

ZONING ORDINANCE

NOTTAWA TOWNSHIP

COUNTY OF ST. JOSEPH

STATE OF MICHIGAN

ZONING ORDINANCE Ord. No. 37 Adopted September 21, 2009,

Amended Ord. 43 April 16, 2018;

Amended Ord. 48, May 20, 2019

Amended Ord 51,52 Nov 20, 2023

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COMPILATION
OF
ZONING ORDINANCES
TOWNSHIP OF
NOTTAWA
COUNTY OF ST. JOSEPH
STATE OF MICHIGAN

Part 300

**300.000 - ZONING ORDINANCE Ord. No. 37 Adopted September 21, 2009,
Amended Ord. 43 April 16, 2018; Amended Ord. 48, May 20, 2019**

300.001 - TITLE

An Ordinance enacted under Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended, governing the unincorporated portions of the Township of Nottawa, St. Joseph County, Michigan, to provide for the establishment of Zoning Districts within which the proper use of land and natural resources may be encouraged and regulated; to provide for the location, the size of, and the type of uses that may be made of the minimum open spaces; to provide for sanitary, safety, light, and other protective measures; to provide for the maximum number of families that may be housed in dwellings, buildings and structures, including mobile homes; to provide for the administration and amendment of said ordinance; to provide for appeals and for the organization and procedures to be followed by the Zoning Board of Appeals; and to provide for penalties for the violations of said ordinance.

300.002 - PREAMBLE

Pursuant to the authority conferred by Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended, and Public Act No. 33 of 2008 (MCL 125.3801 et seq.), as amended, in such case, made and provided and for the purpose of promoting, and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding the land and undue congestion of population; providing adequate light, air, and reasonable access; and facilitating adequate and economical provisions of transportation, water, sewer, schools, recreation, and other public requirements and by other means, all in accordance with a comprehensive plan, now therefore:

300.002 - ENACTING CLAUSE

The Township of Nottawa ordains:

ARTICLE ONE

300.100 - SHORT TITLE, PURPOSE

300.101 - Short title.

Sec. 101. This Ordinance shall be known as the "Nottawa Township Zoning Ordinance."

300.102 - Purpose.

Sec. 102. This Ordinance has been established for the purpose of:

102.1 Promoting and protecting the public health, safety, and general welfare;

102.2 Protecting the character and the stability of the agricultural, residential, and commercial areas within the unincorporated portions of Nottawa Township and promoting the orderly and beneficial development of such areas;

102.3 Providing adequate light, air, privacy and convenience of access to property;

102.4 Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;

102.5 Lessening and avoiding congestion in the public highways and streets;

102.6 Providing for the needs of agriculture, residence, and commerce in future growth;

102.7 Promoting healthful surroundings for family life in residential and rural areas;

102.8 Protecting the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, radioactivity, and other health and safety hazards;

102.9 Preventing the overcrowding of land and undue concentration of buildings and structures so far as possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;

102.10 Enhancing social and economic stability in the Township;

102.11 Conserving the taxable value of land, buildings and structures in the Township;

102.12 Enhancing the aesthetic desirability of the environment throughout the Township; and

102.13 Conserving the expenditure of funds for public improvements and services to conform with the most advantageous uses of land.

Footnotes: --- (1) --- **State Law reference**— Michigan zoning enabling act, MCL 125.3101 et seq.; Michigan planning enabling act, MCL 125.3801 et seq.

ARTICLE TWO

300.200 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS

300.201 - Construction of language.

Sec. 201. For the purpose of this Ordinance certain terms are herewith defined. When not inconsistent with the context, the present tense includes the future, words used in the singular number include the plural number. The word "shall" is always mandatory and not discretionary. The word "may" is permissive. 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.

300.202 - Definitions.

Sec. 202. For the purposes of this Ordinance, words pertaining to access, building, property, land use, building use, building measurement and enforcement shall have the following meaning:

202.1 *Accessory structure*: A structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.

202.2 *Accessory use*: A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

202.3 *Agriculture*: Any land or building used for pasturage, floriculture, dairying, horticulture, viticulture and livestock and poultry husbandry.

202.4 *Alterations*: Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls, partitions, columns, beams, girders, the consummated act which may be preferred to herein as "altered" or "reconstructed".

202.5 *Basement*: A portion of a building more than one-half of which is below the average grade level.

202.6 *Building*: Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind.

202.7 *Building height*: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridges for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

202.8 *Building line*: A line parallel to the front lot line at the minimum required front setback line.

202.9 *Certificate of zoning compliance*: A certificate issued by the Township Zoning Officer to a party or parties intending to initiate any work or change any use of property in the Township.

202.10 *Club*: An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics or the like, but not for profit, and open only to members and not the general public.

202.11 *Concentrated animal feeding operations*: The raising of livestock and/or processing of livestock products for income, including but not limited to the confined keeping of beef cattle, hogs, poultry, and other farm animals in yards, lots, pens, buildings or other areas not normally used for pasture or crops and in which large amounts of manure or related animal waste may originate.

202.12 *Comprehensive plan*: The statement of policy by the Township Planning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written material representing in summary form the soundest concept for community growth to occur in an orderly,

attractive, economical and efficient manner thereby creating the very best community living conditions.

202.13 *District*: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.

202.14 *Dwelling, single-family*: A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

1. It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
2. It has a minimum width across any front, side or rear elevation of 24 feet and complies in all respects with the state construction code, including minimum heights for habitable rooms. Where a dwelling is required by regulations for construction which are different than those imposed by the state construction code in effect in Nottawa Township, then in that event such federal or state standard or regulation shall apply.
3. It is firmly attached to a permanent foundation constructed on the site in accordance with the state construction code and shall have a wall of the construction of such materials and type as required in the state construction code for single-family dwellings. In the event that the dwelling is a mobile home, as defined, herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
4. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
6. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet whichever shall be less.
7. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively, with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the township zoning inspector upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals with a period of 15 days from the receipt of notice of said zoning inspector's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling," as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the township. The foregoing shall not be construed to prohibit innovative design unique land contour, or relief from the common or standard designed home.

8. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of foundation as required herein.
9. The dwelling complies with all pertinent construction and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and

connected to said mobile home shall be of a type and quality conforming to the "Manufactured Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time all dwelling shall meet or exceed all applicable roof snow load and strength requirements.

10. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by stated, federal, or local law or otherwise specifically required in the ordinance of the township pertaining to such parks.
11. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable state construction code provisions and requirements.

202.15 *Dwelling, two-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 202.14.

202.16 *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 202.13.

202.17 *Dwelling unit*: Any building or portion thereof which is designed or used for one family exclusively for residential purposes and having cooking facilities.

202.18 *Erected*: The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

202.19 *Essential services*: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare.

202.20 *Family*:

- (1) An individual or group of two or more persons related by blood, marriage or adoption, together with foster and step children and servants or the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- (2) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

Said definition shall not apply in instances of group care centers or state licensed residential facilities as defined under Section 102 of Public Act No. 110 of 2006 (MCL 125.3102), as amended.

202.21 *Farm*: Any parcel of land containing at least ten acres which is used for gain in the raising of agricultural products, livestock, poultry, and dairy products. It includes the necessary farm equipment used. It excludes the raising of fur-bearing animals, commercial dog kennels, and stone, gravel, or sand quarries.

202.22 *Fence*: An artificially constructed barrier of wood, metal, stone, or any manufactured materials erected for the enclosure of yard areas or for boundaries.

202.23 *Fillings*: The depository or dumping of any matter into or onto the ground except common household gardening and general maintenance.

202.24 *Floor area, gross*: Is the sum of all gross horizontal areas of the several floors of a building or buildings, measured from the outside dimensions of the structure. Unenclosed porches, courtyards, or patios, whether covered or uncovered shall not be considered as a part of the gross floor area unless used for commercial purposes such as nursery beds or sale of outdoor equipment.

202.25 *Floor area, usable*: For purposes of computing parking requirements, is that area to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

202.26 *Free-standing sign*: A structure erected for the purpose of advertising a business or activity on the same parcel. These structures shall not be attached to a building which may also be located on the same parcel. This sign may also be known as a pylon sign.

202.27 *Gasoline service stations*: A structure used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for storage, motor repair, or servicing but including bumping, painting, refinishing, or conveyor-type car wash operations.

202.28 *Grade*: A ground elevation established for the purpose of controlling the number of stories and the height of any structure. The grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.

202.29 *Home occupations*: Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to use of the dwelling for dwelling purposes or change the character thereof.

202.30 *Junk*: For the purpose of this Ordinance the term "junk" shall mean any motor vehicles, machinery, appliances, products or merchandise with parts missing or scrap metals or other scrap materials that are damaged or deteriorated.

202.31 *Junk yard*: Any land or building used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicle not in normal running condition,.

202.32 *Kennel, commercial*: Any lot or premises used for the commercial sales, boarding, or treatment of dogs, cats, or other domestic pets.

202.33 *Loading space*: An off-street space on the same lot with a building or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

202.34 *Lot*: Land occupied or to be occupied by a building, structure, land use or group of buildings together with such open spaces or yards as are required under this Ordinance and having its principal frontage upon a street.

202.35 *Lot, corner*: A lot which has at least two contiguous sides abutting upon a street.

202.36 *Lot, depth of*: The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

202.37 *Lot, interior*: A lot other than a corner lot.

202.38 *Lot line*: Any of the lines bounding a lot as defined herein.

202.39 *Lot of record*: A lot which is part of a subdivision or site condominium, the map of which has been recorded in the Office of the Register of Deeds in St. Joseph County, Michigan, or a parcel

or lot described by metes and bounds, the deed to which has been recorded in the Office of the Register of Deeds in St. Joseph County, Michigan, prior to the adoption of this Ordinance.

202.40 *Lot, width of:* The straight line horizontal distance between the side lot lines, measured at the two points where the building line, or setback line intersects the side lot lines.

202.41 *Master plan or comprehensive development plan.* The statement of policy by the Nottawa Township planning commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written material representing in summary form the soundest concept for community growth to occur in an orderly attractive, economical and efficient manner thereby creating optimal community living conditions.

202.41 *Mobile home or house trailer:* Any vehicle, whether self-propelled or non-self-propelled, used or adapted to be used or so constructed as to permit its being used as a conveyance upon the public streets or highways and for occupancy as a dwelling or sleeping place for one or more persons, office or other business use, and whether or not the same has a foundation thereunder if said foundation is designed to permit the removal of such house trailer and its re-adaptation to use upon the public streets or highways.

202.42 *Non-conforming use:* A building, structure, or use of land lawfully in existence at the time of enactment of this Ordinance and which does not conform with the regulations of the district or zone in which it is situated.

202.43 *Nuisance:* Is an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things such as: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of a congregation of people, particularly at night, (n) passing traffic, (o) invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.

202.44 *Parking space:* An area of not less than 20 feet in length or 10 feet in width, exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for parking of permitted vehicles.

202.45 *Planning commission:* The Township Planning Commission of the Township of Nottawa, St. Joseph County, Michigan.

202.46 *Right-of-way:* A street, alley or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries or by law.

202.47 *Shopping center:* Is a business or group of businesses which provide a variety of merchandise and/or services located on a major road with a large parking area to accommodate vehicular traffic. This center may be a small neighborhood center, a discount store, or a mall, though this does not limit such use to be one or any of these.

202.48 *Sign:* Any device designed to inform or attract the attention of persons not on the premises where the sign is located.

202.49 *Special use permit:* A permit issued by the Township Board to a person or persons intending to undertake the operation of an activity upon land or within a structure for uses not specifically mentioned in this Ordinance which possess unique characteristics and are found not to be injurious to the health, safety, convenience and general welfare of the Township's inhabitants.

202.50 *Street:* A dedicated right-of-way which affords traffic circulation and principal means of access to abutting property.

202.51 *Structure*: Anything constructed or erected which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings and freestanding signs but not including sidewalks, drives, patios, and utility poles.

202.52 *Subdivide or subdivision*: The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the land division act, Public Act No. 288 of 1967, as amended, by sections 108 and 109 of such act (MCL 560.108 and 560.109). "Subdivide" or "subdivision" does not include a property transfer between 2 or more adjacent parcels, if the property taken from 1 parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended, or the requirements of an applicable local ordinance.

202.53 *Subdivision Control Officer*: The Subdivision Control Officer may employ a civil engineer licensed by the State of Michigan and appointed as needed by the Township Board. The purpose of the Subdivision Control Officer would be as follows:

1. To review all Preliminary and final subdivision plans respective to engineering and provide comments and/or recommendations to the Planning Commission and/or the Township Board.
2. To inspect and observe the construction of all utilities, streets and related appurtenances to insure their construction complies with the approved plan.
3. Report any variance from the approved plan immediately to the Zoning Officer for further action.
4. To approve and note his/her approval in the capacity of Township Engineer on the Final "as constructed" Subdivision Plans.

202.54 *Variance*: A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

202.54.5 *Wireless Communication Facilities* . All equipment, support structures, and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited, to radio towers, television towers, telephone devices, personal communication transmission equipment and exchanges, microwave relay towers, telephone transmission equipment building, and commercial mobile radio service facilities. This definition does not include a reception antenna for an individual lot as otherwise defined and regulated in this zoning chapter. Co-location on existing towers is permitted in all zoning districts. See Section 300.409. For new towers, see also Section 300.409 and "special use regulations therein."

202.55 *Yards*:

- a. *Yard, front* - An open space extending the full width of the lot and lying between the front line of the lot or the street right-of-way and the nearest point of the principal building.
- b. *Yard, rear* - An open space extending the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.
- c. *Yard, side* - An open space between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard.

202.56 *Zoning officer*: The official of Nottawa Township or his authorized representative charged with the responsibility of administering this Ordinance.

ARTICLE THREE

300.300 - ZONING DISTRICTS AND MAP

300.300.1 - Districts established.

Sec. 300.1. For the purposes of this Ordinance, the Township of Nottawa is hereby divided into the following districts:

Residential Districts

AR	Agricultural Residential District
R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	Waterfront Residential District
RM-1	Mobile Home Park District
RM-2	Mobile Home Subdivision District

Non-Residential Districts

C	Commercial District
I	Limited Industrial District

300.301 - District boundaries.

Sec. 301. The boundaries of these districts are hereby established as shown on the zoning map of the Township of Nottawa Zoning Ordinance, which map with all notations, references and other information shown thereon is incorporated into this Ordinance.

The Official Zoning Map shall be identified by the signature of the Township Supervisor attested by the Township Clerk, under the following words: *This is to certify that this is the Official Zoning Map referred to in Section 301 of the Zoning Ordinance of the Township of Nottawa adopted (include date)*. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, the changes shall be made on the Official Zoning Map after amendment has been approved by the Township Board together with an entry on the Official Zoning Map as follows: On (date), by official action of the Township Board, the following change(s) were made: (brief description with reference number to Board proceedings).

One copy of the Official Zoning Map is to be maintained and kept up to date by the Township Clerk, accessible to the public and shall be conclusive authority as to the current zoning status of properties in the Township.

300.302 - District boundaries interpreted.

Sec. 302. When uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

302.1 Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow the centerlines;

302.2 Boundaries indicated as approximately following platted lot lines shall be construed as following Township lines;

302.3 Boundaries indicated as approximately following Township limits shall be construed as following Township limits;

302.4 Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.

302.5 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as the boundary moving with the actual shore line; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines if known;

302.6 Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

302.7 When physical or natural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the Zoning Board of Appeals shall interpret the district boundaries.

300.303 - District requirements.

Sec. 303. All buildings and uses in any District shall be subject to the provisions of Article Four "General Provisions and Exceptions."

300.304 - Uses not permitted in any district.

Sec. 304. The following uses are not permitted in any district, subject to conditions imposed herein:

304.1 The wrecking, storage or dismantling of automobiles, or the maintenance and/or operation of junk yards is prohibited, except as provided in Article Five "Special Use Permits."

304.2 No condition shall be allowed to exist which will constitute a hazard to health, safety or welfare, is inconsistent with the accepted appearance of the zoning district, or in any material way creates a nuisance or damages adjoining property.

300.305 - AR Districts: Agricultural Residential District.

Sec. 305.

305.1 *Purpose.* It is the purpose of the Agricultural Residential District to preserve the rural, countryside atmosphere of Nottawa Township; and to encourage the continuation of agricultural activities yet permitting residential uses without substantially changing the agricultural character of these areas. Provision for an agricultural residential district is expected to prevent scattered semi-urban development which cannot efficiently be served by public utilities or Township services. It is also the intent of this district to help maintain land values at levels which farm activities can support and to avoid property value increases through speculation for higher density uses, which force prime farm land into non-agricultural uses.

305.2 *Use Permitted by Right in an AR District.*

- a. One single family dwelling per lot of record in accord with the requirements for AR Districts as established in section 300.314, Schedule of Regulations.

