structure or the number of families housed therein as it existed on the date of adoption or amendment of this Ordinance shall be deemed to prevent the strengthening or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.
- d. Should any structure containing a nonconforming use be moved, for any reason of any distance, it should thereafter conform to the regulations of the district in which it is located after it is moved.
- e. Should any structure devoted in whole or in part to any nonconforming use be destroyed by any means to an extent of more than fifty (50) per cent of its replacement cost at the time of destruction, it shall not be reconstructed and again be devoted to any use except in conformity with the regulations of the district in which it is located.

5.7.4 **Change of Tenancy or Ownership:** There may be a change of tenancy, ownership, or management of an existing nonconforming use, building, or structure; provided there is no change in the nature or character of such nonconforming use, building, or structure.

5.7.5 **Nonconforming Lots of Record:** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, regardless of its area or width, provided that the owner of such lot does not own any adjoining property; and further provided, however that no lot shall be less than forty (40) feet wide; the minimum side yard shall be ten (10) percent of the lot width or six (6) feet, whichever is greater; the depth of the rear yard shall not be less than twenty-five (25) feet; the depth of the front yard shall not be less than twenty-five (25) feet; and all requirements of the Hillsdale County Health Department shall be met before construction is begun. Any variance of yard requirements from the above provisions shall be obtained only through action of the Zoning Board of Appeals.

Any existing platted subdivision lot of record abutting a body of water shall require a rear setback of not less twenty-five (25) feet. The rear setback is the distance between the structure and the body of water.

5.7.6 **Extension and Substitution:** There shall be a specific exemption from the preceding prohibitions. whether in Section 5.7 or any other Section of ARTICLE V, against rebuilding, altering, replacing, improving, enlarging, extending, substituting or modifying a non-conforming use when such use is occupied as a dwelling place. In this case, the owner or tenant of said dwelling place shall make application to the Board of Appeals requesting an exemption from the aforesaid prohibitions. If the board of Appeals, after a hearing upon such

application, shall determine that for reasons of health, sanitation, safety or the well being of the occupants that the request is proper, then the Board of Appeals may authorize the tenant to rebuild, alter, replace, improve, enlarge, extend, substitute or modify said dwelling place. Prior to granting any such request under this Section, the Board of Appeals specifically shall make the following findings of fact and apply the following standards:

- a. That the use was originally constructed as a dwelling place, and has continuously been occupied as a dwelling place.
- b. That the use currently is occupied as a dwelling place by the owner, or, if not occupied by the owner, then the premises shall not be leased or rent for monetary gain.
- c. That by reason of original construction, current condition, or as part of the proposed changes, the use will have electrical and sanitation facilities meeting the requirements of this Zoning Ordinance and any applicable building codes.
- d. That by reason of original construction, current condition, or proposed change, the use will meet the building code requirements set forth by this Zoning Ordinance and any building code applicable to the type of use and type of use district.
- e. That the use adequately is serviced by public utilities and private or public highways or roads.
- f. That the proposed changes will materially and substantially benefit the use as a dwelling place and/or make the use more in conformity with the provisions of this Zoning Ordinance and any building code.
- g. That the proposed changes will not have an adverse effect upon the uses in the general vicinity by creating new or different violations of this Zoning Ordinance.

Proceedings under this Section shall follow the same procedure and be subject to the same application fee as set forth for applications to the Board of Appeals on an appeal under ARTICLE VII, Section 7.5.

All applications under this section shall be accompanied by complete plans and specifications of the proposed improvements to the existing dwelling or new unit if substitution of the dwelling is requested.

All applications under this section shall be submitted on forms provided by the Township.

Section 5.8 – PERFORMANCE STANDARDS

- 5.8.1 **Requirements:** No lot, building or structure in any district shall be used in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Uses in all districts, where permitted, shall comply with the following performance requirements:
- a. **Noise:** Noise which is objectionable due to volume, frequency, or beat shall be muffled or otherwise controlled so that there is no production of sound discernable at lot lines in excess of the average intensity of street and traffic noise at the lot lines. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.

- b. **Vibration:** No vibration shall be permitted which is discernable without instruments on any adjoining lot or property.
- c. **Smoke:** Smoke shall not be emitted with a density greater than No. 1 on the Ringleman Chart as issued by the U.S. Bureau of Mines except for blow-off periods of ten (10) minutes duration of one (1) per hour when a density of not more than No. 2 is permitted.
- d. **Odor:** No malodorous gas or matter shall be permitted which is offensive or as to produce a public nuisance or hazard on any adjoining lot or property.
- e. **Air Pollution:** No pollution of air by fly-ash, dust, vapors, or other substances shall be permitted which is harmful to health, animals, vegetation, or other property, or which can cause excessive soiling.
- f. **Glare:** No direct or reflected glare shall be permitted which is visible from any property or from any public street, road, or highway.
- g. **Erosion:** No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties, lakes, ponds, rivers, or streams.

5.8.2 **Plans:** The application for a zoning compliance permit for a use subject to performance requirements shall be accompanied by a description of the machinery, process, and products; and specifications for the mechanisms and techniques to be used in meeting the performance standards.

5.8.3 **Enforcement:** The Zoning Inspector may refer the application to one or more expert consultants qualified to advise as to whether a proposed use will conform to the performance standards.

The costs of such services shall be borne by the applicant, and a copy of any report shall be furnished to the applicant and the Township Board.

Section 5.9 – STORAGE OF MATERIALS

The location or storage of abandoned, discarded, unused, unusable, or inoperative vehicles, appliances, furniture, equipment, or material shall be regulated as follows:

- a. On any lot in any agricultural district, residential district, or commercial district, the owner or tenant, but not for hire or for business, shall locate and store such materials within a completely enclosed building.
- b. On any lot in any industrial district, the owner or tenant, whether or not for hire or for business, shall locate and store such materials within a completely enclosed building or within an area surrounded by a solid, unpierced fence or wall at least seven (7) feet in height and not less in height than the materials located or stored therein, and not closer to the lot lines than the minimum yard requirements for buildings permitted in permitted in said districts.

- c. Nothing in this Ordinance shall permit the storage or parking of any vehicle or non-permanent structure within the required front yard of any lot within a residential district, except that the parking of a passenger vehicle on a driveway located on private property shall not be prohibited.