- b. State licensed residential facilities and family child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.
- c. Public and private conservation areas and structures for the development, protection and conservation of open space, water sheds, water, soil, forests, and wildlife resources.
- d. General and specialized farming and agricultural activities including the raising or growing of crops, livestock, poultry, bees and other farm animals, products and foodstuffs; and the incidental sale of crops, products and foodstuffs raised or grown on the premises.
- e. Raising or keeping livestock, whether for profit or pleasure, provided that pens or shelters are maintained in a sanitary condition and that such livestock are fenced in or otherwise prevented from roaming at large off the premises.
- f. Raising or growing of plants, trees, shrubs and nursery stock, but not including retail sale of premises.
- g. Accessory uses including:
 - (1) Barns, silos, sheds, equipment storage, and similar structures and uses customarily incidental to the permitted principal uses and structures.
 - (2) Roadside stand for agricultural produce raised on the property.
 - (3) Home occupation. Home occupations may consist of such things as, instruction in a craft or fine art, hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate, insurance sales, professional office for: not more than one physician, surgeon, dentist, attorney, architect, engineer, or recognized professional practitioner:
 - (a) The non-residential use shall only be incidental to the primary residential use.
 - (b) The occupation shall utilize no more than 25% of the ground floor area of the structure
 - (c) Only normal domestic or household equipment and equipment characteristic of a doctor or dentist office shall be used to accommodate the home occupation.
 - (d) The home occupation shall involve no more than one employee other than those members of the immediate family residing on the premises.
 - (e) All activities shall be carried on indoors, only in the principal building. No outdoor activities or storage shall be permitted.
 - (f) There shall be no external evidence of such occupations except a small announcement sign not larger than two (2) square feet in area.
 - (g) The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this ordinance; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of nonresidential activities.
- h. Storage buildings for personal use
- i. Signs
 - (1) Signs not exceeding one square foot in area bearing only property number, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
 - (2) Flags and insignias of any government except when displayed in connection with commercial connotations;

- (3) Legal notices, identifications, information, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts of flashing lights;
- (5) Signs directing and guiding traffic and parking to private property, but bearing no advertising matter.

305.3 *Uses Permitted by Special Use Permit in an AR District.* The following uses are permitted in this district subject to obtaining a special use permit as provided for in Article Five:

- a. The removal of soils, sand, gravel and other materials.
- b. Public and private parks, camps, golf courses, clubs, and commercial stables.
- c. Public and private hospitals, schools, cemeteries, churches, and government buildings.
- d. Airports.
- e. Public utility structures and substations.
- f. Veterinarian offices, commercial kennels, and animal clinics.
- g. Public or private sanitary landfills or junk yards.
- h. Bulk seed, feed and fertilizer outlets and distribution centers.
- i. Single-family mobile home residences in accordance with the requirements established in Section 506. This does not apply to mobile homes that fall under the definition of single-family dwelling in section 202.14.
- j. Concentrated animal feeding operations.
- k. Group child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.
- l. Storage buildings for commercial use
- m. Accessory buildings for the purpose of light manufacturing or commercial use.
- n. New Communication Towers subject to special use, see Section 300.409 and application and special use regulations therein

305.4 *Regulations and Standards.* The following maximum and minimum standards shall apply to all uses and structures in the "AR" District:

- a. Minimum lot area: No building or structure shall be established on any parcel less than two (2) acres in area.
- b. Minimum lot width: The minimum lot width shall be three hundred (300) feet.
- c. Maximum lot width: The maximum lot width shall not exceed ten (10) percent for the area of the lot.
- d. Yard and Setback Requirements:
 - (1) Front Yard: In accordance with the setback requirements of Sec 314 Schedule of Regulations for the type of street upon which the lot principally fronts.
 - (2) Side Yard: Twenty (20) feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
 - (3) Rear Yard: Fifty (50) feet if adjacent to other than A-R lot; twenty (20) feet if adjacent to A-R lot.

- (4) In any case, no permanent or temporary structure housing livestock, or for storage of feed or manure shall be located any closer than 100 feet to a lot line.
- e. Maximum Height Requirements: For dwelling and non-farm structures, height shall not exceed thirty-five (35) feet.
- f. Minimum living area: Minimum gross living space per residential dwelling unit shall not be less than one thousand (1,000) square feet on the first floor if one story, or eight hundred (800) square feet on the first floor level if two stories. In any case, the total living area shall not be less than one thousand (1,000) square feet, exclusive of garages or basements.

300.306 - R-1 Districts: Low Density Residential District.

Sec. 306.

306.1 *Purpose.* It is the purpose of the R-1 District to provide for low density residential development in those portions of the Township generally removed from major thoroughfares or public services, such as sanitary sewer. When considering the excessive cost of extending public water and sewer service to all areas of the Township, the establishment of a zoning district which requires spacious lots, makes it reasonably possible to insure a continuous supply of safe potable water on the immediate property and to treat sewage by septic fields on the same property.

306.2 *Uses Permitted by Right in an R-1 district.*

- a. Single-family residential dwelling.
- b. State licensed residential facilities and family child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.
- c. Home occupation. Home occupations may consist of such things as, instruction in a craft or fine art, hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate, insurance sales, professional office for: not more than one physician, surgeon, dentist, attorney, architect, engineer, or recognized professional practitioner:
 - 1. The non-residential use shall only be incidental to the primary residential use.
 - 2. The occupation shall utilize no more than 25% of the ground floor area of the structure
 - 3. Only normal domestic or household equipment and equipment characteristic of a doctor or dentist office shall be used to accommodate the home occupation.
 - 4. The home occupation shall involve no more than one employee other than those members of the immediate family residing on the premises.
 - 5. All activities shall be carried on indoors, only in the principal building. No outdoor activities or storage shall be permitted.
 - 6. There shall be no external evidence of such occupations except a small announcement sign not larger than two (2) square feet in area.
 - 7. The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this ordinance; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of nonresidential activities.
- d. Accessory uses associated with single-family residential structures, such as garages, shed for yard tools, play house, boat houses, etc.
- e. Signs.
 - (1) Signs not exceeding one square foot in area bearing only property number, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;

- (2) Flags and insignias of any government except when displayed in connection with commercial connotations;
- (3) Legal notices, identifications, information, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts of flashing lights;
- (5) Signs directing and guiding traffic and parking to private property, but bearing no advertising matter.

306.3 *Uses Permitted by Special Use Permit.* The following uses are permitted in this R-1 District subject to obtaining a special use permit as provided for in Article Five:

- a. Public and private parks, clubs, camps, and golf courses.
- b. Public and private hospital, schools, churches, and governmental buildings.
- c. Public utility structures and substations.
- d. Single-family mobile home residences in accordance with the requirement established in Section 506. This does not apply to mobile homes that fall under the definition of single-family dwelling in section 202.14.
- e. Group child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.
- f. New Communications Towers, See Section 300.409 and application and special use regulations therein.

306.4 *Regulations and Standards.* The following maximum and minimum standards shall apply to all uses and structures in the "R-1" District:

- a. Minimum lot area: No building or structure shall be established on any parcel less than one (1) acre in area.
- b. Minimum lot width: The minimum lot width shall be two hundred (200) feet.
- c. Maximum lot coverage: The maximum lot coverage shall not exceed twenty-five (25) percent.
- d. Yard and Setback Requirements:
 - (1) Front Yard: In accordance with the setback requirements of Sec 314 Schedule of Regulations for the type of street upon which the lot principally fronts.
 - (2) Side Yards: Fifteen (15) feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
 - (3) Rear Yards: Thirty-five (35) feet.
- e. Maximum Height Requirements: Thirty-five (35) feet or two and one-half stories measured from the average finish grade at the front setback line.
- f. Minimum living area requirement: Same as in "AR" District. Refer to Section 305.4(f).

300.307 - R-2 Districts: Medium Density Residential District.

Sec. 307.

307.1 *Purpose.* It is the intent of the R-2 District to provide a variety of housing types at a moderate density residential development in portions of the Township located near major transportation lines, utilities and community services. It is further intended to provide a means of developing vacant lands within established residential areas, yet preserving their residential character and density of use.

307.2 *Uses Permitted by Right in an R-2 District.*

- a. Single-family residential dwelling.
- b. State licensed residential facilities and family child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.
- c. Home occupation. Home occupations may consist of such things as, instruction in a craft or fine art, hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate, insurance sales, professional office for: not more than one physician, surgeon, dentist, attorney, architect, engineer, or recognized professional practitioner:
 - (1) The non-residential use shall only be incidental to the primary residential use.
 - (2) The occupation shall utilize no more than 25% of the ground floor area of the structure
 - (3) Only normal domestic or household equipment and equipment characteristic of a doctor or dentist office shall be used to accommodate the home occupation.
 - (4) The home occupation shall involve no more than one employs other than those members of the immediate family residing on the premises.
 - (5) All activities shall be carried on indoors, only in the principal building. No outdoor activities or storage shall be permitted.
 - (6) There shall be no external evidence of such occupations except a small announcement sign not larger than two (2) square feet in area.
 - (7) The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this ordinance; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of nonresidential activities.
- d. Accessory uses associated with single-family residential structures, such as garages, shed for yard tools, playhouse, boat houses, etc.
- e. Duplex or two-family residential dwelling on a parcel no less than forty thousand (40,000) square feet in lot area.
- f. Signs.
 - (1) Signs not exceeding one square foot in area bearing only property number, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
 - (2) Flags and insignias of any government except when displayed in connection with commercial connotations;
 - (3) Legal notices, identifications, information, or directional signs erected or required by governmental bodies;
 - (4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts of flashing lights;
 - (5) Signs directing and guiding traffic and parking to private property, but bearing no advertising matter.

307.3 *Uses Permitted by Special Use Permit.* The following uses are permitted in this R-2 District subject to obtaining a special use permit as provided for in Article Five:

- a. Public and private hospital, schools, churches and governmental buildings.
- b. Public utility structures and substations.

- c. Structures containing three (3) or more living units on a parcel having at least sixty thousand (60,000) square feet in lot area.
- d. Group child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.
- e. New Communication Towers subject to special use, See Section 300.409 and application and special use regulations therein.

307.4 *Regulations and Standards.* The following maximum and minimum standards shall apply to all uses and structures in the R-2 District:

- a. Minimum lot area:
 - (1) Single-family detached dwelling shall require a minimum parcel size of 20,000 square feet in area. Lot area requirements may be reduced for NO more than 25 percent of the lots in any one subdivision plat, provided those lots so reduced are no less than 12,000 square feet in area.
 - (2) Duplex or two-family residential dwelling shall require a minimum parcel size of forty thousand (40,000) square feet for each unit.
 - (3) Structures containing three (3) or more dwelling units shall require a minimum parcel size of twenty thousand (20,000) square feet for each unit.
- b. Minimum Lot Width: The minimum lot width shall be one hundred (100) feet, except in the case where a curvilinear street pattern produces irregularly shaped lots with non-parallel side lot lines, a lesser frontage width at the street may be permitted provided that the one hundred (100) feet. Interior lot widths may be reduced for no more than 25 percent of the lots in one subdivision plat provided those lots reduced are no less than eighty (80) feet in width and provided no more than two adjacent lots shall be less than eighty (80) feet in width.
- c. Maximum Lot Coverage: The maximum lot coverage shall not exceed thirty (30) percent.
- d. Yard and Setback Requirements:
 - (1) Front Yards: In accordance with the setback requirements of Sec 314 Schedule of Regulations for the type of street upon which the lot principally fronts.
 - (2) Side Yards: Ten (10) feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard. Side yards shall be increased by five (5) additional feet for each unit over one (1) on the parcel.
 - (3) Rear Yards: Thirty-five (35) feet.
- e. Maximum Height Requirements: Thirty-five (35) feet or two and one-half stories measured from the average finish grade at the front setback line.
- f. (1) Minimum living area: Same as in "AR" District. Refer to Section 305.4(f). Said floor area restrictions shall apply for each living unit, in the case of a two-family structure.
- (2) Structures containing three (3) or more dwelling units shall contain a minimum of seven hundred and twenty (720) square feet per dwelling unit, exclusive of halls, stairways, basements, garages, or storage areas.

300.308 - R-3 Districts: Waterfront Residential District.

Sec. 308.

308.1 *Purpose.* It is the purpose of the waterfront residential district to provide for single-family residential uses, at moderate densities, in areas adjacent to lakes and water courses. It is further the

purpose to require lot areas large enough to protect Township lakes, rivers and ground waters from pollution due to an over concentration of wastewater disposal and septic field systems.

308.2 Uses Permitted by Right in an R-3 District.

- a. Single-family residential dwelling on a parcel having an area of at least twenty-thousand (20,000) square feet.
- b. State licensed residential facilities and family child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.
- c. Home occupations. Home occupations may consist of such things as, instruction in a craft or fine art, hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate, insurance sales, professional office for: not more than one physician, surgeon, dentist, attorney, architect, engineer, or recognized professional practitioner:
 - (1) The non-residential use shall only be incidental to the primary residential use.
 - (2) The occupation shall utilize no more than 25% of the ground floor area of the structure
 - (3) Only normal domestic or household equipment and equipment characteristic of a doctor or dentist office shall be used to accommodate the home occupation.
 - (4) The home occupation shall involve no more than one employee other than those members of the immediate family residing on the premises.
 - (5) All activities shall be carried on indoors, only in the principal building. No outdoor activities or storage shall be permitted.
 - (6) There shall be no external evidence of such occupations except a small announcement sign not larger than two (2) square feet in area.
 - (7) The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this ordinance; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of nonresidential activities.
- d. Signs.
 - (1) Signs not exceeding one square foot in area bearing only property number, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
 - (2) Flags and insignias of any government except when displayed in connection with commercial connotations;
 - (3) Legal notices, identifications, information, or directional signs erected or required by governmental bodies;
 - (4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts of flashing lights;
 - (5) Signs directing and guiding traffic and parking to private property, but bearing no advertising matter.

308.3 Uses Permitted by Special Use Permit. The following uses are permitted in this R-3 district subject to obtaining a special use permit as provided for in Article Five:

- a. Public and private parks, clubs, camps, and golf courses.
- b. Public and private hospitals, schools, churches and governmental buildings.
- c. Public utility structures and substations.

- d. Group child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.

308.4 *Regulations and Standards.* The following maximum and minimum standards shall apply to all uses and structures in the "R-3" District:

- a. Minimum Lot Area: No building or structures shall be established on any parcel less than twenty-thousand (20,000) square feet in area.
- b. Minimum Lot Width: The minimum lot width shall be 100 feet.
- c. Maximum Lot Coverage: The maximum lot coverage shall not exceed thirty (30) percent.
- d. Yard and Setback Requirements:
 - (1) Front Yard: In accordance with the setback requirements of Sec 314 Schedule of Regulations for the type of street upon which the lot principally fronts.
 - (2) Side Yards: Ten (10) feet except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
 - (3) Rear Yards: Fifty (50) feet.
- e. Minimum Living Area Per Unit: One thousand (1,000) square feet per unit.

300.309 - RM-1 Districts: Mobile Home Park District.[\[2\]](#)

Sec. 309.

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

309.2 *Permitted Uses In RM-1 District.*

- a. Mobile home parks, together with accessory buildings and uses customarily incidental thereto, including a residence for the mobile home park owner or operator and his family, but excluding any retail sales of mobile home sites; subject, however, to the following conditions and limitations.
- b. Conditions and limitations for the mobile home parks: all mobile home parks shall comply with the requirements imposed by Public Act No. 96 of 1987 (MCL 125.2301 et seq.), as amended, and with any and all regulations promulgated thereunder by the Michigan Mobile Home Commission and the Michigan Department of Environmental Quality and the Michigan Department of Energy, Labor and Economic Growth.
- c. State licensed residential facilities and family child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.
- d. Home occupations. Home occupations may consist of such things as, instruction in a craft or fine art, hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate, insurance sales, professional office for: not more than one physician, surgeon, dentist, attorney, architect, engineer, or recognized professional practitioner:
 - (1) The non-residential use shall only be incidental to the primary residential use.
 - (2) The occupation shall utilize no more than 25% of the ground floor area of the structure

- (3) Only normal domestic or household equipment and equipment characteristic of a doctor or dentist office shall be used to accommodate the home occupation.
- (4) The home occupation shall involve no more than one employee other than those members of the immediate family residing on the premises.
- (5) All activities shall be carried on indoors, only in the principal building. No outdoor activities or storage shall be permitted.

Footnotes: --- (2) --- **State Law reference**— Mobile home commission act, MCL 125.2301 et seq.

- (6) There shall be no external evidence of such occupations except a small announcement sign not larger than two (2) square feet in area.
- (7) The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this ordinance; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of nonresidential activities.

e. Signs.

- (1) Signs not exceeding one square foot in area bearing only property number, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- (2) Flags and insignias of any government except when displayed in connection with commercial connotations;
- (3) Legal notices, identifications, information, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts of flashing lights;
- (5) Signs directing and guiding traffic and parking to private property, but bearing no advertising matter.

309.3 *Special Exception Use in an RM-1 District.*

- a. Farming and agricultural operations, together with a reasonable number of accessory buildings, and the right to sell products, poultry or animals produced, raised or grown upon the premises.
- b. Essential public utility services; buildings, or gas or electric regulator stations or buildings accessory thereto.
- c. Accessory buildings and uses incidental to a mobile home park such as recreational buildings and facilities, laundry facilities, maintenance garage and storage facilities.
- d. A complex or development of a multiple number of "permitted" or designated "special exception" uses which do not comply with the spirit of this ordinance with the approval of the Nottawa Township Zoning Board of Appeals under the procedure and standards specified in the ordinance for special exception uses.