Section 5.10 – MOBILE HOMES AND TRAVEL TRAILERS

- a. No mobile home shall be used other than as a single-family dwelling and in a duly licensed Mobile Home Park or in a Mobile Home Subdivision, except a mobile home may be used as a temporary field office provided it is certified as such by the Zoning Inspector.
- b. The Zoning Inspector shall have authority to grant a permit for temporary occupancy of mobile homes on any lot in a residential district subject to the following conditions:
 - 1. During the period of construction of a new permanent dwelling, but not to exceed a period of twelve (12) consecutive months, the owner of such permanent dwelling premises, and members of such owner's immediate family, shall be permitted to occupy as a temporary residence one mobile home situated at such construction site provided that such owner intends to occupy as a residence such dwelling upon completion of its construction.
 - 2. Such mobile home shall not be located between the established setback line and the public right-of-way line of such premises.
 - 3. The mobile home shall contain sleeping accommodations, a flush toilet, and a tub or shower bath adequate to serve the occupants thereof.
 - 4. The sanitary facilities of the mobile home for the disposal of sewage and waste shall be properly connected to the central sewerage system available at such premises and in case such system is not there available, then properly connected to the existing septic tank sewage disposal system which is approved by the Hillsdale County Health Department for the permanent dwelling to be constructed thereat.
- c. No travel trailer shall be used as a dwelling except for a period not to exceed two (2) weeks and in a duly licensed travel trailer park, or as a temporary dwelling for a period not to exceed one week provided such travel trailer is situated on a parcel of land upon which is located a dwelling with water and sanitary facilities accessible to the travel trailer occupants and certified by the Zoning Inspector.

Section 5.11 – VISIBILITY AT INTERSECTIONS

On any corner lot in any zoning district requiring front and side yards, no fence, wall, hedge, screen, sign, structure, vegetation, or planting shall be allowed to impede vision between a height of three (3) feet and eight (8) feet above the centerline grades within the triangular area formed by the intersecting street right-of-way lines and a straight line joining the two (2) street lines at points which are thirty (30) feet distance from the point of intersection, measured along the street right-of-way line.

Section 5.12 – ACCESS TO PUBLIC STREETS

- a. In any residential district, commercial district, and industrial district, every use, building, or structure established after the effective date of this Ordinance shall be on a lot or parcel which adjoins a public street.
- b. In any agricultural district every use, building, or structure established after the effective date of this Ordinance shall be on a lot or parcel which adjoins a public or private easement of access to a public street.

Section 5.13 – FLOOD PLANS

Notwithstanding any other provisions of this Ordinance, land subject to periodic flooding shall be used only for agriculture and recreation uses, provided no structures are located within the area subject to flooding.

The location and boundaries of land subject to periodic flooding shall be determined by reference to the U.S. Soil Conservation Service, the U.S. Army Corp of Engineers, or other official authority.

Section 5.14 – HOME OCCUPATION

A home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purpose. The following additional conditions shall be observed:

- a. Such home occupation shall be carried on within the dwelling or within a building accessory thereto and entirely by the inhabitants thereof.
- b. No article shall be sold or offered for sale on the premises except such as is produced within the dwelling or accessory building or is provided incidental to the service or profession conducted within the dwelling or accessory building.
- c. There shall be no exterior storage of materials or equipment.
- d. Not more than one (1) person other than the family occupying the dwelling shall be employed.
- e. No nuisances shall be generated by heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases, or matter at any-time.

Section 5.15 – FENCES

Fences in all residential districts are subject to the following conditions:

- a. Fences which enclose property shall not exceed six (6) feet in height, measured from the surface of the ground in the rear and side yards, and shall not exceed three (3) feet in height, measured from the surface of ground in the front yard.

Section 5.16 – TEMPORARY OR SEASONAL USES

Circuses, carnivals, flea markets, organized special events or other transient enterprises may be permitted in any district, underwritten recommendation of the Zoning Administrator and approval of the Board of Trustees (Board) of the Township of Somerset (Township) subject to the following:

- a. The applicant for this use or event shall submit to the Zoning Administrator a preliminary site plan, and in writing, describe in detail the event or use, its duration, proposed traffic flow, how refuse and sanitation will be handled, how required parking will be accomplished and identify any nuisances or public safety issues this use or event may create and how they will be mitigated.
- b. If the Board determines, as part of its review and terms and conditions for approval, that the use or event will require the assistance of the Township Police or Fire Department, or any other Township services, the applicant accepts responsibility for all appropriate charges as determined by the Township.
- c. In the interest of insuring compliance with the Ordinance provisions, protection of natural resources and the health, safety, and welfare of the public, payment for Township facilities and assistance, and return to the site's original condition, the applicant may be required to deposit a performance guarantee in the amount and terms as reasonable determined by the Board.
- d. Proposed signage shall conform to the provisions in Article 5 pertaining to the district in which the use or event is located.

Section 5.17 - ESSENTIAL SERVICES

Essential services as defined in Article II and as authorized and regulated by law, shall be permitted in all districts. It is the intention herein to exempt such services from the application of this Ordinance.

Section 5.18 – CURB CUTS AND DRIVEWAYS

Curb cuts and driveways may be located only upon approval by the Zoning Inspector and such other country and state authorities as required by law; provided however, such approval shall not be given where such curb cuts and driveways shall not be given where such curb cuts and driveways shall unnecessarily increase traffic hazards.

Section 5.19 - COMMUNICATION TOWERS

- a. The following Site and Developmental Requirements Shall Apply:
 1. A minimum site of one (1) acre and two hundred (200) feet of road frontage shall be required.
 2. The appropriateness of guy wire shall be considered when the property abuts residential zoning district or use.
 3. The base of the tower and the guy wire supports shall be fenced with a minimum of six (6) foot high fence.
- b. The Following Special Performance Standards Shall Apply to Communication Towers:

1. Communication towers must be set back from all property lines a distance equal to its height.
2. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than the minimum front yard requirement of the appropriate zoning district as found in Section 4.5 (Area, Yard, Height, and Bulk Requirements).
3. Accessory structures shall not exceed six hundred (600) square feet of gross building area.
4. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
5. The plans of the tower shall be certified by a registered structural engineer.
6. The applicant shall provide verification in that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
7. All towers must meet the standards of the Federal Communications Commission and the Federal Aviation Administration
8. Communication towers in excess of one hundred (100) feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport or one-half (1/2) mile of a helipad.
9. No part of any communication tower or antenna shall be constructed, located, or maintained at any time, permanently or temporarily, on or upon any required setback area for the district on which the antenna or tower is to be located. In no case shall a tower or antenna be located within thirty (30) feet of a property line.
10. Metal towers shall be constructed of, or treated with, corrosive-resistant material.
11. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electric wiring and connection with all applicable local statutes, regulations and standards.
12. Towers with antennas shall be designed to withstand a uniform wind loading.
13. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
14. Towers shall be located so that they do not interfere with reception in nearby residential areas.
15. Towers shall be located so that there is room for vehicles doing maintenance to maneuver on the property owner and/or leased by the applicant.
16. The base of the tower shall occupy no more than five (5) hundred square feet.
17. Minimum space between tower locations shall be one (1) mile in order to prevent a concentration of towers in one area.

18. Height of the tower shall not exceed two hundred (200) feet from the grade within a commercial zoning district, and three hundred (300) feet from grade within an industrial or agricultural zoning district.
19. Towers shall not be artificially lightened except as required by the federal Aviation Administration.
20. Existing on-site vegetation shall be preserved to the maximum extent practicable.
21. There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
22. There shall be no employees located on the site on a permanent basis to service or maintain the communication tower. Occasional or temporary repair and service activities, and excluded from this restriction.
23. Where the property adjoins any residential-zoned property or land use, the developer shall plant two (2) alternating rows of evergreen trees with a minimum height of five (5) feet on twenty (20) foot centers along the entire perimeter of the tower and related structures. In no case shall the evergreens be any nearer than ten (10) feet to any structure.
24. The policy of the community is to minimize the number of communication towers in the Township. Therefore, the Township shall require the colocation of communication towers. Pursuant to this policy, the following standards apply to the communication towers:
 - a. All new and modified communication towers shall be designed and constructed so as to accommodate co-location.
 - b. A conditional use permit for the construction and use of a new communication tower shall not be granted unless and until the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs.
 - c. The following information shall be submitted prior to Township approval to construct a communication tower:
 1. Site Plan in accordance with Section 5.6.
 2. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed communication tower. Such plan shall be designed to ensure the long-term, continuous maintenance to a reasonable prudent standard.
 3. The application shall include a description of security to be posted at the time of receiving a building permit for the communication tower to ensure removal of the facility when it has been abandoned or is no longer needed. In this regard, the Township Zoning Board shall specify the form of security as approved by the township attorney and recorded at the office at the County Registrar of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any cost and attorney's fees incurred by the community in securing removal. The security shall be adjusted on an annual basis according to the U.S. Bureau of Labor

Statistic's Consumer Price Index annual average for United States cities in the North Central Region of the United States.

4. The name, address, and phone number of the person to contact for engineering, maintenance and other notices purposes. This information shall be continuously updated during all times the facility is on the premises.

Section 5.20 – CONDOMINIUM SUBDIVISION APPROVAL

Pursuant to authority conferred by section 141 of the Condominium Act, Act 59 of 1978, as amended, all condominium subdivision plans must be approved by the township board on recommendation by the Planning Commission.

- a. **Definitions:** The following terms are defined both in the context of the Condominium Act and in a manner intended to make comparison possible between the terms of this Zoning Ordinance with the Condominium Act.
 1. "Condominium Act" means Act. 59 of 1978, as amended.
 2. "Condominium subdivision" shall be equivalent to the term "subdivision" as used in this zoning ordinance.
 3. "Condominium subdivision Plan" means the site, survey and utility plans; and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof the land. The condominium subdivision plan shall show the size, location, area, vertical boundaries, and volume of each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location, and appropriate size of common elements.
 4. "Consolidation Unit" means that a portion of the condominium unit designed and intended for separate ownership and use, as described in the master deed.
 5. "Consolidation master deed" means the final master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.
 6. "Contractible condominium" means a condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to excess provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.
 7. "Conversion condominium" means a condominium project containing condominium units some or all of which were occupied before establishment of the condominium project.
 8. "Convertible area" means a unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to excess provision in the condominium documents and in accordance with this Ordinance and Condominium Act.

9. "Expandable condominium" means a condominium project to which additional land may be added pursuant to access provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.
 10. "Front yard setback" shall be equal to the distance between the front yard area line and the condominium units.
 11. "Lot" shall mean the same as "Home Site" and the Condominium unit.
 12. "Mobile home condominium project" means a condominium project while mobile home are intended to be located upon separate sites which constitute individual condominium units.
 13. "Master deed" means the condominium documents recording the condominium project as approved by zoning administrator to which is attached as exhibits and incorporated by reference the approved bylaws of the project and the approved condominium plan for the project.
 14. "Rear yard setbacks" shall be equal to the rear yard area line and the condominium dwelling.
 15. "Side yard setbacks" shall be equal to the distance between the side yard area line and the condominium dwelling.
 16. Condominium dwelling.
- b. **Condominium Subdivision Plan – Required Content:** All condominium subdivision plans shall include the information required by Section 66 of the Condominium Act and the following:
1. A survey plan of the condominium subdivision.
 2. A flood plain plan, which appropriate.
 3. A plan showing the location, size, shape, area, and width of all condominium units.
 4. A utility plan showing all sanitary sewers, water, and storm sewer lines and easements granted to the township for installation, repair and maintenance of all utilities.
 5. A street construction, paving and maintenance plan for all private streets within the proposed condominium subdivision.
 6. A storm drainage and storm water management plan, including all lines, swales, drains, basins, and other facilities.
- c. **Easements for Utilities:** The condominium subdivision plan shall include all necessary easements granted to Somerset Township for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipe lines, mains, conduits, and other installations of a similar character (hereinafter collectively called "public structures") for the purpose of providing public utilities, including conveyance of sewage, water and storm water run-off across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structure.

- d. **Private Streets:** If condominium subdivision is proposed to have private streets, they shall be developed to the minimum design, construction, inspection, approval, and other applicable requirements of the Hillsdale County Road Commission for a dedicated public street.
- e. **Encroachment Prohibited:** Encroachment of one condominium unit upon another, as described in Section 40 of the Condominium Act, shall be prohibited by the condominium by-law and recorded as part of the master plan.
- f. **Relocation of Boundaries:** The relocation of boundaries, as described in Section 48 of the Condominium Act, shall conform to all setback requirements of this Ordinance for the district on which the project is located, shall be approved by the zoning administrator, and this requirement shall be made part of the by-laws as recorded as part of the master deed.
- g. **Subdivision of Condominium Units:** All subdivision or individual condominium units shall conform to the requirements of this Ordinance for a minimum lot width, lot area, and the building setback requirements shall be approved by the zoning administrator, and these requirements shall be made part of the by-laws and recorded as part of the master deed.
- h. **Mobile Home Condominium Project:** Mobile home condominium projects shall conform to all requirements of this Ordinance and shall be located in all mobile home subdivisions.
- i. **Condominium Subdivision Layout, Design, and Approval:** All condominium subdivision plans shall conform to the plan preparation requirements, review and approval procedures, design, layout and improvements standard of Article V Site Plan Review of the Somerset Township Zoning Ordinance. A deposit in the form of cash, certified check, or irrevocable bank letter of credit shall be made with the Township of Somerset if required by the township board to guarantee the installation and completion on any required public sanitary sewer, water supply, and drainage facilities, within a length of time agreed upon from the date final approval of the condominium subdivision plan by the zoning board.