309.4 *Regulations and Standards: RM-1 Districts regs. from the chart.*

- a. Minimum Lot Area: No building or structure shall be established on any parcel less than ten (10) acres in area. Minimum park lot size twelve thousand (12,000) sq. ft.
- b. Minimum Lot Width: The minimum lot width variable.

- c. Yard and Setback Requirements:
 - (1) Front Yard: In accordance with the setback requirements of Sec 314 Schedule of Regulations for the type of street upon which the lot principally fronts.
 - (2) Side Yard: Twenty (20) Feet. Ten (10) Feet per individual lot.
 - (3) Rear yard: Ten (10) Feet.
- d. (1) Minimum Living Area: Minimum gross living space per residential dwelling unit shall not be less than eight hundred (800) square feet on the first floor exclusive of garages or basements.

300.310 - RM-2 Districts: Mobile Home Subdivision District.^[3]

Sec. 310.

310.1 *Purpose.* It is the purpose of the mobile home subdivision district to provide for the location of mobile home subdivisions in an attractive and orderly manner in Nottawa Township. It is the further purpose to promote mobile home subdivisions with the character of residential neighborhoods. In addition, this district shall provide for the protection of the health, safety, and welfare of mobile home subdivision residents and the surrounding community.

310.2 *Uses Permitted in an RM-2 District.* Subject to the conditions set forth in this Ordinance, the following uses are permitted:

- a. Mobile home dwellings on a parcel of at least one (1) acre in area.
- b. State licensed residential facilities and family child care homes as required by Section 206 of Public Act No. 110 of 2006 (MCL 125.3206), as amended.
- c. Accessory uses as described in Section 307.2(c).
- d. Home occupations. Home occupations may consist of such things as, instruction in a craft or fine art, hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate, insurance sales, professional office for: not more than one physician, surgeon, dentist, attorney, architect, engineer, or recognized professional practitioner:
 - (1) The non-residential use shall only be incidental to the primary residential use.
 - (2) The occupation shall utilize no more than 25% of the ground floor area of the structure
 - (3) Only normal domestic or household equipment and equipment characteristic of a doctor or dentist office shall be used to accommodate the home occupation.
 - (4) The home occupation shall involve no more than one employee other than those members of the immediate family residing on the premises.
 - (5) All activities shall be carried on indoors, only in the principal building. No outdoor activities or storage shall be permitted.
 - (6) There shall be no external evidence of such occupations except a small announcement sign not larger than two (2) square feet in area.
 - (7) The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this ordinance; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of nonresidential activities.
- e. Signs.

- (1) Signs not exceeding one square foot in area bearing only property number, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- (2) Flags and insignias of any government except when displayed in connection with commercial connotations;
- (3) Legal notices, identifications, information, or directional signs erected or required by governmental bodies;
- (4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts of flashing lights;

Footnotes: --- (3) --- **State Law reference**— Mobile home commission act, MCL 125.2301 et seq.

- (5) Signs directing and guiding traffic and parking to private property, but bearing no advertising matter.

310.3 *Procedures.* The following describes the procedures necessary for the development of a mobile home subdivision:

- a. The requirements of the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended, shall be met.
- b. An application fee to cover costs of subdivision review shall be established by resolution of the Township Board and submitted with plans for the proposed subdivision.
- c. Prior to establishment of a mobile home or a foundation for a mobile home, a building permit from the Nottawa Township Building Inspector as required in the state construction code shall be obtained.

310.4 *Regulations and Standards for Mobile Home Subdivisions.*

- a. Minimum Lot Area: No building or structure shall be established on any parcel less than one (1) acre in area.
- b. Minimum Lot Width: The minimum lot width shall be two hundred (200) feet.
- c. Maximum Lot Coverage: The maximum lot coverage shall not exceed twenty-five (25) percent.
- d. Yard and Setback Requirements:
 1. All yard requirements applicable in the "R-1" District shall apply. Refer to Section 306.4(d).
- e. Maximum Height Requirements: Maximum height shall not exceed fifteen (15) feet. No multiple decking shall be allowed.
- f. Minimum Living Area: Eight hundred (800) square feet.

300.311 - C Districts: Commercial District.

Sec. 311.

311.1 *Purpose.* It is the purpose of the Commercial District to provide regulations governing the use and development of commercial land uses. This district is designed to provide locations for business within the Township in a manner which serves residential needs while at the same time not encroaching in an undesirable manner on surrounding land uses.

311.2 *Uses Permitted by Right.* The following uses are permitted in this C- District by right:

- a. Any retail business whose principal activity is the sale of merchandise in an enclosed building.
- b. Service establishments which perform services on the premises, such as but not limited to: repair shops, beauty parlors or barber shops, dry cleaning, self-service laundries, and photographic studios.
- c. Offices for personal or business services, such as but not limited to: medical doctors, dentists, insurance, attorneys, banks, and veterinary clinics.
- d. Public Utility Structures.
- e. Funeral Homes.
- f. Indoor Theaters.
- g. Restaurants, except drive-ins.

311.3 *Uses Permitted by Special Use Permit.* The following uses are permitted in this C-District subject to obtaining a special use permit as provided for in Article Five:

- a. Shopping Centers.
- b. Drive-In Restaurants.
- c. Taverns and Nightclubs.
- d. Outdoor motor vehicle, boat, mobile home sales, rental, repair, and display or storage provided that when such activities occur within a building such use shall be permitted by right.
- e. Hotels, Motels, Motor Hotels.
- f. Bowling alleys, pool halls, mechanical amusement centers, miniature golf courses and golf driving ranges.
- g. Gasoline Service Stations.
- h. Outdoor Theaters.
- i. Car Washes, automatic and self-serve.
- j. Transient Amusement Enterprises such as carnivals, circuses, and tent shows.
- k. Commercial Beaches.
- l. Other uses not specifically mentioned elsewhere of a commercial character.
- m. New Communication Towers subject to special use, see Section 300.409 and application and special use regulations therein.

311.4 *Regulations and Standards.* The following maximum and minimum standards shall apply to all uses and structures in the "C" District:

- a. Minimum Lot Area: All uses permitted in this district shall provide a minimum lot of twenty thousand (20,000) square feet in area.
- b. Minimum Lot Width: The minimum lot coverage shall be one hundred (100) feet.
- c. Maximum Lot Coverage: The maximum lot coverage shall not exceed fifty (50) percent.
- d. Yard and Setback Requirements:
 - (1) Front Yard: In accordance with the setback requirements of Sec 314 Schedule of Regulations for the type of street upon which the lot principally fronts.
 - (2) Side Yard: Fifteen (15) feet except in the case of a corner lot where the side yard on the side street shall not be less than the setback required for the front yard.

- (3) Rear Yard: Thirty (30) feet.
- (4) In any case, no structure shall be located any closer than fifty (50) feet to a residential district line.
- e. Maximum Height Requirements: Thirty-five (35) feet measured from the average finished grade at the front setback line. (See Section 401.6 for exceptions.)
- f. Landscaping: All commercial buildings and their parking areas shall be landscaped in a manner which is both attractive and which provides a buffer between adjacent non-commercial uses and roadways. Such landscaped areas shall be adequately maintained. Plans for such landscaping shall be submitted to the Nottawa Township Planning Commission.

300.312 - I Districts: Limited Industrial District.

Sec. 312.

312.1 *Purpose.* It is the purpose of the Limited Industrial District to provide for the development of warehousing, industrial and manufacturing uses that are characterized by their low intensity usage and the absence of objectionable external effects. Regulations as contained within this section are designed to encourage the development of attractive industrial sites, compatible with adjacent uses and serving those persons living and working within the Township.

312.2 *Uses Permitted by Right.* The following uses are permitted in this I- District by right:

- a. Any production, processing, cleaning, testing, repair, storage, and distribution of materials, goods, foodstuffs, and products not involving a retail activity on the same site.
- b. Wholesale, warehousing, storage or transfer buildings including refrigerated and general storage facilities; excluding the storage of bulk petroleum or related products, or garbage or rubbish.
- c. Truck terminals including maintenance and service facilities.
- d. Retail sales typically incidental to contractors establishments which require a workshop and retail outlet or showroom as accessory uses, including:
 - (1) Plumbing and electrical contractors.
 - (2) Building material suppliers and wholesalers such as lumber yards and other similar uses.
 - (3) Carpenter shops including door, sash or trim manufacturing.
 - (4) Jobbing and repair machine shops.
 - (5) Commercial garage.
 - (6) Plastic products forming and molding.
 - (7) Printing and publishing.
 - (8) Air conditioning and heating dealers.
 - (9) Furniture reupholstering and refinishing establishments.
 - (10) Other uses similar to and compatible with the above uses.
- e. Non-manufacturing research and development establishments.
- f. Public buildings and public utility structures.

- g. Accessory uses relating directly to and servicing the principal use on the site, including:
 - (1) Restaurant or cafeteria for employees.
 - (2) Office facilities.

312.25 *Uses Permitted by Special Use Permit.* The following uses are permitted in this I-District subject to obtaining a special use permit as provided for in Article Five:

- a. New Communication Towers subject to special use, see Section 300.409 and application and special use regulations therein.

312.3 *Regulations and Standards.* The following maximum and minimum standards shall apply to all uses and structures in the "I" District:

- a. Minimum Lot Area: All uses permitted in this District shall provide a minimum lot of twenty thousand (20,000) square feet in area.
- b. Minimum Lot Width: The minimum lot width shall be one hundred (100) feet.
- c. Maximum Lot Coverage: The maximum lot coverage shall not exceed fifty (50) percent.
- d. Yard and Setback Requirements:
 - (1) Front Yard: In accordance with the setback requirements of Sec 314 Schedule of Regulations for the type of street upon which the lot principally fronts.
 - (2) Side Yard: Fifteen (15) feet except in the case of a corner lot where the side yard on the side street shall not be less than the setbacks required for the front yard.
 - (3) Rear Yard: Thirty (30) feet.
 - (4) In any case, no structure shall be located any closer than fifty (50) feet to a residential district line.
- e. Maximum Height Requirements: Thirty-five (35) feet measured from the average finished grade at the front setback line. (See Section 401.6 for exceptions.)
- f. Landscaping: All industrial buildings and their parking areas shall be landscaped in a manner which is both attractive and which provides a buffer between adjacent non-industrial uses and roadways. Such landscaped areas shall be adequately maintained. Plans for such landscaping shall be submitted to the Nottawa Township Planning Commission.

300.314 - Schedule of Regulations.

Sec. 314.

<i>DISTRICT</i>	<i>MINIMUM LOT SIZE</i>	<i>MINIMUM LOT FRONTAGE</i>	<i>SIDE YARD SETBACK</i>	<i>REAR YARD SETBACK</i>	<i>ROAD SETBACK FROM R_O_W</i>	<i>MINIMUM LIVING AREA PER UNIT</i>
AR Agricultural Residential	2 acres	300 ft.	20 ft.	50 ft. 20 ft. ^[A]	County local 40' Co. Primary 50' State Hwy 50' ^[B]	1,000 sq. ft. first floor - one story; 800 sq. ft. first floor - two story
R-1 Low Density Residential	1 acre	200 ft.	15 ft.	35 ft.	Sub./Plat 25' County local 40' Co. Primary 50' State Hwy 50' ^[B]	1,000 sq. ft. first floor - one story; 800 sq. ft. first floor - two story
R-2 Medium Density Residential	sf 20,000 sq. ft. 2f 40,000 sq. ft. 3+f 20,000 sq. ft. per unit	100 ft.	10 ft.	35ft.	Sub./Plat 25' County local 40' Co. Primary 50' State Hwy 50' ^[B]	sf 1,000 sq. ft. 2f 1,000 sq. ft./ per unit 3+f 720 sq. ft./ per unit.
R-3 Waterfront Residential	20,000	100 ft.	10 ft.	50 ft ^[C]	Sub./Plat 25' County local 40' Co. Primary 50' State Hwy 50' ^[B]	1,000 sq. ft.
RM-1 Mobile Home Park	10/acres/park 12,000 sq. ft. site	Variable	20ft/10ft	10 ft	Sub./Plat 25'	800 sq. ft.
RM-2 Mobile Home Subdivision	1 acre	200 ft.	15 ft.	35 ft.	Sub./Plat 25'	800 sq. ft.
C Commercial	20,000 sq. ft.	100 ft.	15 ft.	30 ft.	County local 40' Co. Primary 50' State Hwy 50' ^[B]	—
I Limited Industrial	20,000 sq. ft.	100 ft.	15 ft.	30 ft.	County local 40' Co. Primary 50' State Hwy 50' ^[B]	—

^[A] Rear setback for accessory building in A-R is 20' when adjacent lot is also A-R

^[B] State Hwy R-O-W varies, check with zoning administrator

^[C] From the water see Sect 401.7

ARTICLE FOUR

300.400 - GENERAL PROVISIONS AND EXCEPTIONS

300.401 - Supplementary regulations.

Sec. 401.

401.1 *Accessory Buildings.* Accessory buildings shall be subject to the following regulations:

- a. Accessory buildings, other than attached garages, shall not be located in the front yard of any lot, except for a lot having water frontage, where a customary detached private garage is permitted if it is located behind the required front yard setback line.
- b. Accessory buildings containing more than 200 square feet shall not be located closer to any side or rear lot line than the setback requirements for the principal building, except that boat houses may be permitted at or near the waters' edge provided that all other applicable local and state permits are obtained.
- c. Accessory buildings containing 200 square feet or less may not be closer than 5 feet to any side or rear lot line.
- d. On residential lots accessory buildings shall be permitted in addition to an attached or detached private garage in size as follows:

less than one half (0.5) acre	not more than 200 square feet
0.51 – 1.0 acre	not more than 500 square feet
1.01 – 2.0 acre	not more than 1200 square feet
2.01 – 3.0 acre	not more than 1800 square feet
3.01 acre or more	not more than 2600 square feet
- e. On residential lots (R1, R2, R3) a principal residence must be built before an accessory building
- f. On agricultural land (AR) accessory buildings may be built without a residence and limited in size so that the maximum lot coverage may not exceed twenty-five (25) percent.

401.2 *Fences, Walls, Screens.* The following regulations shall apply to all fences, walls, screens or similar devices of structural or plant materials:

- a. No part of any fence or wall shall be constructed or placed within the right-of-way or easement of a public or private street.
- b. Fences in a residential district shall not exceed six feet in height measured from the surface grade to the upper most portion of the fence: however, a fence in the agriculture district that is intended for enclosure of animals may be erected to a height of eight feet.
- c. Fences erected in the front yard (street side) of any residential property shall not exceed three (3) feet in height.
- d. Fences shall not contain barbed wire unless the fence is used as an enclosure for a permitted agriculture use.
- e. On waterfront residential property, no fence or wall shall be constructed or placed within 25 feet of the shoreline of the lake or stream.
- f. On waterfront residential property no part of any fence or wall constructed or placed in the lake or stream side of the property shall exceed four (4) feet in height and shall be a chain link or open type construction.

- g. Any fence that is permitted within a residential subdivision and is not subject to the height limitation set out above may have a height not in excess of six feet; provided, however, every permitted fence in the subdivision that exceeds four feet in height shall be of a chain link or open type construction.
- h. Closed fences and fence-type structures such as privacy fences, and or screens shall not be considered as fences but as an architectural detail of the property. Location, height, type of material and construction technique shall be approved by the Township Zoning Enforcement Officer.
- i. Living hedges or other plantings placed on or near lot lines shall be governed by the same rules as fences.
- j. No fence, wall, screen or any planting shall obstruct the visibility of motorist at driveway entrances or street intersections
- k. Fence post and vertical supports must be inside of the fence and facing the inside of the property on which the fence is located
- l. Fences in Residential Districts shall be set back (inside) from the property line a minimum of two feet (24 inches) to allow for maintenance when needed.

401.3 *Variance of Requirement for Lots of Record.* Any residential lot created and recorded prior to the effective date of this ordinance may be used for residential purposes even though the lot area and/or dimensions are less than those required for the District in which the lot is located. Provided that:

- a. Yard dimensions and other requirements of the district not involving lot area or width are met.

401.5 *Yard Encroachments Permitted.* The following elements of structures are not considered in determining yard requirements:

- a. Uncovered paved terraces, patios and porches.
- b. Special structural elements such as cornices, chimneys, gutters, eaves, and similar structural features.
- c. Fire escapes or open stairways may project into the yard five (5) feet.

401.6 *Height Requirements Exceptions.* The following are exempted from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

- a. Those purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flag poles, monuments.
- b. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smoke stacks, water tanks, elevator and stairwell penthouses, elevator legs, storage bins, ventilators, bulkheads, radio towers, masts and aerials, television antennas, fire and hose towers, wire transmission structures, cooling towers.
- c. Those structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five (5) feet above height limitations and shall have no window openings.
- d. Public utility structures.

401.7 *Waterfront Lots.* The required setback for the waterfront end, shall be a minimum of 50 feet, while the required yard setback for the street frontage end shall be a minimum of 25 feet.