Section 5.21 – CONDOMINIUM SUBDIVISION APPROVAL ADDITIONS REGULATIONS:

The following regulations shall apply to all condominium projects within the Township of Somerset.

- a. **Initial Information:** Concurrently with notice required to be given the Township of Somerset pursuant to Section 71 of the Public Act 59 of 1978, as amended, a person, firm or corporation intended to develop a condominium project shall provide the following information with respect to the project.
 - 1. The name, address and telephone number of:
 - a. All persons, firms, corporations with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land vendee).
 - b. All engineers, attorneys, architects or registered land surveyors associated with the project.
 - c. The developer or proprietor of the condominium project.

2. The legal description of the land on which the condominium projects will be developed together with the appropriate tax identification number.
 3. The acreage content of the land on which the condominium projects will be developed.
 4. The purpose of the project (for example, residential, commercial, industrial, etc.).
 5. Approximate number of condominium units to be developed in the subject parcel.
 6. Whether or not a community septic system is contemplated.
- b. **Information to be Kept Current:** The information shall be furnished to the zoning administrator and shall be kept updated until each time a certificate of occupancy has been issued pursuant to the Somerset Township Zoning Ordinance.
- c. **Site-Plan New Project, Master Deed, Engineering and Inspections:** Prior to recording the master deed required by Section 72 of Public Act 59 of 1978, as amended (MCL 559, 108), the condominium project shall undergo site review and approval pursuant to Article V of Somerset Township Ordinance. In addition, the township shall require appropriate engineering plans and inspections prior to the issuance of any certificate of occupancy.
- d. **Site-Plan Expandable or Convertible Projects:** Prior to expansion or conversion of a condominium project to additional land, the new phase of the project shall undergo site plan review and approval pursuant to Article V, Site Plan Review, of the Somerset Township Zoning Ordinance.
- e. **Master deed, Restrictive Covenants and “As built” survey to be Finished:** The condominium project developer or proprietor shall furnish the zoning administrator with the following: One (1) copy of the recorded master deed, one (1) copy of all restrictive covenants, and two (2) copies of an “as build survey”. The “as build” survey shall be reviewed by the township ordinance. Fees for this review shall be established by resolution of the township board.
- f. **Monuments Required-Site Condominium Project:** Condominium projects which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided in this subsection.
1. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street or mark angles in the boundary of the condominium project, if the angle points can be readily reestablished by reference to monuments along the sidelines of the street.
 2. All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
 3. Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project and at the intersection of alleys with the boundaries of the condominium project; at all points of curvature, points of tangency, points of

compound curvature, and angle points in the side lines of streets and alleys; at all angles of an intermediate traverse line and at the intersection of all limited common elements.

4. If the required located monument is an inaccessible place, or where the location of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
 5. If a point required to be monumented in on bedrock outcropping, a steel rod at least one-half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
 6. All required monuments shall be placed flush with the ground where practicable.
 7. All unit corners shall be mounted in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (1/2) inches in diameter or other approved markers.
 8. The township board of the Township of Somerset may wave the placing of any required monuments and markers for a reasonable time, but not to exceed one (1) year, on the condition that the proprietor deposits with the township clerk cash or a certified check, or irrevocable bank letter of credit turning to the Township of Somerset, whichever the proprietor selects, in any amount not less than that established for this purpose by resolution of the township board. Such cash, certified check, or irrevocable bank letter of credit, shall be returned to the proprietor upon receipt of a certificate by surveyor that the monuments and markers have been placed as required within the time specified.
- g. **Monuments Required – All Condominium Projects:** All condominium projects shall be marked at their boundaries with monuments meeting the requirements of Section F, above.
 - h. **Compliance with Federal, State, and Local Law:** All condominium projects shall comply with federal and state statutes and local ordinance.
 - i. **State and Country Approval:** The developer or proprietor of the condominium project shall establish that appropriate state and country approvals have been received with regard to the fresh water system for the proposed project and with regard to the wastewater disposal system for the proposed project.
 - j. **Temporary Occupancy:** The zoning administrator may allow occupancy of the condominium project before all improvements required by this ordinance are installed provided that a bond is submitted sufficient in the amount and type to provide for the installation and improvements before the expiration of the temporary occupancy permit without expense to the township.
 - k. **Single Family Detached Condominium:** Single family detached condominiums shall be subject to all requirements and standards of the applicable AG and R-1 districts including minimum floor area requirements and minimum lot size. For the purpose of computing density, the number of units per gross acre shall not exceed 2.9 units per acre in developments without community water and sanitary sewer systems, or 3.8 units per acre in developments with community water and sanitary sewer systems. There shall

be maintained a minimum distance of seventy (70) feet from the center of one (1) residential dwelling unit to the center of another residential dwelling unit. This seventy (70) foot requirement shall be computed along the front building line. In addition, building envelopes shall be depicted in the site plan to ensure that the minimum fifty (50) foot front yard, twenty (20) foot rear yard, twenty (20) foot side set yard (least side).

- l. **Multiple Family Dwelling:** Two-family or multiple condominiums shall be located only in those zoning districts allowing two (2) family or multiple-family dwelling, and shall be subject to all of the zoning requirements and standards of the zoning district in which they are located. Such standards shall include but not be limited to minimum floor area requirements, minimum lot size, and the setback requirements of the ordinance for the district in which the project is located.
- m. **Streets and Roads:** All streets and roads in a single-family detached condominium project shall, at minimum, conform to the standards and specifications promulgated by the Hillsdale County Road Commission for a “country road” in a single family residential subdivision.
- n. **Site Plan:** After submittal of the condominium plan and by-laws as part of the master deed, the proprietor shall furnish to the township a copy of the site plan on a photographic hard copy, laminated photo static copy or mylar sheet of at least thirteen by sixteen (13 X 16) inches with an image ten and one-half by fourteen (10 ½ X 14) inches.