401.8 *Garage and Estate Sales.* No garage sale, estate sale, or similar type of sale conducted in a residential zoning district, shall exceed 3 consecutive days and shall be limited to 2 sales annually at a single location. A certificate of zoning compliance may be issued by the Nottawa Township Zoning Officer.

300.402 - Miscellaneous regulations.

Sec. 402.

402.1 *Access to a Street.* Any one lot of record created before the effective date of this ordinance without any frontage on a street shall not be occupied without access to a street provided by an easement or other right-of-way no less than twenty (20) feet wide. No more than one lot may be served by such an access route.

402.2 *One Building on a Lot.* No more than one principal building may be permitted on a lot or parcel, unless specifically provided for elsewhere in this Ordinance.

402.3 *Unsafe Buildings.* Nothing in this Ordinance shall prevent compliance with an order by an appropriate authority to correct, improve, or strengthen, or restore to a safe condition any building or any part of a building declared to be unsafe.

402.4 *Building Grades.* The finished surface of the ground areas outside the walls of any building constructed or altered shall be so designed that surface waters shall flow away from the building walls in such a direction and collection that inconvenience or damage to adjacent properties shall not occur.

402.5 *Required Water Supply and Sanitary Sewerage Facilities.* Any structure erected for human occupancy after the effective date of this Ordinance and used for dwelling, business, industrial, or recreational purposes shall be provided with a safe, sanitary, and potable water supply, and with a safe and effective means of collection, treatment, and disposal of human, commercial, or industrial wastes. All such installations shall comply with the requirements of the State of Michigan and the St. Joseph County Health Department. No outdoor sanitary facilities (privies) shall be allowed.

402.6 *Moving Buildings.* No existing building or other structure within or outside of Nottawa Township shall be relocated upon any parcel or lot within the Township unless the building design and construction are compatible with the general architectural character, design and construction of other structures located in the immediate area of the proposed site; the building and all materials therein are in conformity with the state construction code; and the building or structure can be located upon the parcel and conform to other requirements of the respective zoning district. A moving permit shall be issued by the Building Inspector upon evidence of compliance to the requirements herein.

300.403 - Non-conforming uses.^[4]

Sec. 403.

403.1 *Purpose.* It is the intent of this Ordinance to permit the continuance of a lawful use of any building or land existing at the effective date of this Ordinance, although such use of land or structure may not conform with the provisions of this Ordinance. Further, it is the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same districts. The continuance of all non-conforming uses and structures within Nottawa Township shall be subject to the conditions and requirements set forth in this section.

403.2 *Repairs.* Any lawful non-conforming building may be repaired, reinforced, or re-constructed during its life to correct deterioration, obsolescence, depreciation, and wear, provided that such repair does not exceed an aggregate cost of 60 percent of the state equalized value of the building unless the subject building is changed by such repair to a conforming building or structure.

403.3 *Alterations and Improvements.* Non-conforming structures shall not be altered or expanded without the prior approval of the Zoning Board of Appeals, except that the following structural alterations may be permitted without prior approval of the Zoning Board of Appeals:

Footnotes: --- (4) --- **State Law reference**— Nonconforming uses or structures, MCL 125.3208.

- a. Structural alterations or extensions which do not add to the bulk of structure or increase the intensity of use of the structure shall not require prior approval of the Zoning Board of Appeals.
- b. Structural alterations or extensions adding to the bulk of residential structure which is non-conforming only by reason of lot size or lot width shall be permitted without prior approval of the Zoning Board of Appeals provided that such structure alteration or extension shall not increase the extent of non-conforming and shall satisfy all other site development regulations which are applicable.
- c. Non-conforming buildings or structures shall not be structurally altered so as to prolong the life of the building or structure, unless the Zoning Board of Appeals shall give its approval for the alteration of non-conforming buildings or structures. Only when it is determined that the proposed building or structure alteration or extension complies as nearly as is practical with the requirements of this ordinance and that the granting of the approval for the proposed structure alteration or extension will not have a deleterious effect on neighboring property.

403.4 *Restoration of Damage.* Any lawful non-conforming use damaged by fire, explosion, or an act of God, or by other causes may be restored, rebuilt, or repaired provided that the structure housing the nonconforming use has not been more than 50% destroyed as measured by the usable cubic space previously existing in the structure.

403.5 *Prior Construction Approval.* Nothing in this Ordinance shall prohibit the completion of construction and use of a non-conforming building for which a building permit has been issued prior to the effective date of this Ordinance, provided that construction is commenced within 90 days after the date of issuance of the permit, that construction is carried on diligently and without interruption for a continuous period in excess of 30 days; and that the entire building shall have been completed according to the plans filed with the permit application within two (2) years after the issuance of the building permit.

403.6 *Discontinuance or Abandonment.* Whenever a non-conforming use has been discontinued for twelve (12) consecutive months, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the non-conforming use. At the end of this period of abandonment, the non-conforming use shall not be re-established, and any future use shall be in conformity with the provisions of this Ordinance.

403.7 *Reversion to a Non-Conforming Use.* If a non-conforming use is changed to a use permitted in the district in which it is located, it shall not revert or be changed back to a non-conforming use.

403.8 *Displacement of a Conforming Use.* No non-conforming use shall be extended to displace a conforming use.

403.9 *Non-Conforming to Non-Conforming Use.* The Nottawa Township Zoning Board of Appeals may authorize a change from one non-conforming use to another non-conforming use, provided the proposed use would be more suitable to the zoning district in which it is located than the non-conforming use which is being replaced.

403.10 *Illegal Non-Conforming Uses.* Those alleged non-conforming uses which cannot be proved conclusively to have been existing prior to the effective date of this Ordinance shall be declared illegal non-conforming uses and shall be discontinued following the effective date of this Ordinance.

403.11 *District Changed.* Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district or another classification, the foregoing provisions shall also apply to any existing uses that become non-conforming as a result of the boundary changes.

300.404 - Parking requirements.

Sec. 404.

404.1 *Purpose.* It is the purpose of these requirements that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles used by the occupants, employees, or patrons of each building constructed or altered under the provisions of this Ordinance. These purposes include the enhancement of the aesthetic desirability of the environment, and the reduction of hazards to life and property in Nottawa Township.

404.2 *Location.* Parking shall be located on the same parcel as the structure which it is intended to serve, except commercial parking may be on adjacent property not further than five hundred (500) feet from the entrance to the business served.

404.3 *Use of Parking Areas.* No commercial repair work, servicing or selling of any kind shall be conducted on any parking area except that which is specifically permitted by this Ordinance. No items such as plastic animals, streamers, cloth signs, children's play areas, mechanical entertainment devices, or any other similar device shall be permitted in the parking area or outside a building.

404.4 *Schedule of Requirements for Parking Space.* Parking space shall be provided in accordance with the following schedule:

Use	Number of Spaces
Residential	2/dwelling unit
Housing for Elderly	1/each 2 living units
Mobile Homes	2/dwelling unit
Institutional, Churches, Hospitals, Auditoriums, Theaters, Clubs (Public and Private)	1/every 4 persons permitted by State law to occupy the building
Schools or Colleges	1/each full time Teacher or Administrator and 1/each 4 students
Retail Businesses	1/500 square feet of usable floor area
Restaurants, Taverns	1/every 4 patron seats
Bowling Alleys	5/each alley
Motels, Hotels	1/each occupancy unit
Barber, Beauty Shops	2/each customer service station
Car Washes, Automatic	15 standing spaces, each bay
Car Washes, Self-Service	3 standing spaces/each bay
Offices, Banks	1/200 square feet of usable floor area
Gasoline Service Stations	2/each service bay plus 1/each employee
Industrial	1/each 2 employees in the largest working shift

404.5 *Design and Construction Requirements.*

- a. Minimum area per space shall be 200 square feet.
- b. Each space shall be clearly accessible to a public street.
- c. Parking areas shall be accessible by drives at least 20 feet wide, except in residential districts.
- d. Parking areas shall be maintained in a smooth, dust-free condition, and provided with adequate drainage.
- e. Parking areas for more than 10 vehicles shall be lighted, if used after dark, to insure safety of users and in a manner which minimizes the glare of lights visible to adjacent properties.
- f. Parking adjoining a residential district shall not be closer than 10 feet to the property line and a screen shall be provided to buffer adjacent residential properties.
- g. Parking areas shall be located closer than 10 feet to the street right-of-way line.
- h. Parking areas shall be landscaped in an attractive manner and shall be maintained in a litter free condition.

300.405 - Sign regulations.⁵

Sec. 405.

405.1 *Purpose.* It is the purpose of this section to regulate the size, placement, and general appearance of all privately owned signs in order to promote the public health, safety, morals, convenience, and general welfare, and the stated purposes of this Ordinance. These purposes include the enhancement of the aesthetic desirability of the environment, and the reduction of hazards to life and property in Nottawa Township.

405.2 *Signs in Residential Districts.* Signs in accordance with the definition set forth in Section 202.48 of this Ordinance shall be permitted subject to the following restrictions:

- a. Signs no larger than ten (10) square feet in area shall be permitted for any of the following purposes:
 - (1) Sale or lease of property (real or personal).
 - (2) Advertising home occupation.
- b. Signs advertising new subdivision or major developments may be permitted by the Planning Commission for no more than one (1) year, provided they do not exceed twenty-five (25) square feet in area.
- c. Public institutions and churches permitted in residential districts shall comply with regulations for commercial uses.

405.3 *Signs in Commercial or Industrial Districts.* Signs shall be permitted subject to the following restrictions:

- a. Signs shall pertain exclusively to the business carried on within the building. Upon closure and/or change of business sign must be removed within six (6) months.
- b. Signs may be placed flat against the main building or parallel to the building on a canopy and may face only the public street or parking areas that are a part of the development. Signs shall not project above the roof line or cornice.
- c. Signs painted or affixed to building shall not exceed ten (10) percent of the surface area of the building face to which attached.

Footnotes: --- (5) --- **State Law reference**— Highway advertising act, MCL 252.301 et seq.

- d. Signs may be illuminated, but no flashing or moving illumination shall be permitted. The source of illumination shall be shielded from traffic and adjacent properties and shall not be visible beyond the property line of the parcel on which the sign is located. A digital message board is allowed.
- e. Freestanding Signs shall:
 - (1) Not obstruct a clear view of traffic.
 - (2) Not exceed twenty-five (25) feet in height.
 - (3) Set back at least ten (10) feet, measured from the right-of-way line to the leading edge of the sign.
 - (4) Not exceed forty (40) square feet in area.
 - (5) Not exceed one per property. With multiple businesses on one property, multiple sign panels not to exceed twenty (20) square feet each may be placed on one freestanding sign structure not to exceed a total of eighty (80) square feet.

405.4 *Outdoor Advertising.* Outdoor advertising structures and billboards other than those signs which exclusively advertise businesses on the premises on which they are located shall be permitted by special use permit in the Commercial and Light Industrial Districts in accordance with the following limitations:

- a. Setback: Outdoor advertising structures and billboards shall be located in accordance with the setback requirements of Sec 314 Schedule of Regulations for the type of street upon which the lot principally fronts.
- b. Outdoor advertising structures and billboards may be illuminated, providing the source of such illumination shall be shielded from traffic.

300.406 - Tents and travel trailers; mobile homes.^[6]

Sec. 406.

406.1 Tents, travel trailers and/or automobile trailers shall not be used for dwelling purposes within the township limits; provided, however, that travel trailers or automobile trailers may be used for temporary dwellings for a total period of not more than 14 days in any one year when located upon premises having running water and sewage facilities, and provided further that automobile trailers and travel trailers may be occupied for dwelling purposes within duly licensed travel trailer camps and subject to the requirements of this ordinance.

406.2 Mobile homes which do not conform to the standard of Section 202.14 of this ordinance shall not be used for dwelling purposes within the township unless located within a mobile home park or a mobile home zoned for such uses, as provided in this ordinance. A variance permit may be secured from the Nottawa Township Zoning Board of Appeals to use a mobile home as a residence for a period not to exceed one year provided that the ability and intent to erect a house on the premises is shown; provided that the mobile home is located upon premises having running water and sewage facilities. The Nottawa Township Zoning Board of Appeals may renew the permit for an additional period of one year upon sufficient showing that the house construction could not be completed within one year but has substantially progressed during the period. The Nottawa Township Zoning Board may require a performance bond conditioned upon the removal of the mobile home from the premises within the time limited in an amount satisfactory to the board.

Footnotes: --- (6) --- **State Law reference**— -Mobile home commission act, MCL 125.2301 et seq.; campground licensing and registration, MCL 333.12501 et seq.

300.407 - Dismantled, non-operating or unlicensed motor vehicles.

Sec. 407.

407.1 No person, firm or corporation shall store, place or permit to be stored or placed, allowed to remain on any parcel of land for a period of more than 10 days in any one year, a dismantled, partially dismantled or inoperable motor vehicle, unless the same is kept in a wholly enclosed structure, or is located in an approved junkyard by special exception as herein provided, or unless a variance therefore is first obtained from the Zoning Board of Appeals to be granted only in special hardship cases beyond the control of the applicants, where peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.

407.2 No person, firm, or corporation shall park or store upon premises within the township a motor vehicle in operating condition which is not regularly used for the purpose for which it was manufactured or designed unless the same is kept within an enclosed building, approved junkyard, or unless a variance is first obtained therefore from the Zoning Board of Appeals, to be granted only in special hardship cases beyond the control of the applicant, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.

407.3 The purpose of these regulations is to limit and restrict the outdoor storage or unreasonable accumulation of junk cars, unused cars, stock cars, and dilapidated non-operating motor vehicles upon any land in the township except within areas where a junk dealer is permitted to operate or the area is zoned for such purposes.

407.4 These provisions shall not be construed as repealing any ordinance now in effect or hereafter made effective relating to rubbish, litter, garbage, refuse or trash or junk but shall be construed as supplementary to any such ordinances, as well as any statutes of the State of Michigan relating thereto.

300.408 - Keyhole regulations.

Sec. 408.

408.1 *Anti-Funneling Provisions.* Definitions: Funneling is herein defined as the use of an inland waterfront parcel or property as common open space, providing waterfront and waterfront access for: 1) a larger development that has lots which are not contiguous to the waterfront; 2) individuals who are not riparian property owners (not considering the funneling property) on the same body of water; or 3) individuals who may be riparian property owners (not considering the funneling property) but who combine with non-riparian property owners for purposes of gaining access. The key characteristics of a waterfront-funneling situation include but are not limited to the following:

- a. Non-riparian property owners being provided access to the water.
- b. Non-waterfront property under a separate legal description.
- c. Riparian and non-riparian parcels are often separated by a public or private roadway.
- d. Multiple property owners who combine ownership for purposes of having waterfront and water access.

This ordinance will not prohibit joint ownership of a residence property held primarily for residential purposes, which may also include waterfront access.

Keyholing would be the use of a lakefront parcel to provide boat launching or mooring to the water body contiguous to said parcel by anyone other than the said parcel owner.

PROHIBITION: Waterfront-funneling practices are hereby prohibited in Nottawa Township. This prohibition shall not apply against the use of any public park or public access site maintained by a unit of government.

300.409 Wireless communication Facilities and Structures (Ordinance 51 Adopted Nov 20, Eff Dec 10, 2023)

Sec 409.

409.1 *Intent.* It is the intent of the Township of Nottawa to conform to the federal and state of Michigan laws and administrative rules governing the installation and operation of wireless communications facilities and equipment including, but not limited to, the Federal Communications Act of 1996 (47 USC 151) and the Michigan Zoning Enabling Act (MCL 125.3514). It is further the intent of the Township of Nottawa to set forth regulations and procedures for the installation and location of wireless communication equipment and facilities in the Township of Nottawa in compliance with all applicable federal and state statutes.

409.2 *Definitions.* For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this division:

ATTACHED WIRELESS COMMUNICATION FACILITIES. Wireless communication facilities affixed to existing structures, including but not limited to existing buildings, lowers, water tanks, or utility poles.

COLLOCATION. Location by 2 or more wireless communication providers of wireless communication facilities on a common structure, tower or building, to reduce the overall number of structures required to support wireless communication antennas within the township.

WIRELESS COMMUNICATION FACILITIES. All equipment, support structures, and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited, to radio towers, television towers, telephone devices, personal communication transmission equipment and exchanges, microwave relay lowers, telephone transmission equipment building, and commercial mobile radio service facilities. This definition does not include a reception antenna for an individual lot as otherwise defined and regulated in this zoning ordinance.

409.3 *Application and approval process for wireless communication facilities.*

a. Zoning approval. Wireless communication facilities may be located within the Township of Nottawa pursuant to the guidelines set forth herein.

b. Application requirements. The following information shall be submitted to the township.

(1) A site plan prepared showing the location, size, screening, and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping, and as-built drawings for all proposed attached wireless communication facilities and/or wireless communication support structures.

(2) A disclosure of what is proposed, demonstrating the need for the proposed wireless communication facility to be located as proposed based upon the presence of 1 or more of the following factors:

1. Proximity to an interstate highway or major thoroughfare;
2. Areas of population concentration;
3. Concentration of commercial, industrial, and/or other business centers;
4. Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions;
5. Topography of the proposed facility location in relation to other facilities within which the proposed facility is to operate; and
6. Other specifically identified reason(s) creating need for the facility.