Section 5.22 – FUNNELING

Conditional use provisions in accordance with the Somerset Township Zoning Ordinance are hereby established to regulate land uses adjoining water bodies in any zoning District.

The purpose of these regulations is to protect the public health, safety and welfare which could be threatened by environmental degradation resulting from the over-use of inland lakes, and to avoid situations which may create a nuisance, irreparably damage important natural resources and destroy property values. These regulations are intended to reinforce the implementation of the Natural Resources and Environmental Protection Act 1994 PA 451, as amended.

5.22.1 **Definitions:** See 2.2.22A Funneling and 2.2.22B Common-Use Riparian Lot.

5.22.2 **Applicability:** These regulations shall apply to the following common use riparian lots:

- a. Those lots created after the effective date of this ordinance.
- b. Those lots of record existing prior to the effective date of this ordinance that did not provide common-use access to a water (riparian rights to non-riparian landowners) prior to the effective date of this ordinance.
- c. Lots that have been providing common-use access to a water body for a defined geographical area or a specific number of lots through an association or subdivision/condominium deed prior to the effective date of this ordinance, and where it is proposed to expand the geographical area of the lots that are provided common-use access to water body through said common-use access

lot. Lots of record existing prior to the effective date of this ordinance that have been providing common-use access to a water body for a defined geographical area or a specific number of lots may continue to provide riparian access rights subject to existing deed provisions and the regulations of the Michigan Department of Environmental Quality under Part 301, Inland Lakes and Streams, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

5.22.3 General Requirements:

- a. The deed to any common-use riparian lot or parcel shall specify the non-riparian lots or parcels that shall have rights to its use.
- b. Such common-use riparian lot or parcel shall meet the minimum lot width and area requirements for the zoning district in which the lot is located. Lot width shall be measured by a straight line that intersects each side of the lot line at the water's edge; lot width shall be measured as the minimum distance between the water's edge and the lot line that is opposite the water's edge.
- c. For each non-riparian lot or parcel being deeded common-use access, there shall be at least forty (40) feet of straight-line water frontage within the designated common-use riparian lot.
- d. Artificial shoreline, created by excavation, filling or other methods, may not be used to satisfy that riparian water-frontage requirement of this ordinance.
- e. Wetlands, as defined in Part 303, Waterlands Protection, of the Natural Resources and Environmental Protection Act, 1004 PA 451, as amended, shall not be used to satisfy the riparian lot frontage or depth requirements of this ordinance.
- f. Each non-riparian lot or parcel with deeded common-use access may be allowed dock usage (subject to the requirements of 5.22.4); access for one boat; and bathing privileges for all property owners, their children and equal numbers of accompanied relatives or guests.
- g. Vehicle and boat-trailer parking shall be provided for at least fifteen percent (15%) of the non-riparian lots or parcels having deeded common-use access, with a setback of at least eighty (80) feet from the water's edge and location within the rear one-third (1/3) of the common-use riparian lot.
- h. A common-use riparian lot, regardless of total area, shall not be used to contain a residence or storage structure, nor shall any outdoor storage, overnight parking, or commercial activities be allowed.

5.22.5 Uses Subject to Conditional Use: Subject to the provisions in Section 5.5, the following uses may be permitted in any residential district;

- a. Recreational sites, including bathing beaches, playgrounds, boat-launching sites, and other recreational sites;
- b. Scenic sites;
- c. Trails, bike paths, driveways, parking areas;

- d. Boat-docking facilities provided that all of the requirements of Section 5.22.4 are met.

5.22.7A **Bed and Breakfast Facility:** A building, typically a large single family dwelling, where lodgings and light breakfast for persons, other than family, are regularly served for compensation.

Section 5.23 – BED AND BREAKFAST FACILITIES.

- a. The minimum lot size shall be 22,000 square feet. With a minimum frontage of 100 feet on a public street.
- b. A residence shall not have or be converted to more rental rooms than the number of bedrooms which exist at the time of adoption of this ordinance.
- c. The minimum size of a rental room shall be 125 square feet.
- d. The minimum size for manager/owner living quarters shall be four-hundred-fifty (450) square feet.
- e. A common room or area for guest relaxation is required.
- f. For those facilities which are not owner occupied, a manager must reside on the premises and have an equity interest in the facility.
- g. One off-street parking space shall be provided for each rental room in addition to the two (2) off-street spaces required for single-family dwellings. Parking shall be adequately screened from the adjacent residentially developed or zoned property.
- h. Bathrooms must be furnished for guestrooms at a ratio of not less than one (1) bathroom per two (2) rental rooms.
- i. The premises (including corner lots) may be permitted one (1) advertising sign not exceeding six (6) square feet in area.
- j. Approval by the Township Building Inspector is required prior to occupancy of the facility. Thereafter, the Township Building Inspector shall conduct an annual compliance inspection.
- k. Approval of the Branch-Hillsdale-St. Joseph Community Health Agency is required.
- l. The maximum stay at a bed and breakfast facility shall be (30) continuous days.
- m. The use of the facility shall not, in the judgment of the Township Planning Commission and the Township Board, be detrimental to adjacent land uses and the immediate neighborhood.

Section 5.24 – Outdoor Wood Furnaces

Purpose: The purpose of this section is to protect the public health, safety and welfare by prohibiting certain outdoor furnaces and by requiring that all outdoor furnace systems are properly installed and maintained consistent with this Ordinance and the manufacturer's instructions.

a. **Definitions:**

1. **Outdoor Wood Furnaces:** as defined by the Environmental Protection Agency and including a boiler, wood-fired hydronic heater, any equipment, device, appliance or or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of wood to produce heat or energy used as a component of a heating system providing heat for any interior space of water source.
2. **Environmental Protection Agency Outdoor Wood Hydronic Heater (EPA OWHH) Phase 1 Program Qualified Model:** An Outdoor Wood Furnace that has been EPA OWHH Phase 1 program qualified, meets all EPA OWHH Phase 1 emissions levels and has the proper qualifying label and hangtag.
3. **Natural Wood:** Wood which has not been painted, varnished, or coated with a similar material, has not been chemically treated, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

b. This Ordinance shall apply to Outdoor Wood Furnaces which are installed, or thereafter replaced or substituted after the effective date of this amendment.

1. No person shall construct, install, establish, operate or maintain an Outdoor Wood Furnace except as permitted under this Ordinance and in compliance with the manufacturer's specifications. If there is a conflict between the manufacturer's specifications and this Ordinance the more restrictive shall apply.
2. Only EPA OWHH Phase 1 Program qualified models are permitted.
3. The Outdoor Wood Furnace must be installed and maintained in accordance with the manufacturer's standards and specifications.
4. The burning of rubbish, garbage, plastic materials, foam or synthetics, newspaper, cardboard, or any other material not within the definition of Natural Wood is prohibited.
5. The Outdoor Wood Furnace must be set back no less than 125 feet from adjacent property boundaries.
6. The Outdoor Wood Furnace shall be at least forty (40) feet from the residence serviced.
7. The Outdoor Wood Furnace shall not be located in the front yard of the property.
8. The Outdoor Wood Furnace shall have a sufficient buffer established to deter fire.
9. The Outdoor Wood Furnace shall not be installed on a parcel of land less than five acres.

c. Application of Ordinance to Outdoor Wood Furnaces which were installed prior to the effective date of this amendment.

1. Such Outdoor Wood Furnaces must be operated and maintained in compliance with the manufacturer's specifications. If there is a conflict between the manufacturer's specifications and this Ordinance the more restrictive shall apply.
 2. Subsections C. 4 and C. 8 shall apply.
 3. Subsection C. shall apply for any replacement or substitution of such Outdoor Wood furnace.
 4. Should the Zoning Administrator, after due investigation, determine the Outdoor Wood furnace to be a verifiable nuisance or if verifiably interfering with the health, safety and welfare of the adjacent property owners or occupants, the use of such Outdoor Wood Furnace shall cease.
- d. **Permit Approval Procedure:** Prior to installation of an Outdoor Wood Furnace covered by Subsection C. or a replacement of an Outdoor Wood Furnace covered by Subsection D. a Zoning Compliance Permit must be obtained and a permit fee paid as may be established by the Board of Trustees of the Township of Somerset. Application for a permit must be by written request which shall include a copy of the owner's manual and installation instructions of the proposed Outdoor Wood Furnace. A drawing to scale showing the existing boundary lines and proposed location of the Outdoor Wood Furnace shall demonstrate the proposed Outdoor Wood Furnace shall be installed in compliance with Section 5.24. The Zoning Administrator shall grant a Zoning Compliance Permit if it is determined that the proposed Outdoor Wood Furnace complies with this Ordinance and the manufacturer's specifications.

Article VI

ADMINISTRATION OF THE ORDINANCE

Section 6.1 – PURPOSE

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

Section 6.2 - ADMINISTRATION

Except when herein otherwise stated the provisions of this Ordinance shall be administered by the Zoning Inspector or by such deputies of his department as the Township Board may designate to enforce the provisions of this Ordinance.

Section 6.3 – DUTIES OF ZONING INSPECTOR

The Zoning Inspector shall have the power to grant zoning compliance permits and certificates of occupancy and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Inspector to approve plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this Ordinance, nor shall the Zoning Inspector vary or change any terms of this Ordinance.

If the Zoning Inspector shall find that any of the provisions of this Ordinance are being violated, he shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of any lot or structures; removal of illegal structures, or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

The Zoning Inspector shall submit to the Plng. Comm. and the Township Board quarterly reports fully explaining the type and nature of uses permitted by right; the nature and extent of violations of this Ordinance; and the type and nature of non-conforming uses, buildings, and structures. The Zoning Inspector shall maintain a record of all zoning compliance permits and certificates of occupancy.

Section 6.4 – ZONING COMPLIANCE PERMITS

6.4.1 Issuance of Zoning Compliance Permits:

No building or structure, or part thereof, shall hereafter be located, erected, constructed, reconstructed, altered, converted, or enlarged or moved; nor shall any change be made in the use of any building, structure, or land without a zoning compliance permit having been obtained from the Zoning Inspector for building, structure, or land. A zoning compliance application shall be filled out and submitted to the Zoning Inspector.

The Zoning Inspector shall require that all applications for zoning compliance permits shall be accompanied by plans and specifications including a plot plan in duplicate, drawn to scale, showing the following information.

- a. The actual dimensions and shape of the lot to be built upon; and,
- b. The exact size and location of existing structures on the lot, if any; and
- c. The location and dimensions of the proposed structure or alteration.

One (1) copy of the plans shall be returned to the applicant by the Zoning Inspector after such copy has been approved or disapproved, and attested to same by the Zoning Inspector's signature on such copy. The Zoning Inspector shall retain the original copy, similarly marked, for his files. Whenever the buildings, structures, and uses as set forth in the application are in conformity with the provisions of this Ordinance, the Zoning Inspector shall issue the applicant a zoning compliance permit within ten (10) days of the filing thereof. Where action of the Board of Appeals or the Plng. Comm. is required in any case, as set forth in this Ordinance, the Zoning Inspector shall issue such permit promptly following such action.

6.4.2 **Voiding of Zoning Compliance Permit:**

Any zoning compliance permit granted under this Ordinance shall become null and void and fees forfeited unless construction and/or use completed within five hundred forty-five (545) days of the date of issuance. A zoning compliance permit shall be renewable upon reapplication and upon payment of the fee, subject however, to the provisions of all ordinances in effect at the time of renewal.

Section 6.5 – CERTIFICATE OF OCCUPANCY, FINAL INSPECTION

- 6.5.1 **Issuance of Certificate of Occupancy:** No building or structure, or part thereof, shall be occupied by or for any use for which a zoning compliance permit is required by this Ordinance unless and until a certificate of occupancy shall have been issued for such use. The holder of a zoning compliance permit for the construction, erection, or moving of any building, structure or part thereof, for the establishment of a use, shall make application to the Zoning Inspector immediately upon the completion of the work authorized by the zoning compliance permit for a final inspection.

A certificate of occupancy shall be issued by the Zoning Inspector within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, is in accordance with the provisions of this Ordinance.

- 6.5.2 **Voiding of Certificate of Occupancy:** Any certificate of occupancy granted under this Ordinance shall become null and void if such use, buildings, or structure for which said certificate was issued are found by the Zoning Inspector to be in violation of this Ordinance. The Zoning Inspector upon finding such violation shall immediately notify the Township Board of said violation and void the certificate of occupancy.