(3) The reason or purpose for the placement, construction, or modification with specific reference to the providers' coverage, capacity and/or quality needs, goals, and objectives;

(4) The existing form of technology being used and any changes proposed to that technology;

(5) As applicable, the planned or proposed and existing service area of the facility and the attached wireless communication facility, and wireless communication support structure height and type, and signal power expressed in ERP upon which the service area has been planned;

(6) The nature and extent in the provider/applicant's ownership or lease interest in the property, building, or structure upon which facilities are proposed for placement, construction, or modification;

(7) The identity and address of all owners and other person with a real property interest in the property, building, or structure upon which facilities are proposed for placement, construction, or modification;

(8) A map showing existing and known proposed wireless communication facilities with the Township of Nottawa, and within areas surrounding the borders of the township. The map shall also show existing buildings and/or other structures of the same approximate height within a 1-mile radius of the proposed site which could accommodate a feasible co-location of the applicant's proposed attached wireless communication facility;

(9) An illustration and description of the fall zone for the structure, including certification by a State of Michigan licensed and registered professional engineer to be utilized, along with other criteria such as applicable regulations for the district in question, to determine appropriate setbacks to be required for the structure and other facilities;

(10) The site plan shall include a landscape plan to demonstrate landscaping will provide screening for the wireless communication support structure base, accessory buildings, and enclosures;

(11) Elevations of the wireless communication facility and all accessory structures;

(12) Evidence of site plan approval from the Federal Aviation Administration, if required due to the site's proximity to an airport, or evidence that such approval is not required;

(13) The name, address, and telephone number of the person to contact for engineering, maintenance, and other notice purposes. This information shall be continuously updated during all times the facility is on the premises;

(14) A description of the security to be posted at the time of receiving a building permit for the wireless communication facility to ensure removal of the structure when it has been abandoned or is no longer needed. The security shall be in the form of a surety bond. A written statement shall be required from the applicant and owner of the property that the facility will be removed 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 costs and attorney fees incurred by the Township of Nottawa in securing the removal;

409.4 *Wireless communications equipment allowed as a permitted use.* Pursuant to MCL 125.3514 and as set forth herein, the installation of all wireless communication equipment shall be a permitted use of property and does not require a special land use permit if all of the following conditions are met:

a. The wireless communications equipment will be collocated on an existing wireless communications support structure or in existing facilities.

b. The existing wireless communications support structure and facilities were previously approved by the Township of Nottawa Planning Commission and the Township of Nottawa Board of Trustees and is in compliance with all Township of Nottawa Zoning Ordinances.

c. The proposed collocation of wireless communications equipment meets all of the following requirements:

(1) The collocation of the wireless communication equipment will not increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.

(2) The collocation of the wireless communications equipment will not increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.

(3) The collocation of the wireless communications equipment will not increase the area of the existing equipment compound to greater than 2,500 square feet.

d.) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the Township of Nottawa Planning Commission and the Township of Nottawa Board of Trustees.

409.5 *Wireless communications equipment subject to special land use approval.* Pursuant to MCL 125.3514 and as set forth herein, the proposed installation all wireless communication equipment that does not meet the requirements of division (D)(l) - (4) as set forth herein, shall be subject to approval of a special land use permit by the Township of Nottawa Planning Commission and approved by the Township of Nottawa Board of Trustees. The following site and developmental requirements shall apply to the installation of all wireless communication facilities, equipment, or support structures that require a special land use permit:

a. A special land use permit must be granted by the Township of Nottawa Planning Commission.

b. All support structures and facilities must be located on a minimum of 2 acres.

c. A security deposit in the form of a surety bond must be submitted by the owner of the wireless communications facility in an amount deemed appropriate by the Township of Nottawa Township Planning Commission to cover the cost of removal of the facility once abandoned.

d. The applicant shall provide an existing cell coverage map, a proposed cell coverage map, and a map of existing towers with a 1-mile radius of the proposed site. The maps will assist in identification of void areas of coverage and allow Nottawa Township and the applicant to locate the tower on or near the most appropriate site in order to minimize gaps in coverage.

e. Wireless communication support structures shall be located according to prioritized locations:

(1) Co-location on existing wireless communications structures.

(2) Township of Nottawa property.

(3) Industrial zoned districts.

(4) Commercial districts.

(5) Agriculture districts.

(6) Residential districts.

f. All freestanding wireless communications towers shall not exceed 250 feet in height above final grade level.

g. A minimum of 2,600 feet of separation shall exist between freestanding towers.

h. There shall be an unobstructed access to the wireless communication facility for operation, maintenance, repair, and inspection purposes which may be provided through an easement.

i. The applicant shall demonstrate that the requested height of the new or modified support structure and antenna shall be the minimum height necessary for reasonable communication by the applicant, including additional height to accommodate future co-location where appropriate.

j. No occupied building shall be located within the designated fall zone of the wireless communications tower.

k. Where a wireless communication facility is proposed on the roof of a building, the equipment enclosure, if proposed, shall be designed, constructed, and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building, provided that it conforms to all district requirements for accessory building, including yard setbacks and building height.

l. All wireless communication facilities shall be constructed in accordance with all applicable building codes and shall include the submission of a professional soil report from a geotechnical engineer licensed in the State of Michigan.

m. All wireless communications facilities and support structures shall comply with landscape ordinance screening requirements or provide a screening plan. Existing on-site vegetation shall be preserved to the maximum extent possible.

n. A maintenance plan and any applicable maintenance agreement shall be presented as part of the site plan for the proposed facility.

o. The minimum setbacks for all new or modified wireless communications facilities are based on the proposed location(s) and include all that are applicable:

(1) Adjacent to any residential district: the height of the structure plus 25 feet measured to residential property line *.

(2) Adjacent to any existing or proposed rights-of-way or other publicly traveled roads or non-motorized improved pathways: half of the height of the structure, plus 25 feet measured to the ROW.

(3) Adjacent to any existing or proposed county road rights-of-way: 500 feet measure to the ROW.

(4) Adjacent to any pre-existing residence or residentially-use building: height of the structure, plus 25 feet measured to the building plane of the residential structure nearest the tower .

* setback may be reduced upon determination that no residential use exists or is expected on the adjacent site.

p. Setbacks may be reduced as determined by the Township of Nottawa Planning Commission upon demonstration and certification by a registered professional engineer, that the wireless communication facility or support structure has a shorter fall zone distance due to self-collapsing. Documentation must be provided that the setback area can accommodate the structure should it fall or break. A reasonable buffer area shall be provided in the event the structure fails.

q. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to front or side property lines than 30 feet.

r. The base of the wireless communication support structure and wire cable supports shall be fenced with a minimum 6-foot-high fence which is also equipped with barbed or razor wire at the top of the fence.

s. Accessory buildings shall be a maximum of 14 feet high and shall be set back in accordance with the requirements for principal buildings in the zoning district.

t. All wireless communication support structures shall be equipped with an anti-climbing device to prevent unauthorized access.

u. The plans of the wireless communication support structure construction shall be certified by a registered structural engineer.

v. The applicant shall provide verification that the antennas, mounts, and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.

w. All wireless communication support structures and facilities must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.

x. No part of any wireless communication support structure or antenna shall be constructed, located, or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is to be located. In no case shall a wireless communication support structure or antenna be located within 30 feet of a front or side property line.

y. Metal wireless communication support structures shall be constructed of, or treated with, corrosive resistant material.

z. Antenna and metal wireless communication support structures shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations, and standards.

aa. Wireless communication support structures with antennas shall be designed to withstand a uniform wind loading as prescribed in the applicable building code.

bb. All signals and remote-control conductors of low energy extending substantially horizontally above the ground between a wireless communication support structure or antenna and a structure, or between towers, shall be at least 8 feet above the ground at all points, unless buried underground.

cc. Wireless communication support structures shall be located so that they do not interfere with television or radio reception in nearby residential areas.

dd. Wireless communication support structures shall be located so there is appropriate clearance for vehicles conducting maintenance to maneuver on the property owned and/or leased by the applicant.

ee. Wireless communication support structures shall not be artificially lighted unless required by the Federal Aviation Administration.

ff. 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.

gg. Wireless communication support structures shall be subject to any state and federal regulation concerning non-ionizing electromagnetic radiation. Should additional state or federal regulations be adopted in the future, the wireless communications facility shall be made to conform to the extent required by the standard of the special use. Approval will be subject to revocation by the Nottawa Township Planning Commission. Costs for testing and verification of compliance shall be paid by the operator and/or owner of the wireless communications facility.

hh. There shall be no employees located on the site on a permanent basis to service or maintain the wireless communication support structure or antenna. Occasional or temporary repair and service activities are excluded from this restriction.

ii. Collocation shall be required where deemed feasible by the Township of Nottawa:

(1) Collocation shall be deemed feasible when the following conditions are met:

(a). The wireless communications provider or property owner where co-location is proposed will accept market rent or other market compensation for co-location and the wireless communication provider seeking the facility will pay the rates;

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

(c). The collocation being considered is technically reasonable.

(2) Newly-constructed wireless communications towers shall have a minimum of 3 times the capacity of intended use in order that secondary users may lease remaining capacity of the wireless communications tower.

(3) The applicant must include a statement in the application and an affidavit stating space on a proposed tower will be made available to future users when technically possible; and

(4) The applicant shall send a written notice via certified mail to all potential users of the new wireless communications tower offering an opportunity for co-location.

(a). The list of potential users shall be provided by the township based on those entities who have requested approval of wireless communication towers in the past, current FCC license holders, and any other entities requesting to be included on the list.

(b). The applicant shall accommodate the request for co-location by potential users, unless co-location is not reasonably possible based on the criteria of this section.

(5) If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure to accommodate a proposed and otherwise feasible co-location, the facility shall be deemed to be a non-conforming structure and use, and shall not be altered, expanded, or extended in any respect.

jj. Removal. The wireless communication facility shall be removed within 6 months by the property owner or lessee under any of the following conditions:

(1) The wireless communications facility is abandoned. The wireless communication facility shall be deemed abandoned when the facility has not been used for 180 days or longer.

(2) New technology is available at reasonable cost, as determined by the Township of Nottawa which permits the operation of the communication system without the requirement of the support structure or facility. Nottawa Township shall give the wireless communication provider the opportunity to submit information that the facility remains necessary and shall give such information due consideration in rendering a decision.

(3) If removal is required pursuant to the provisions of this section, the property owner(s) shall immediately apply for and secure all necessary permits from the Township of Nottawa for the demolition or removal of the wireless communications facility and shall restore the property to an acceptable condition as reasonably determined by the Nottawa Township Building and Zoning Administrators.

(4) If the removal of the wireless communication facility, as determined necessary by Nottawa Township officials, is not completed within 180 days after a written notice is provided by Nottawa Township to the owner of the facility, Nottawa Township may remove or secure the removal of the wireless communications facility with actual costs and reasonable administrative costs to be collected from the security deposit provided by the owner at the time of application for construction of the facility.

409.6 *Processing of application for special land use permit.* Pursuant to MCL 125.3514 and as set forth herein, an application submitted to the Township of Nottawa for a special land use permit for the installation of wireless communications equipment shall be subject to the following process and conditions:

a. The Nottawa Township Zoning Administrator shall determine whether the application is administratively complete.

b. The application shall be considered administratively complete if the Nottawa Township Zoning Administrator does not notify the applicant within 14 business days of submission of the application of any necessary information or fees required to complete the application.

c. The Nottawa Township Zoning Administrator shall notify the applicant within 14 business days of the submission of the application if the application is not

administratively complete and shall specify the information necessary to make the application administratively complete.

- d. The Nottawa Township Zoning Administrator shall notify the applicant within 14 business day of the submission of the application if a fee that is required to accompany the application has not been paid and shall notify the applicant of the amount of the fee to be paid.
- e. If the applicant is notified by the Nottawa Township Zoning Administrator that further information or fees are necessary to complete the application the 14-business day period shall be tolled until the applicant submits to the Nottawa Township Zoning Administrator the specified information or fee amount due.
- f. Any notice provided by the Nottawa Township Zoning Administrator to the applicant requesting further information or fees shall be given in writing or by electronic notification.
- g. Any fee required with the application for the installation of the wireless communications equipment subject to the approval of a special land use permit shall not exceed the Township of Nottawa's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.
- h. The Nottawa Township Planning Commission and the Nottawa Township Board of Trustees shall approve or deny the application for the installation of wireless communications equipment not more than 60 days after the application is considered to be administratively complete.
- i. If the application is for the installation of wireless communications equipment that will not be collocated or for the installation of a new wireless communications support structure or tower, the Nottawa Township Planning Commission and the Nottawa Township Board of Trustees shall approve or deny the application within 90 days after the application is considered to be administratively complete.

409.7 Severability

The various provisions of this ordinance are deemed severable from each other. If any part or provision herein is deemed to be unconstitutional or otherwise unenforceable, such determination shall not affect the rest of the Ordinance.

409.8 Effective Date and Repeal

This Ordinance is effective on the 8th day after publication, after adoption. Conflicting ordinance provisions are repealed.

ARTICLE FIVE

300.500 - SPECIAL USE PERMITS^[7]

300.501 - Applications and determinations.

Sec. 501.

501.1 *Purpose.* Until recent years, the regulations of uses of land and structures through zoning has been accomplished by assigning each use to one or more use districts. However, the functions and characteristics of an increasing number of new kinds of land uses call for a more flexible and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the community's inhabitants.

In order to accomplish such a dual objective, provision is made in this Ordinance for a more detailed consideration of each of certain specified activity as it may relate to proposed conditions of locations, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as special uses and may be authorized by the issuance of special use permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.

The following sections, together with previous references in other Articles, designate what uses require a special use permit. With any exception as noted, the procedures for obtaining such a permit apply to all special uses indicated.

501.2 *Procedures for Making Application.*

- a. *Application.* Application shall be submitted through the Township Clerk to the Township Planning Commission on a special form for that purpose; each application shall be accompanied by the payment of a fee in accordance with the duly adopted "schedule of fees to cover the costs of processing the application. No part of any fee shall be refundable.
- b. *Data Required in Application.* Every application shall be accompanied by the following information and data:
 - (1) Special form supplied by the Township Clerk filled in full by the applicant.
 - (2) A site plan approved by the Planning Commission as provided by Article Six, Section 300.605
 - (3) Preliminary plans and outline specifications of the proposed development.

Footnotes: --- (7) --- **State Law reference**— -Special land uses, MCL 125.3502 et seq.

- c. The Planning Commission shall review the proposed development, prior to submitting its recommendations for action to the Township Board, in terms of the standards set forth in the Ordinance.
- d. Prior to submitting recommendations, the Planning Commission shall hold a public hearing on each application after giving notice as required by Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended.
- e. Upon conclusion of hearing procedures, the Planning Commission shall recommend action to the Township Board including any time limit or specific requirements desired. Following favorable action by the Township Board, the Clerk shall issue a Special Land Use Permit with all conditions clearly specified in writing.
- f. Permit Revocation: If, after granting the permit and upon investigation, the Township Board determines that there has been misrepresentation in the application or that there has been a breach of the conditions of the permit as expressed therein and set forth in this ordinance they shall notify the applicant in writing of revocation of the permit and the reason for the revocation.

501.3 *General Standards for Making Determinations.* The Planning Commission in making recommendations to the Township Board shall establish the facts and shall find adequate evidence showing that the proposed use:

- a. Will be harmonious with and in accordance with the general objectives or with any specific objectives of the Township Comprehensive Plan of current adoption;
- b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
- c. Will not be hazardous or disturbing to existing or future neighboring uses;
- d. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
- e. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
- f. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- g. Will not involve uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- h. Will be consistent with the intent and purposes of this Ordinance.

501.4 *Time Periods.* Special use permits may be issued for time periods as determined by the Township Board. In any case, if work has not proceeded to at least 10% of completion within one year of issuance of the special use permit, said permit will become null and void. Special use permits may be renewed in the same manner as originally applied for.

501.5 *Financial Guarantee.*

- 1. The Township Board is empowered to require a performance guarantee in the form of a bond, cashier's check, cash or other suitable negotiable security, equal to the estimated cost of improvements associated with the project subject to the guarantee.
- 2. The performance guarantee shall be deposited with the clerk of the Township at the time of the issuance of the permit authorizing the activity or project, to insure faithful completion of

the improvements indicated with the approved plan. If the improvements are not completed the security will be forfeited, either in whole or in part.

3. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based upon the percentage of the improvements completed as attested to by the depositor and verified by the Zoning Officer.
4. In cases when the improvements shown on the approved plan have not been completed in accordance with the approval granted, the aforementioned performance guarantee may be used by the Township to complete the improvements. The balance, if any, shall be returned to the depositor.

State Law reference— Performance guarantee, MCL 125.3505.

501.6 *Specific Requirements.* The foregoing general standards are basic to all special uses. The specific requirements accompanying the following sections relating to particular uses are in addition and shall be required in all applicable situations.

300.502 - Non-residential structures and uses in residential districts.

Sec. 502.