Section 6.6 – FEES, CHARGES, AND EXPENSES

The Township Board shall establish a schedule of fees, charges, and expenses, and a collection procedure for zoning compliance permits, certificates of occupancy, appeals and other matters pertaining to the Ordinance. The schedule of fees shall be posted in the office of the Zoning Inspector, and may be altered or amended only by the Township Board. No permit, certificate, conditional use on approval, or variance shall be

issued unless or until such costs, charges, fees, or expenses listed in this Ordinance have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, unless or until preliminary charges and fees have been paid in full.

Section 6.7 – VIOLATIONS AND PENALTIES: NUISANCE PER SE: ABATEMENT

- 6.7.1 Enforcement: The Township Board may instruct the Zoning Administrator or the Township Attorney to initiate a civil or criminal complaint or other legal action to enforce the Zoning Ordinance. Although the default violation is a civil infraction (subsection 6.7.2), the Township may choose enforcement through a charge for knowing and intention violations (subsection 6.7.3), or seek injunctive relief for substantive serious or threatening violations (subsection 6.7.4). However, enforcement options shall not be mixed for example with the same violation being charged as a misdemeanor and a civil infraction. The Zoning Administrator is authorized to issue civil infraction citations under this section 6.7.
- 6.7.2 Civil Action Violation: Unless otherwise specified in the Zoning Ordinance, violations of the Zoning Ordinance are civil infractions, including without limitation, fines, damages, expenses and costs as authorized by the Revised Judicature Act of 1961PA 236 (MCL 600.101-600.9948) as amended, subject to the following:
- a. Civil infraction sanctions include a civil fine not less than \$75 plus costs, damages, expenses and other sanctions for each infraction.
 - b. An initial repeated civil infraction may lead to increased civil fine not less than \$250 plus costs, damages, expenses and other sanctions. Subsequent repeated civil infraction(s) may lead to increased civil fine not less than \$500 plus costs, damages, expenses and other sanctions.
 - c. A civil infraction action may be commenced upon the issuance of a civil infraction citation which directs the alleged violator to appear in court.
 - d. Should the civil infraction requiring the alleged violator to appear in court not be complied with, this is a violation punishable by a fine not more than \$500 with additional costs, or imprisonment for a term not to exceed 90 days, or both fine (with additional costs) and imprisonment.
 - e. Failure to comply with a court order, judgment or default in payment of a civil fine and/or additional costs as ordered may result in enforcement actions, including, but not limited to, imprisonment, collections, liens or other remedies as permitted in Chapter 87 of PA 236 (MCL 600.8707-600.8735) as amended.
 - f. Within context of the Zoning Ordinance, a municipal civil infraction is not a 'crime' or a lesser included offense of a criminal offense, or an ordinance violation which is not a civil infraction.
- 6.7.3 Violation: A violation is punishable upon conviction by a fine not more than \$500 with additional costs, or imprisonment for a term not to exceed 90 days, or both fine (with additional costs) and imprisonment.

A Violation includes: (a) a knowing false statement, representation or certification in an application, report, record, plan or other document filed or required to be maintained pursuant to the Zoning Ordinance, or (b) a willful continuation of violating the Zoning Ordinance after suspension or revocation of a permit authorized under this Zoning Ordinance, other ordinances or State law.

- 6.7.4 Nuisance Per Se and Injunctive Relief: A violation of any regulation (ordinance) contained in this Zoning Ordinance which is determined to be detrimental to the health, safety and general welfare of the residents, property owners and other persons/entities within the Township and deemed a public nuisance per se. In addition to any other relief or penalty provided by the Zoning Ordinance or allowed by law, such violation constitutes a basis for injunctive relief sought by the Township and/or any owner(s) of real estate within the Township against the violator and/or land owner to restrain and prohibit the violator and/or land owner from continuing the violation.
- 6.7.5 Continuing Offense: Each day a violation continues may be determined as a separate or repeat offense subject to penalties or sanctions as such.
- 6.7.6 Land Division Violation: No zoning permit shall be issuable in event of violation of the Michigan Land Division Act of 1967, PA 288 (MCL 560.101-560.293), as amended.
- 6.7.7 Building Construction Violation: An approved zoning permit is required to perform any construction and/or seek to receive a building permit as required by the Township or other permits enforced by the Township.
- 6.7.8 Overlapping Jurisdiction: Prior to the issuance of any zoning permit, the Zoning Administrator must reasonably determine such permit has been or will be approved by any state, local, county, and/or federal agencies which have jurisdiction in such matters.
- 6.7.9 Administrative Liability: No officer, member, agent or employee of the Township shall be personally liable for any damage or consequence which may take place as a result of any act, decision, or other event or cause by discharging duties and responsibilities pursuant to the Zoning Ordinance.

Section 6.8 – PUBLIC HEARING NOTICE REQUIREMENTS

All applications for a variance to the Township Zoning Board of Appeals and for amendments and conditional uses to the Township Planning Commission shall be processed and the required public hearing shall be noticed and conducted in compliance with the Michigan Zoning Enabling Act.

Article VII

BOARD OF APPEALS

SECTION 7.1 – BOARD OF APPEALS ESTABLISHED

There is hereby established a Township of Appeals, which shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act in such a way so that the objective of the Ordinance shall be observed, the public health and safety secured, and substantial justice done.

- a. The Township Board of Appeals shall be composed of not fewer than five (5) members. One of the regular members of the Township Zoning Board of Appeals shall be a member of the Township Planning Commission. The remaining regular members, and any alternate members, shall be selected from the electors of the Township. Membership vacancies must be filled within one (1) month.

SECTION 7.2 – DUTIES OF THE BOARD OF APPEALS

The Board of Appeals shall hear and decide only such matters as the Board of Appeals is specifically authorized to pass on as provided in this Ordinance. The Board of Appeals shall not have the power to alter or change the zoning district classification of any property; nor to make any changes in the terms of this Ordinance; but does have the power to authorize a variance as defined in this Ordinance, to act on those matters where this Ordinance may require an interpretation, and to issue a temporary use permit when authorized by this Ordinance.

SECTION 7.3 – VARIANCE

The Board of Appeals may authorize, upon an appeal, a variance from the Ordinance where by reason of exceptional narrowness, shallowness, shape, or contour of a specific property at the time of enactment of this Ordinance or by reason of exceptional conditions of such property, the strict application of the Ordinance enacted would result in peculiar or exceptional practical difficulties upon the owner of such property, no variance shall be granted to permit the establishment within a district of any use which is excluded or for which a conditional use permit is required.

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

- a. A written application for a variance is submitted, demonstrating the following:
 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same district.
 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 3. That the special conditions and circumstances do not result from the actions of the applicant.