502.1 *Uses Requiring Permit.* The following uses are permitted in one or more residential districts:

- a. The removal of soil, sand, gravel and other materials.
- b. Public and private parks, camps, golf courses, clubs, garden nurseries, greenhouses, and commercial stables.
- c. Public and private hospitals, schools, cemeteries, churches, nursing homes and elderly care facilities, and government buildings.
- d. Airports.
- e. Public utility structures and substations.
- f. Veterinarians' offices, commercial kennels, and animal clinics.
- g. Public or private sanitary landfills or junk yards.

502.2 *General Standards.* In as much as the non-residential uses permitted in residential districts may have an adverse effect on residential properties if not properly located and designed, the following general standards must be met prior to development of such uses:

- a. Hazardous areas must be adequately fenced to avoid accidents, such areas include:
 1. Sand or gravel operations.
 2. Airports.
 3. Public utility substations.
 4. Landfills and junk yards.
- b. Any permitted non-residential structure should preferably be located at the edge of a Residential District, abutting a Commercial/Industrial District, or a public open space.
- c. If possible, all permitted non-residential uses should front on a major street (minor arterial or collector).
- d. Motor vehicle entrance and exit should be made on a major street to avoid the impact or traffic generated by the non-residential use upon the residential area.

- e. Site locations should be chosen which offer natural or man-made barriers that would lessen the effect of the intrusion of a non-residential use into a residential area.
- f. Non-residential uses should not be located so as to cause costly public improvements.
- g. Structures shall be no closer than 100 feet to adjacent property lines.

502.3 *Removal of Soil, Sand, Gravel and Other Materials.*

- a. The soil erosion control standards of St. Joseph County shall be followed.
- b. All areas shall be rehabilitated as work progresses to a condition reasonably safe and to blend in with the surrounding area. A bond for compliance may be required in an amount to be determined by the Township Board.
- c. All installation shall be maintained in a neat orderly condition so as to prevent injury to any property, individual, or the community in general.
- d. The Township shall establish routes for truck traffic movement-in and out of the development in order to minimize the wear on public street, to prevent hazards and damage to properties and to avoid densely populated residential areas.

State Law reference— Soil erosion and sedimentation control, MCL 324.9101 et seq.

502.4 *Public Utility Structures and Substations:* Adequate planting materials to screen exposed facilities from view shall be required. Evergreens are recommended, however, selected deciduous trees may be used when appropriate.

502.5 *Commercial Kennels and Stables.*

- a. Shall be located and constructed so as to minimize the potentially adverse effects of noise on adjacent properties.

502.6 *Public or Private Sanitary Land Fills or Junk Yards.*

- a. Such uses shall be established and maintained in accordance with all applicable State of Michigan Statutes.
- b. Shall be fenced around the entire periphery of the property in use with a solid screen of sound construction, painted, or otherwise finished neatly and inconspicuously.
- c. All activities shall be confined within the fenced area. No equipment, material, signs, or lighting shall be used or stored outside the fenced area.
- d. Fences shall be set back 100 feet from any public street.
- e. No burning beyond the limited amount normally associated with a residence shall be permitted.
- f. Junk, automobiles or other debris may not be stacked in any manner such that it could be visible outside the site. Junk yards or landfills shall not be located in areas which are impossible to screen from view from adjacent properties or public streets.

State Law reference— Solid waste management act, MCL 324.11501 et seq.

502.7 *Concentrated Animal Feeding Operations.*

- a. The minimum lot area shall be at least 80 acres.
- b. All structures and confined lots designed to house or contain animals shall be set back 500' from existing property lines except that of the feed lot operation.

- c. All structures and confined lots designed to house or contain animals shall be set back 1000' from any existing church, business, school, park or any public building and 1500' from any area zoned residential that has a recorded residential subdivision.
- d. The operations shall be operated and maintained in accordance with the guidelines contained in Generally Accepted Agricultural and Management Practices for Manure Management and Utilization as published and adopted by Michigan Agricultural Commission as amended January 2009.

300.503 - Other residential uses.

Sec. 503.

503.1 *Multiple Housing Developments.*

Uses Requiring Special Use Permit. Any structure containing three (3) or more living units.

Additional Information Required.

- a. The developer shall submit his plans to the following agencies for comments in writing to be delivered to the Township:
 - 1. St. Joseph County Road Commission.
 - 2. St. Joseph County Drain Commission.
 - 3. St. Joseph County Health Department.
 - 4. The Board of Education of the school district in which the project is located.
- b. The developer shall submit a report including:
 - 1. Number, size and dimension of buildings.
 - 2. Number and size of living units.
 - 3. Number, size and type of parking area.
 - 4. Basis of calculation for determining required parking and density.
 - 5. Description of utility (sewer, water, storm drainage) systems planned.

Standards.

- a. No building shall be closer than fifty (50) feet to another, except when abutting walls contain no windows in which case the distance may be reduced to twenty-five (25) feet.
- b. No building shall be longer than one hundred and fifty (150) feet in any direction.
- c. Motor vehicle entrance and exit shall be only from a major street (minor arterial or collector) to avoid the impact of traffic generated on neighboring residential uses.
- d. A pedestrian and non-motorized vehicular pathway system shall be provided and designed in such a way to minimize conflict points with motorized vehicles.
- e. Recreational facilities for the residents shall be provided in easily accessible areas, including play equipment for children as well as adult recreation areas.
- f. Plantings. The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features: and, additional new landscaping shall be added for privacy, shade, beauty of buildings and grounds and to screen objectionable features. The landscaping plan shall be submitted in conjunction with the site plan with the application.
- g. Land Use Pattern. All of the elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings. Arrangement of buildings shall be in favorable

relationship to the natural topography, existing desirable trees, views within and beyond the site, and exposure to the other buildings on the site.

- h. Community buildings shall be of sound construction, attractively designed, and located in convenient proximity to the greatest possible number of residential living units.

503.2 *Site Condominium.*

Site Condominium Subdivision. Pursuant to the authority conferred by Section 141 of the condominium act Public Act No. 59 of 1978 (MCL 559.241), as amended, all site condominium subdivisions shall be required to comply with all articles of this Ordinance.

Definitions. The following terms shall be used in consideration of all site condominium projects:

Building Envelope: The ground area occupied by the principal structure which is to be placed on a building site, together with any accessory structures. In a single-family residential site condominium project, building envelope refers to the area of each condominium unit within the dwelling and any accessory structures which may be built.

Building Site (Condominium Unit): That portion of the condominium project designed and intended for separate ownership and use as described in the Master Deed. The building site shall include the building envelope and limited common area.

Condominium Dwelling: The building constructed upon a lot or condominium unit which is intended for residential purposes.

Site Condominium Subdivision: A division of land on the basis of condominium ownership which is not subject to the provisions of the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended.

503.2-1. *Site Condominium Subdivision Review Procedures.*

- a. The Planning Commission shall review the site condominium plans and give its report and recommendation to the Township Board.
 - (1) In its review of a site condominium project, the Planning Commission may consult with the Township Attorney, Fire Chief, Planning Consultant, Township Subdivision Control Officer, St. Joseph County Health Department, Road Commission and Drain Commission and other appropriate agencies having permitting authority over any aspect of the proposed project.
 - (2) The building site for each site condominium unit shall comply with the use; lot area; lot width; front, side and rear yards and building height regulations of the underlying zoning district in which the subdivision is located.
- b. The Township Board shall approve and note its approval on a copy of the site condominium plans or set forth in writing its reasons for rejection and the requirements that must be met for site condominium plan approval.
 - (1) The Township board may require that a cash deposit, certified check, irrevocable bank letter of credit or performance bond acceptable to the Board covering the estimated cost of improvements associated with the project.

503.2-2. *Site Condominium Plans.* All site condominium plans shall include the following:

- a. Project description which describes the nature and intent of the proposed development.
- b. A floodplain plan, if the site lies within or abuts a floodplain area.
- c. A site plan showing the location, size, shape, area and width of all condominium units.
- d. A utility plan showing all water and sewer lines and a narrative describing the proposed method of providing potable water supply and wastewater disposal facilities.

- e. A street construction, paving and maintenance plan for all private streets within the proposed site condominium subdivision.
- f. A storm drainage plan, including all swales, drains, basins and other facilities.
- g. A description of the common elements of the project as will be contained in the Master Deed, and an engineer's estimate of cost for their construction.
- h. The use and occupancy restrictions as will be contained in the Master Deed.
- i. Evidence of authority or right that the developer has a legal option to purchase the subject property from the owner's record.

503.2-3. *Utilities and Streets.*

- a. The site condominium plans shall include all necessary rights-of-way and easements for water/sewer, streets, sidewalks, bike paths, etc., granted to the property owners of the subdivision for the purpose of operating and proposed method of maintaining them.
- b. The Township Board may require the developer to enter into an agreement with the Township for the imposition of a special assessment for the construction of utilities or other public improvements with the site condominium subdivision.
- c. If a site condominium subdivision is proposed to have private streets, the Township Board may require that the private streets be developed to the minimum design, construction, approval and maintenance requirements of the St. Joseph Road Commission, or as otherwise specified by the Township. All private streets in a site condominium subdivision may have a paved driving surface of asphalt or concrete.

503.3 *Final Approval and Acceptance.*

- 1. Upon completion of construction of the private street/subdivision, the Subdivision Control Officer may inspect the completed construction to determine if it complies with the approved plans, specifications, the permit and this ordinance.
- 2. The applicant(s), at the applicant(s) expense shall provide the township with a set of reproducible "as built" drawings bearing a certificate and statement from a registered engineer certifying that the street(s), drives, sidewalks, utilities, storm sewers, water lines and any other common elements included with the approved subdivision plans has been completed in accordance with the requirements of the permit and this ordinance.
- 3. Also noted on the "as built" drawings provided by the applicant shall be the approval of the plan by the appropriate permitting agencies having authority over the development of the private street and/or subdivision.
- 4. The Township Board shall approve and note its approval on a copy of the final "as constructed" plans depicting all of the common elements of the subdivision only after it has determined that all of the requirements of this section 503.2 has been satisfied and after receiving in writing the approval and acceptance of the subdivision as constructed from all of the appropriate permitting agencies having authority over the development of the subdivision including the Township's Subdivision Control Officer.
- 5. If in the event that the Township Board does not approve the final "as constructed" plans, it then shall set forth in writing its reasons for rejection and the requirements that must be met for approval

503.4 *Hold Harmless.*

The applicant(s), Owner(s) of the private street/subdivision agree that by applying for or securing a permit to construct the private street/subdivision that they shall indemnify and will hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street/subdivision or of the failure to properly construct, maintain, use, repair, and replace the private street and/or any other common element within the subdivision

503.5 *Master Deed.* All provisions of a final site condominium subdivision plan which are approved by the Township Board shall be incorporated, as approved, in the master deed for the site condominium project. A copy of the master deed as filed with the St. Joseph County Register of Deeds for recording shall be provided to the Township within 10 days after filing.

503.6 Open Space Preservation Option

(adopted April 16, 2018)

Open Space Preservation developments may be approved in the AR, R-1, R-2 and R-3 zoning districts, subject to the standards and review procedures set forth herein.

1. *Purpose* The purpose of Open Space Preservation Option is to preserve undeveloped land, thereby maintaining undeveloped open space. The regulations in this sub-section propose to accomplish this purpose by providing for grouping of homes onto the most buildable portions of a site so that the remainder of the site can be preserved in an undeveloped state.

As used in this subsection, the term “undeveloped state” shall have the meaning given to it in Section 102(u) of the Michigan Zoning Enabling Act (P.A. 110 of 2006), which states the following:

“Undeveloped state” means a natural state preserving natural resources, natural features, or scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children’s play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

2. *Applicability*

Parcels measuring two (2) acres or larger in the AR, R-1, R-2 and R-3 districts may be developed according to the standard conditions and requirements for the zoning district, or it may be developed according to the Open Space Preservation Option standards in this sub-section. If the Open Space Preservation Option is selected, the property shall be developed under the conditions and requirements in this sub-section, other applicable zoning regulations, and other applicable Township ordinances. The Open Space Preservation Option may be used only if the subject property is served by a sanitary system approved by the MDEQ or its successor agency.

3. *Review and Approval Process*

Proposals for Open Space Preservation development shall be reviewed following the same procedures used for conventional subdivision or condominium proposals, except that the applicant shall complete a site features inventory prior to development. The inventory shall consist of maps and written analysis which shall identify, describe and quantify the following features, at minimum: existing vegetation, topography at two-foot contour intervals, water courses, drainage patterns, wildlife habitats, roads and road rights-of-way, easements, soils (based on Natural Resources Conservation Service soils information or soil borings), MDEQ-regulated wetlands, floodplains, woodlands and tree lines, rare and endangered species habitats, prime farmland and any additional features uniquely affecting the site.

4. *Permitted Density*

The overall density of residential lots (or dwelling units) in an Open Space Preservation development may not exceed the density that would be permitted if the site were developed as a conventional residential subdivision, except as approved by the Township Board and Planning Commission according to this section.

- a. To assist the Planning Commission and the Township Board in determining maximum density, the applicant shall submit the Parallel Plan along with the Open Space Preservation plan that shows how the site could be developed under conventional zoning.
- b. The Planning Commission shall review the design; determine the number of lots that can feasibly be developed and make a recommendation to the Township Board for approval.
- c. A Density Bonus of up to 10% in addition to the allowed number of lots may be awarded at the discretion of the Planning Commission if one or more of the following provisions is met:
 - a. The type and amount of Open Space, including a green belt along roadways, at parcel property lines or recreation facilities exceeds what is typically required in the underlying zoning district.
 - b. A development provides a diverse variety of residential housing types or provides a type of housing that is desired but not currently offered in the Township. The Planning Commission shall review the housing types desired and make a recommendation to the Township Board for approval.
 - c. Existing structures deemed to be of historic, cultural or architectural significance and where feasible. If these structures are suitable for rehabilitation, the structures shall be rehabilitated for adaptive reuse with provisions for maintenance in the development agreement.
 - d. Incentive Zoning Bonus: A density bonus may be awarded with the approval of the Township and Planning Commission for applicants who provide greater than 50% Preserved Open Space in exchange for an agreed upon density percentage increase. The additional Preserved Open Space shall be undeveloped land and maintained through the provisions of sub-section 503.6.6

5. *Dimensional Standards*

- a. Setbacks. Open Space Preservation developments shall comply with the following minimum yard setback requirements. All street front setbacks are measured from roadway right of way or as defined in the underlying zoning district:

Development buffer

Along perimeter adjacent to public road	50 ft.
Along perimeter adjacent to single family subdivision	35 ft
Along perimeter, but not adjacent to a road or subdivision	15 ft

Building Setbacks

Along an internal primary or local road	25 ft
Side yard private lot setback	10 ft
Rear yard, private lot setback	10 ft
Setback from a lake, pond, stream or wetlands	50 ft

The minimum front, rear and side yard setback for attached or detached single family structures and accessory structures thereto shall be based on sound planning, character and scale of the developed neighborhood design principles, taking into account the degree of compatibility between adjoining uses, sensitivity to the natural characteristics of the site, the need for free access for emergency vehicles, the need for adequate amounts of light and air between buildings, and the need for proper amounts of open space for the use of residents on the site.

Parking Lot Setbacks

Along perimeter adjacent to public road	50 ft.	
Along perimeter, but not adjacent to a road		20 ft.
Setback from lakes, ponds, streams, and wetlands		50 ft

Subject to review by the Planning Commission.

Docks, patios, terraces, decks, and pathways may be permitted at grade level within the 50-ft. waterfront/wetland setback, subject to review and approval by the Township Board, upon receiving a recommendation from the Planning Commission in so far as Section 300.408 (Keyhole regulations) will allow.

Exceptions and Permitted Lot Setback Encroachments

The following features may encroach into the required setback of a Lot subject to review by the Township and approval from the Planning Commission:

- Landscaping
- Driveways, curbs, and sidewalks, grade patios, underground utilities
- Mailboxes

Any other element as approved by the Planning Commission

- b. Lot Size. Open Space Preservation developments shall comply with the following minimum lot size requirements:

- 1. **Lot Size** shall vary and shall be defined by calculation with a 10'-0" minimum offset from the widest points on each side.

Zoning District	Minimum Lot Size
AR	10,000 sq. ft.
R-1, R-2, R-3	5,000 sq. ft.

Variation from these lot size standards may be required or permitted where the Planning Commission finds that smaller lot size is required to achieve the density permitted under sub-section 4, above.

- c. Distances between Buildings. Any detached single-family structure shall be located at least twenty (20) feet from any other detached single-family structure. Any building or structure less than 200 square feet must be located at least five (5) feet from the property line in accordance to Section 401.1. All measurements shall be measured from the widest point of structure.
 - d. **Floor Area and Height Standards.** Buildings in an Open Space Preservation development shall comply with the floor area and height standards for the district in which the development is located.

6. *Open Space Requirements*

Open Space Preservation developments shall provide and maintain open space in an undeveloped state, which shall comply with the following requirements:

- a. Open Space Preservation developments shall reserve at least fifty percent (50%) of the parcel in an undeveloped state.
- b. Open space shall be located on the parcel to meet the following objectives:
 - (1) To preserve distinctive natural features, scenic or wooded conditions, and rural characteristics.
 - (2) To minimize impact from development on wetlands, streams, prime farmland and other sensitive environmental areas.

In addition, no more than twenty-five percent (25%) of the open space may be developed with children's play facilities, picnic facilities, trails, and similar passive recreational facilities to satisfy the needs of future residents of the development, provided that all such facilities shall be compatible in design with other open space requirements and objectives.

- c. Required open space shall not include the area of any public or private road right of way, the area of any easement providing access to the site, or the area of any commercial recreation use such as a golf course.
- d. Open Space shall not be overlaid with privately owned lots within the parcel.
- e. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction, conservation easement, plat dedication, restrictive covenant, or other means that runs with the land, whereby all rights to develop the land are conveyed to a land conservation organization or other body, assuring that the open space will remain undeveloped. Such conveyance shall:
 - (1) Indicate the proposed use(s) of the required open space.
 - (2) Provide for the privately-owned open space to be maintained by private property owners having an interest in the open space.
 - (3) Provide maintenance standards and a maintenance schedule.
 - (4) Provide notice of possible assessment to the private property owners by Nottawa Township for the maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
 - (5) After approval from the Township, the developer shall record with the St. Joseph County Register of Deeds to provide record notice of the restrictions to all persons having or seeking an interest in the property contained in the Open Space Preservation development. Evidence that the document has been recorded shall be provided to the Township prior to issuance of any permits to commence construction.

7. *Building Location*

Where feasible, Open Space Preservation developments shall comply with the following building location requirements. Modification to these locational requirements may be approved by the Township as part of the review process, upon making the determination that other building locations would be more appropriate because of topography, existing trees or vegetation, proposed grading or landscaping, or other existing or proposed site features or conditions.

- a. Buildings shall be located on the edges of fields and in wooded areas to minimize the visual impact of development.
- b. Buildings shall not be located in wetland or floodplains.
- c. All points of measure shall be from widest point of structure.
- d. All single-family residential homes shall be located on a public or private street or a common element. Subject to review by the Planning Commission.
- e. Multiple family dwelling units and/or buildings are not allowed in Open Space Preservation developments that are located next to or adjacent to a conventional single-family subdivision.

8. *Roads and Driveways*

The amount of site disruption caused by road and driveway construction and associated grading required for construction shall be minimized in Open Space Preservation developments. Accordingly, Open Space Preservation developments shall comply with the following standards:

- a. Roads shall follow existing contours to minimize the amount of cut and fill.
- b. Where sites include linear features, such as existing access roads, tree lines, and stone rows, roads shall follow these features to minimize the visual impact of the roads and minimize the location in open fields.
- c. Minimum 20-foot wide paved access road with a 40-foot right of way to all units and accessory structures shall be required. Exceptions may be made by the Planning Commission by review.
- d. Proposed roads and utilities shall comply with Township standards (unless otherwise indicated), conform to the requirement of fire trucks and other safety and service vehicles and shall be subject to review and approval of the Township Engineer or other appointed designee.

9. *Stormwater Management*

- a. Retention and detention basins, where proposed or required, shall resemble natural ponds with gradual slopes and shall be landscaped with plant material that enhances the wildlife habitat and shall be included as Preserved Open Space area.

10. *Landscaping and Lawns*

- a. Existing trees and other plant growth shall be preserved in areas where disturbance is not necessary outside of the building envelope.
- b. Conversion of woods, meadows, and other natural features into lawns shall be avoided, except where lawn areas are a part of the open space design or serve as residential yard space.

11. *Existing Structures*

- a. When a parcel contains existing structures deemed to be of historic, cultural or architectural significance (such as farm structures), and where these structures are suitable for rehabilitation, the structures shall be retained to the extent practicable.
- b. Adaptive reuse of existing structures for residential use or permitted accessory residential uses shall be permitted.

12. *Building Design*

To the extent appropriate and feasible, housing units shall be designed in a manner that is compatible with surrounding development and the natural environment. The Planning Commission shall review the housing types and designs desired and make a recommendation to the Township Board for approval.

13. *Review and Approval Process*

Proposals for Single Family development shall be reviewed in accordance with applicable procedures for Special Land Use as contained in Article Five.

14. *Emergency Water Supply*

Open Space Preservation development may maintain a positive pressure for positive pressure on-demand water supply, or other water supply source, with not greater than 300 feet between points in any developed area for the purpose of fire suppression. Subject to review by the Planning Commission.

300.504 - Shopping centers.

Sec. 504.

504.1 *Uses Requiring Special Use Permits: Shopping Centers.*

504.2 *Standards.*

- a. Motor vehicle entrance and exit shall be only from a major street (minor arterial or collector).
- b. Where possible existing trees on the site shall be preserved. In addition, new landscaping shall be added to enhance the beauty of the development. A landscaping plan shall be included with the site plan.

300.505 - Miscellaneous special uses.

Sec. 505.

505.1 *Uses Requiring Permit.*

- a. Outdoor motor vehicle, boat, mobile home sales, rental, repair and display or storage provided that when such activities occur within a building such use shall be permitted by right.
- b. Hotels, motels, and motor hotels.
- c. Bowling alleys, pool halls, mechanical amusement centers, miniature golf courses and golf driving ranges.
- d. Outdoor theaters.
- e. Gasoline service stations.
- f. Car washes, automatic and self-serve.
- g. Transient amusement enterprises such as carnivals, circuses, and tent shows.
- h. Commercial beaches.
- i. Buildings, Trailers and/or Other Structures located within 200 feet of a property line or roadway that are primarily used for storage.

505.2 *General Standards:* In as much as certain commercial industrial uses may have a substantial impact on land use, traffic patterns, aesthetics, the environment, and the general welfare of the Township, the following standards must be met by such uses:

- a. Whenever possible, entrance and exit shall be made on a major street (minor arterial or collector).
- b. Whenever possible, existing trees on the site shall be preserved. In addition, new landscaping shall be added to enhance the beauty of the development.
- c. Screening shall be provided for uses which exhibit a cluttered appearance due to outdoor operations, which generate unusual noises, or require lighting which may shine onto adjacent properties. Such uses shall include, but not necessarily be limited to, the following:
 - (1) Outdoor motor vehicle, boat, mobile home sales display or storage.
 - (2) Car washes.
 - (3) Truck terminals and certain warehouses.
 - (4) Contractors' storage yard.

505.3 *Industrial Use Standards.*

- a. Activities shall be carried on in completely enclosed buildings. Storage may be permitted outdoors but shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates.
- b. Industries which emit odorous gases, smoke, dust, heat, vibrations or radiation which are humanly perceptible at the property boundaries shall be required to submit a plan for the control of dangerous or objectionable emissions to the Township Board as a condition of approval.
- c. Industries may not engage in the production or storage of materials designed for use as an explosive.

300.506 - Mobile homes as special uses in residential districts.

Sec. 506. A Special Use Permit for a mobile home on an individual lot or parcel may be issued by the Township Board and in accordance with the provisions of Section 501 Special Use Permits. Such permits may be granted when it can be demonstrated that circumstances of practical difficulty exist that would result in hardship to the applicant. Hardship shall not be deemed economic, but shall be evaluated in terms of the use of a particular lot or parcel of land and the unique land use needs of the applicant based on the following.

506.1 *Requirements.* A Special Use Permit for a mobile home on an individual lot or parcel may be issued under the following conditions:

- a. The mobile homes shall only be allowed in the Agricultural Residential or Low Density Residential District. All minimum lot area, lot width, lot coverage and yard and setback requirements of the respective zoning district shall be met.
- b. Only one (1) mobile home shall be allowed on a lot or parcel.
- c. A mobile home shall provide a minimum of 800 square feet of floor space and be connected to sewage and water facilities which comply with the St. Joseph County Sanitary Code. Furthermore, except for a use stipulated in subsection (f) or (g) below, those requirements as established in Sections 309.5(f), (h), (i), and (j) of this ordinance shall be met.

- d. Any other condition as recommended by the Planning Commission or required by the Nottawa Township Board shall be met.
- e. Unique conditions shall exist which justify the need for a mobile home on a given lot or parcel, such as a dwelling for seasonal farm labor, aged family members, or similar dwelling needs.
- f. The Township may issue a permit that allows a mobile home to be utilized as a temporary dwelling during the renovation of a residence damaged by fire, explosion, or act of God. The mobile home must be removed upon completion of repairs. A permit is good for a period of six (6) months at which time the mobile home shall be removed. A special use permit may be applied for as outlined in Section 506.1(g) that could extend the time period for this temporary dwelling up to twenty-four (24) months.
- g. The owner of any premises may erect or move not more than one (1) mobile home upon his premises and utilize the same for a dwelling during the actual construction of his dwelling upon such premises, but not to exceed twenty-four (24) months beginning with the date of issuance of a Building Permit for the construction of such dwelling. In any case, the mobile home shall be removed within fifteen (15) days after an occupancy permit is issued.

506.2 *Filing Procedures.* Applications shall be made in accordance with the provisions of Section 501 Special Use Permits. In addition, the applicant shall submit the following information to the Township Clerk when filing such application:

- a. A written statement by the applicant indicating the unique reasons for requesting a Special Use Permit for a mobile home of the lot or parcel in question.

506.3 *Review Procedure.* The application shall be reviewed in accordance with Article Five Special Use Permits.

506.4 *Permit Revocation.* In the event, after granting a permit and upon investigation, the Township Board determines that there has been misrepresentation in the application or that there has been a breach of the conditions of the permit as expressed therein and set forth in this section have not been complied with, they shall notify the applicant in writing of revocation of said permit and the reasons for the revocation.

300.507 - Other special uses.

Sec. 507.

507.1. *Purpose and Scope.* Land and structure uses that are not specified in any other section of this Ordinance may be considered for special use permit providing that they will not seriously injure surrounding properties by depreciate quality and value of such property and will not be generally injurious to the community as a whole.

507.2 *Standards.* All standards expressed elsewhere in this Ordinance are applicable to uses permitted by this Section as well as any specific, reasonable standard which the Township wishes to apply to consideration of the proposed use.

300.508 - Private Streets.

A. *Purpose.*

The Township determines that it is in the best interest of the public's health, safety, and welfare to regulate the construction, improvement, extension, relocation and use of private streets. The provisions have been enacted to assure that private streets:

- 1. Will not be detrimental to public health, safety or general welfare.

2. Will not adversely affect the long-term development policies of Nottawa Township.
3. Will be designed and constructed with width, surface and grade to insure the safe and unimpeded route of travel of private vehicles, police, fire, ambulance and other safety vehicles.
4. Will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands and natural environment of the township.

B. *Definitions.*

For the purpose of this section, the following definitions shall apply:

1. "Driveway" means an undedicated, privately controlled and maintained right-of-way or other interest in land that provides the means of access to no more than two (2) lots or parcels.
2. "Frontage" means the continuous linear distance of that portion of a lot or parcel abutting upon a public or private street right-of-way. Frontage is to be measured at the minimum required front yard setback of the district in which the lot or parcel is located.
3. "Parcel" means a tract of land which can be legally described with certainty and is capable of being located by survey.
4. "Safe and unimpeded route of travel" means a roadway of adequate width to accommodate the safe, two-way passage of vehicles, and of sufficient strength and construction integrity to accommodate any fire, police, rescue or other emergency and residential service/construction vehicles which may be used by the Township and/or the property owners.

C. *Frontage and Access.*

1. Any three (3) or more contiguous lots not having frontage on a public street shall have frontage on a private street.
2. All parcels utilizing a private street shall have frontage on the private street for a distance equal to or greater than the minimum lot width required for the district in which the parcel is located.
3. All private streets shall have direct access to a public street.
4. Any two (2) contiguous lots not having frontage on a public street shall be served by a driveway constructed within a minimum lot frontage of sixty-six (66) feet upon a public street.

D. *Permits.*

1. No individual, association, corporation or entity, either public or private, shall construct or extend a private street without first having obtained a private street permit from the Township Board.
2. The Building Inspector shall not issue building permits for construction of any building or structure on lots served by a private street until construction of the private street meeting the requirements of this section has been completed
3. A driveway permit for access to any public street shall be obtained from the St. Joe County Road Commission, Michigan Department of Transportation or other approving authority, as required.
4. A soil erosion and Sedimentation permit shall be obtained from the appropriate St. Joe County administrative office, as may be required by Part 91 of the Natural Resources and Environmental Protection Act, Public Act No. 451 of 1994 (MCL 324.9101 et seq.), as amended.
5. All other required State of Michigan permits shall be obtained.

6. The Township Board may elect to have all design and construction plans reviewed by the Township's attorney, engineer or planner prior to consideration of the application for the private street permit.

E. *Application.*

An application for a Private Street Permit shall contain the following:

1. A completed private street permit application provided by the Township.
2. A detailed written description of the development to be served by the private street.
3. Six (6) copies of a site plan, drawn to scale, prepared by a registered engineer, licensed surveyor or other individual determined by the Township Board to be qualified, showing the precise location, grade, route, elevation, dimensions and design of the private street and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private street is to intersect. Proposed street names shall also be provided, including a letter from the St. Joe County Road Commission approving the name(s).
4. A survey of the right-of-way by a registered land surveyor, together with lot dimensions and required set-back lines for each parcel to be served by the private street.
5. The location of all public utility easements, including, but not limited to, water, sewer, telephone, gas, electricity and television cable to be located within the private street right-of-way or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting easements shall be submitted with the application.
6. The location of any streams, lakes, wetlands and drains within the proposed right-of-way or within one hundred (100) feet thereof.
7. The location of any other buildings or structures located, or to be located, within one hundred (100) feet of the private street right-of-way.

F. *Design Requirements.*

1. The specifications for surface and base materials, longitudinal grade, method of construction and signs shall conform to the St. Joe County Road Commission standards for local roads.
2. Private streets shall have a minimum width of twenty (20) feet of traveled surface.
3. All newly constructed private streets shall have a paved driving surface as per section 503.2-3-c of this Ordinance.
4. No private street shall extend for a distance more than two thousand five hundred (2,500) feet in length from the nearest public street right-of-way from which access is gained, as measured along the centerline of the private street to the furthest point of any private street. Notwithstanding the above, however, a private street may exceed the above length if at least one (1) additional private street access complying with this section is provided to a public street.
5. If no other public street access is provided, the minimum length of a proposed private street may be exceeded if the Township Board, after recommendation of the Planning Commission, finds that at least one of the following conditions exists:
 - a. That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. The significant nature features shall be clearly identified and marked on the proposed private street plans.
 - b. That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible

shall be submitted by the applicant and reviewed by the Township Board prior to confirming this finding.

- c. That other methods of access available are such that emergency vehicles are not assured a safe and unimpeded route of travel to the properties served by the private street. Any access shall be reviewed by the Fire Chief and the recommendations forwarded to the Planning Commission and Township Board.
6. The Township Board, upon finding at least one (1) of the above conditions exists, shall establish the maximum length of the proposed Private Street.
7. All private streets constructed after the effective date of this Ordinance shall have a recorded permanent right-of-way and easement with a minimum width of at least sixty-six (66) feet. The right-of-way shall also expressly permit public or private utilities to be installed within the right-of-way.
8. Private streets in existence as of the effective date of this Ordinance whose right-of-way or easement width is less than sixty-six (66) feet need not provide additional right-of-way or easement width, but the width shall not be subsequently reduced so as to increase the non-compliance with these requirements.
9. All setbacks required by this Ordinance shall be measured from the private street right-of-way. Minimum lot area and lot width requirements shall exclude any private street right-of-way.
10. The layout of the private street and the intersections of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Township Engineer. The minimum distance between public and/or private streets shall not be less than one hundred and fifty (150) feet, as measured along the right-of-way line thereof.
11. A private street existing on the effective date of this Ordinance may continue in existence and be maintained and used, though it may not comply with the provisions with this section. Any private street shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
12. Addition of lots or parcels of land to existing private streets;
 - a. Any private street existing on the effective date of this Ordinance equal to or exceeding two thousand (2,000) feet in length to which one (1) or more additional lots or parcels are created or otherwise permitted access, the entire length of the existing private street shall be upgraded to comply with the applicable requirements of this sub-section F.
 - b. Any private street existing on the effective date of this Ordinance which is less than two thousand (2,000) feet in length and one (1) or more lots or parcels are created or otherwise permitted access to the private street, then the entire length of the existing private street shall be constructed and maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions, subject to review and approval by the Zoning Officer.
13. Existing portion of extended private streets.
 - a. If a private street existing on the effective date of this ordinance is extended by the construction and use of an additional length of private street equaling or exceeding five hundred (500) feet, the entire private street, including the existing portion and the additional portion, shall comply with the applicable requirements of this sub-section F.

- b. Private streets in existence at the time of the effective date of this Ordinance that are subsequently extended for a distance of less than five hundred (500) feet shall be constructed in the same manner as the existing portion of the private street and the entire private street shall be maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions, subject to review and approval by the Zoning Officer.