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
 5. That no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- b. The Board of Appeals shall determine that the new requirements of the Ordinance have been met by the applicant for a variance.
 - c. The Board of Appeals shall determine that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - d. The Board of Appeals shall determine that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
 - e. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
 - f. Each variance granted under the provisions of this Ordinance shall become null and void unless:
 1. The construction authorized by such variance or permit has been commenced within one hundred eighty (180) days after the granting of such variance and pursued diligently to completion; or
 2. The occupancy of land or buildings authorized by such variance has taken place within one hundred eighty (180) days after the granting of such variance.
 - g. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

SECTION 7.4 – INTERPRETATION OF ZONING ORDINANCE

The Board of Appeals shall hear and decide appeals where it is alleged by the applicant there is an error in any order, requirement, permit, decision, or refusal made by the Zoning Inspector or any other administrative official in carrying out or enforcing any provisions of this Ordinance including interpretations of the Zoning Map.

SECTION 7.5 – APPEALS TO THE BOARD OF APPEALS

- 7.5.1 **Appeals, How Taken:** Appeal from the ruling of the Zoning Inspector or the Township Board concerning the enforcement of the provisions of this Ordinance may be made to the Board of Appeals within such time as shall be prescribed by the Board of Appeals by general rule, by the filing with the officer from whom the appeal is taken. This officer shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed was taken.

- 7.5.2 **Why May Appeal:** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, agency, or bureau of the Township, Village, City, County, or State.
- 7.5.3 **Fee for Appeals:** A fee prescribed by the Township Board shall be paid to the Board of Appeals at the time of filing the notice of appeal which the Board of Appeals shall pay over, within thirty (30) days after deciding any appeal, to the General Fund of the Township of Somerset.
- 7.5.4 **Effect of Appeal; Restraining Order:** An appeal stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him. That by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, of notice to the officer from whom the appeal is taken and on due cause shown.
- 7.5.5 **Notice of Hearing:** When a request for an appeal has been filed in proper form with the Board of Appeals, the Board of Appeals Secretary or Somerset Township Clerk shall immediately place the said request for appeal upon the calendar for hearing, and cause notice, stating the time, place, and object of the hearing to be served personally or by registered return receipt mail at least ten (10) days prior to the date of such hearing, upon the party or parties making the request for appeal.
- 7.5.6 **Representation of Hearing:** Upon the hearing, any party or parties may appear in person or by agent or by attorney.
- 7.5.7 **Decisions of the Board of Appeals and Appeals to the Circuit Court:** The Board of Appeals shall decide upon all matters within a reasonable time and may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Inspector or Township Board from whom the appeal is taken.
- The Board of Appeal's decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case. Any person having an interest affected by such resolution shall have the right to appeal to the Circuit or question of law and fact in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, of notice to the officer from whom the appeal is taken and on due cause shown.
- 7.5.5 **Notice of Hearing:** Refer to Section 6.8 of the Ordinance.
- 7.5.6 **Representation of Hearing:** Upon the hearing, any party or parties may appear in person or by agent or by attorney.
- 7.5.7 **Decisions of the Board of Appeals and Appeals to the Circuit Court:** The Board of Appeals shall decide upon all matters within a reasonable time and may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Inspector or Township Board from who the appeal is taken. The Board of Appeals decision of such appeals shall be in the form of a resolution containing a full record of

the findings and determination of the Board of Appeals in each particular case. Any person having an interest affected by such resolution shall have the right to appeal to the Circuit Court or question of law and fact.

Article VIII

AMENDMENT PROCEDURES

SECTION 8.1 - INITIATING AMENDMENTS AND FEE

The Township Board may, from time to time, on recommendation from the Planning Commission on its own motion, amend, modify, supplement, or revise any district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment.

Said amendment may be initiated by resolution of the Township Board, the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment. Except for the Township Board or the Planning Commission, the petitioner requesting an amendment shall at the time of application pay the fee established by resolution of the Township Board no part of which shall be returnable to the petitioner.

SECTION 8.2 – AMENDMENT PROCEDURES

The procedure for making amendments to this Ordinance shall be in accordance with Act 184 of the Public Acts of 1943, as amended for townships.

SECTION 8.3 – CONFORMANCE TO COURT DECREE

Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction shall be adopted by the Township Board and the amendments published without referring the same to another board or agency.

Article IX

LEGAL STATUS

SECTION 9.1 – CONFLICT WITH OTHER LAWS

Conflicting laws of a more restrictive nature are not affected or repealed by this Ordinance. The provisions of this Ordinance shall be considered as minimum. Conflicting laws of a less restrictive nature, or those conflicting in other ways than degrees of restrictiveness, are hereby repealed.

This Ordinance is not intended to abrogate or annul any easement, covenant, or other private agreement provided that where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this Ordinance shall govern.

SECTION 9.2 – VALIDITY AND SEVERABILITY CLAUSE

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not included in said ruling. If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular land, parcel, lot, district, use, building, or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building, or structure not specifically included in said ruling.

SECTION 9.3 - PERIOD OF EFFECTIVENESS:

This Ordinance shall become effective February 27, 1973.

SECTION 9.4 - REPEAL OF ORDINANCE

The Zoning Ordinance of the Township of Somerset, Hillsdale County, Michigan adopted on January 18, 1973, and all amendments thereto are hereby repealed effective coincident with the effective date of this Ordinance.

SECTION 9.5 – EFFECTIVE DATE

This Ordinance was adopted by the Township Board of Somerset Township, Hillsdale County, Michigan at a meeting held on January 18, 1973 and a notice ordered published in the HILLSDALE DAILY NEWS, a newspaper having general circulation in said Somerset Township.

Supervisor _____

Township Clerk _____

Effective:2/2/1973

Amended: 8/16/1973, 9/16/1976, 6/17/1982, 10/19/1989, 1/4/1991, 4/18/1991, 6/18/1991, 2/20/1992, 9/17/1992, 6/16/1994, 7/20/1995, 12/19/1998, 9/10/1999, 6/26/1991, 11/22/2001, 12/6/2001, 1/15/2002, 10/25/2002, 5/6/2003, 7/16/2003, 3/9/2004, 2/17/2005, 10/20/2005, 5/15/2008, 11/19/2009, 9/16/2010, 11/18/2010, 12/15/2011, 6/20/2012, 4/20/2016, 6/16/2016, 5/24/2017, 6/29/2017, 9/17/2017, 10/19/2017, 1/18/2018, 11/26/2019