G. *Review Standards; modification of certain requirements.*

- 1. Prior to approving a private street permit application, the Township Board shall determine the following:
 - a. The proposed private street will not be detrimental to the public health, safety or general welfare.
 - b. The proposed private street will not adversely affect the use of land.
 - c. That the private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions.
 - d. That the private street is constructed so as to protect against or minimize soil erosion and to prevent damage to the Streams, lakes, wetlands and natural environment of the Township.
 - e. The construction of the private street will conform to the requirements of this Ordinance.
- 2. The Township Board may require that the applicant comply with reasonable conditions relative to the design of the construction of the private street.
- 3. Upon application the Township Board may modify any of the private street requirements of this section after finding that all of the following conditions exist:
 - a. Topography, soils and/or other significant natural features physically preclude or prevent compliance with the requirements of this Ordinance without substantial alteration of such natural features.
 - b. The justification of a modification is not due solely to financial considerations which, upon approval of the requested modification would provide for a financial benefit.
 - c. That no other private street design alternatives are available that would comply with the requirements of this Ordinance.
 - d. That the request for modification was reviewed by the Township Engineer, Fire Chief or Township Planner or any other person or official designated by the Township Board.

H. *Maintenance and Repairs.*

- 1. Private streets shall be maintained in a manner that complies with the provisions of this Ordinance.
- 2. All driveways and private streets shall be continuously maintained to not constitute a danger to the health, safety, and welfare of the inhabitants of the Township and to insure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions.
- 3. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.
- 4. Private street maintenance or restrictive covenant agreements;

- a. The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Township Board with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the Township Board which will provide for and assure that the private street will be regularly maintained, repaired and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid.
- b. The applicant(s) agree, by filing an application for and receiving a permit under this Ordinance, that they will assure that any building or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that this agreement shall be recorded and shall run with the land. A copy of the agreement shall be furnished to the Township prior to the issuance of the permit.

I. *Performance Guarantee.*

The Township Board may, as a condition of the private street construction, require that the applicant(s) provide a performance guarantee, in accordance with the provisions of the Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended, and section 501.5 of this Ordinance.

ARTICLE SIX

300.600 - ADMINISTRATION AND ENFORCEMENT

300.601 – Enforcement.

Sec. 601.

601.1 *Responsibility.* The Nottawa Township Zoning Administrator, the Nottawa Township Ordinance Enforcement Officer; the Nottawa Township Supervisor and any other individual Township official(s) that may from time to time be designated shall administer this Ordinance and are hereby authorized and empowered to investigate violations and to issue notices of violation and citations for violation of the same.

Certificates of Zoning Compliance. A building permit for erection, alteration, moving or repair of any building shall not be issued until a preliminary certificate of zoning compliance has been issued therefor. Issuance of such certificate shall indicate the plans for which the building permit is requested complies with the Zoning Ordinance.

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a final certificate of zoning compliance shall have been issued therefor by the Zoning Officer. The certificate shall state that the building, structure, and lot, and use thereof, conform to the requirements of this Ordinance.

The Zoning Officer shall maintain a record of all certificates of zoning compliance and said record shall be open for public inspection. Failure to obtain a certificate of zoning compliance shall be a violation of this Ordinance and punishable under Section 605 herein.

It shall not be necessary for a legal nonconformity existing on the effective date of this Ordinance to obtain certificates of zoning compliance in order to maintain building, structure, or use shall be renewed, changed, or extended until a preliminary certificate of zoning compliance shall have been issued by the Zoning Officer. The certificate shall state specifically wherein the nonconforming building, structure or use differs from the provisions of this Ordinance.

The applicant for a final certificate of zoning compliance shall notify the Zoning Officer when final inspection is desired. The final certificate of zoning compliance shall be issued upon the final inspection or written notice shall be given to the applicant stating the reasons why said certificate cannot be issued. Such notice shall be sent to the applicant not later than fifteen (15) days after the Zoning Officer is notified that the building, structure or premises is ready for inspection.

601.2 *Fees.*

1. The Township Board shall, by resolution, establish fees for the administration of this Ordinance, including all proceedings and matters that may arise hereunder. A listing of current fees shall be available for review by the public during regular Township office hours at the Township Hall. Fees may be changed from time to time by resolution by the Township Board.
2. The applicant shall pay all applicable fees upon the filing of any application, proposed site plan, or any other request or application under this Ordinance for which a fee is required.
3. In addition to regular established fees, the Township Board in its discretion may also require an applicant to submit to the Township an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. The estimated fees and costs shall be submitted prior to any Township review of an application or request.

4. The Township shall not charge fees or assess costs to the applicant for the time expended by Township employees (except as authorized under appropriate provisions of the Freedom of Information Act of 1976) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Township during and in connection with the review process and other related proceedings whether or not the application is granted either in whole or in part.
5. The costs and expenses to be charged or assessed to the applicant for reimbursement of the Townships reasonable costs and expenses, may include but shall not be limited to Township Attorney fees, engineering and inspection fees, professional planning reviews costs and fees for services or outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in question, special meeting costs, and other reasonable costs and expenses.
6. Any monies paid or deposited by an applicant which are not used or spent by the Township shall be refunded to the applicant.

300.602 - Zoning Board of appeals.^[8]

Sec. 602.

602.1 *Established; Membership.* A Zoning Board of Appeals is hereby established in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended. The Board shall consist of five (5) members: One of the regular members of the Zoning Board of Appeals shall be a member of the Planning Commission. The remaining regular members and any alternate members shall be appointed by the Township Board from the electors residing in the unincorporated area of the Township. One member may be a member of the Township Board. Appointed members shall serve a three-year term. The term of office of the member from the Township Board shall not exceed his term of office on the Township Board.

Members may be reappointed. No elected officer of the Township or any employee of the Township may serve simultaneously as such officer or employee and as a member of the Zoning Board of Appeals.

602.2 *Procedures of the Board.* The Zoning Board of Appeals shall adopt rules and regulations to govern its procedures. The Zoning Board of Appeals shall appoint one of its members as Chairman. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to revise any order, requirements, decision or interpretation of the Zoning Officer, or to decide in favor of any applicant any matter upon which they are required to pass under this Ordinance or to effect any variation in this Ordinance.

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions, facts, and other relevant factors, including the vote of each member upon each question, or if absent or failing to vote indicating such fact, all of its official actions. All meetings and records shall be open to the public. All minutes shall be filed in the office of the Township Clerk.

602.3 *Hearings.* The Zoning Board of Appeals shall fix a reasonable time and date for a hearing. The Board shall give due notice of the hearing as required by Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended.

602.4 *Duties and Powers.* The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in Public Act No. 110 of 2006 (MCL 125.3101 et seq.) as amended, so that the objectives of this Ordinance shall be attained, the public health, safety, and welfare secured, and substantial justice done. The Zoning Board of Appeals shall hear and decide only those matters

Footnotes: --- (8) --- **State Law reference**— Zoning board of appeals, MCL 125.3601 et seq.

which it is specifically authorized to hear and decide as provided therein; administrative review, variance, and expansion of nonconforming buildings and structures.

The Zoning Board of Appeals shall not have the power to alter or change the Zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have power to act on those matters for which this Ordinance provided an administrative review, interpretation, variance or exception.

- a. Review: The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination of the Zoning Officer.
- b. Interpretation: The Zoning Board of Appeals shall have the power to:
 - (1) Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.
 - (2) Determine the precise location of the boundary lines between Zoning districts when there is dissatisfaction with a decision made by the Zoning Officer.
 - (3) Classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
 - (4) Determine the parking space requirements of any use not specifically mentioned in Section 404 either by classifying it with one of the groups listed in that Section by an analysis of the specific needs.

602.5 *Variance*. The Zoning Board of Appeals shall have the power and duty to authorize upon appeal in specific cases such variance from the provisions of the Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship or practical difficulty. A variance shall not be granted by the Zoning Board of Appeals unless and until the following conditions are met:

- a. A written application for a variance is submitted, demonstrating:
 - (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - (2) The 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.
- b. Any nonconforming use of neighboring lands, structures, or buildings shall not be considered grounds for the issuance of a variance.
- c. The Zoning Board of Appeals shall make findings that the requirements of this Section have been met by the applicant.
- d. The Zoning Board of Appeals shall further find that the reasons set forth in the application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building or structure.

- e. The Zoning Board of Appeals shall further find 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 interest.
- f. In granting any variance, the Zoning 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, and punishable under Section 605 herein.
- g. Under no circumstances shall be Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
- h. In exercising the above-mentioned powers, the Zoning Board of Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, determination as ought to be made, and to that end shall have the powers of the public official from whom the appeal is taken.

602.6 *Voiding of and Reapplication of Variance.* The following provisions shall apply:

- a. 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 proceeded to at least 10% of completion within one hundred and eighty (180) days after the granting of such variance and pursued diligently to completion; or
 - (2) The occupancy of land or building authorized by such variance has taken place within one hundred and eighty (180) days after the granting of such variance.
- b. No application for a variance which has been denied wholly or in part by the Zoning Board of Appeals shall be resubmitted for a period of three hundred and sixty-five (365) days from the date of such denial, except on grounds of new evidence or proof of changed conditions found by the Zoning Board of Appeals to be valid.

602.7 *Appeals; How Taken.*

Appeals to the Zoning Board of Appeals concerning interpretation and administration of this Ordinance may be taken as provided in Section 604 of Public Act No. 110 of 2006 (MCL 125.3604), as amended.

300.603 - Planning commission.

Sec. 603. It shall be the duty of the Township Planning Commission to advise the Township Board on matters of planning and zoning.

300.604 - Changes and amendments.^[9]

Sec. 604. Only the Township Board may amend this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the planning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment.

604.1 *Procedures.* The procedure for making amendments to this Ordinance shall be in accordance with Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended.

A petition, together with a completed and signed application and fees, shall be filed with the Township Clerk. The Clerk shall review the application as to form and, when it is approved, transmit same to the Township Planning Commission for review and report. The Clerk shall, at the same time, establish a date for a public hearing on the petition for the Planning Commission and shall give

Footnotes: --- (9) --- **State Law reference**— Zoning adoption and enforcement, MCL 125.3401 et seq.

proper notice of the hearing as provided in Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended.

604.2 *Information Required.* The petitioner shall submit a detailed description of the petition to the Township Clerk. When the petition involves a change in the zoning map, the petitioner shall submit the following information:

- a. A legal description of the property.
- b. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- c. The name and address of the petitioner.
- d. The petitioner's interest in the property, and if the petitioner is not the owner, the name and address of the owner.
- e. Date of filing with the Township Clerk.
- f. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
- g. The desired change and reasons for such change.

604.3 *Steps in Making a Change.*

- a. Petitioner submits application and fee.
- b. Clerk transmits application to Planning Commission, sets hearing date, and publishes notices of hearing as prescribed in Sections 604.1 and 604.2.
- c. Planning Commission holds hearing, makes a decision, transmits decision to the St. Joseph County Planning Commission and to the Township Board.
- d. Township Board either enacts or rejects proposed change as an Ordinance amendment and publishes the text of the change in the newspaper.

604.4 *Findings of Facts Required.* In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the Township Board, within sixty (60) days of the filing date of the petition.

The facts to be considered by the Planning Commission shall include, but not be limited to, the following:

- a. Whether the requested Zoning change is justified by a change in conditions since the original Ordinance was adopted or by an error in the original Ordinance.
- b. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition.
- c. The compatibility of the Township or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.
- d. Effect of approval of the petition on adopted development policies of Nottawa Township and other government units.
- e. All findings of fact shall be made a part of the public records of the meetings of the Planning Commission and the Township Board. An amendment shall not be approved unless these and other identified facts be affirmatively resolved in terms of the general health, safety, welfare, comfort and convenience of the citizens of Nottawa Township, or of other civil divisions where applicable.

300.605 - Site Plan Review

(Ordinance 52, adopted Nov 20, 2023; Effective Dec 10, 2023)

605.1 *Purpose.*

- A. The intent of this section is to provide for consultation and cooperation between the land developer and the Township Zoning Administrator and Township Planning Commission in order that the developer may accomplish his objectives in the utilization of his land within the regulations of this zoning ordinance and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

605.2 *Scope.*

- A. Prior to the issuance of a building permit or the creation of a use, a site plan shall be submitted in accordance with this section and approved by the Planning Commission. Except as otherwise provided in this Ordinance, site plans shall be required for the following uses and related development:
 - 1. All Commercial and/or Industrial developments in all zoning districts.
 - 2. Any development requiring a Special Use Permit under Article Five of the Nottawa Township Zoning Ordinance.
 - 3. Any development of multi-family housing (as defined by Section 300.202.16) in all zoning districts.
 - 4. A change in use, with the exception of those changes covered by Section 605.5, that includes specific conditions or calculations, such as for the required parking, different than that for the previous Permissible use.

605.3 *Sketch plan review.*

- A. Preliminary sketches of proposed site and development plans may be submitted for review to the Zoning Administrator prior to final approval. The Zoning Administrator may seek assistance in the sketch plan review from no more than one member of the Planning Commission, as the Zoning Administrator deems necessary.
- B. The purpose of such procedure is to allow discussion between a developer and the Zoning Administrator to better inform the developer of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall include as a minimum the following:
 - 1. The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership;
 - 2. A legal description of the property; and
 - 3. Sketch drawings showing tentative site and development plans.
- C. Neither the Zoning Administrator nor any member of the Planning Commission shall be bound by any tentative approval given at this time.

605.4 *Application procedure.*

- A. Requests for final site plan review shall be made by filing with the Township Clerk the following:

1. A review fee as determined by resolution of the Township Board based upon the cost of processing the review and as shall be on file with the Township Clerk for public information;
2. Ten copies of the completed application form for site plan review which shall contain, as a minimum, the following:
 - a. The name and address of the applicant;
 - b. The legal description of the subject parcel of land;
 - c. The area of the subject parcel of land stated in acres or, if less than one acre, in square feet;
 - d. The present zoning classification of the subject parcel; and
 - e. A general description of the proposed development.
3. Ten copies of the proposed site plan which shall include as a minimum the following:
 - a. A scale drawing of the site and proposed development at a scale of one inch = 20 feet to one inch = 100 feet;
 - b. The date of the drawing and the name, telephone number and address of the applicant/owner/developer and the engineer, architect or surveyor who prepared the plans;
 - c. The topography of the site and its relationship to adjoining land;
 - d. The natural features and any existing manmade features;
 - e. The locations, heights and size of structures and other important features and the dimensions between existing and proposed structures and setbacks required;
 - f. The percentage of land covered by buildings and that reserved for open space;
 - g. Lot coverage and dwelling unit density where pertinent;
 - h. The location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and types of construction of those upon the site;
 - i. Any curb-cuts, driving lanes, parking and loading areas and the dimensions of such;
 - j. The location and type of drainage, sanitary sewers, storm sewers, and other utility mains and facilities;
 - k. Any pedestrian walks, malls and recreation areas, emergency vehicle accessibility;
 - l. A required landscape plan which includes both screening and fencing where required (including rubbish disposal facilities) and establishing compliance with screening and/or fencing requirements.
 - m. In addition, the applicant shall show requiring screening or landscaping between for all parcels abutting residentially-used parcels. The applicant may utilize opaque fencing of at least six feet in height, a berm with landscape plantings of at least six feet or a combination of fencing and landscaping to achieve the desired result.
 - n. Any proposed earth changes and environmental impact of the project;
 - o. Any signs and on-site illumination.

4. The Planning Commission may approve a site plan lacking one or more of the above site plan informational requirements if the Planning Commission determines, in its sole reasonable discretion, that the nature of the proposed use or development, the subject property and/or the neighboring properties makes the provision of such information unnecessary to determine whether the site plan satisfies the standards set forth in Section 605.6 of this Ordinance.
5. If the site plan is submitted as part of an application for outdoor display or outdoor storage, the specific dimensions of such areas shall be included on the plan.

605.5 Action on application and plans.

- A. Upon receipt of the application and plans, the Township Clerk shall record the date of the receipt thereof and transmit 9 copies thereof to the chairman of the Planning Commission and one copy to the Township Zoning Administrator.
- B. A hearing shall be scheduled by the chairman of the Planning Commission for a review of the application and plans as well as the recommendations of the Township Engineer (if any) and the Township Zoning Administrator with regard thereto. Members of the Planning Commission shall be delivered copies of the same prior to the hearing for their preliminary information and study. The hearing shall be held at the next regularly scheduled Planning Commission meeting following the date of the receipt of the plans and applications by the Township Clerk. However, if such date is too soon to provide adequate notice under Section 605.5(C), the hearing shall be scheduled for the next regularly scheduled Planning Commission meeting for which adequate notice can be provided.
- C. The applicant shall be notified of the date, time and place of the hearing on his application not less than fifteen days prior to such date.
- D. Following the hearing, the Planning Commission shall have the authority to approve, disapprove, modify or alter the proposed plans in accordance with the purpose of the site plan review provisions of the Township Zoning Ordinance and criteria therein contained. Any required modification or alteration shall be stated in writing, together with the reasons therefor, and delivered to the applicant.
- E. The Planning Commission may also approve the plans contingent upon the required alterations or modifications, if any, or may require a further review after the same have been included in the proposed plans by the applicant. The site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the ordinance, the conditions imposed pursuant to the ordinance, other applicable ordinances and state and federal law.
 1. If a plan is approved contingent on alterations or modifications under this Section, the applicant shall submit a revised plan with a revision date, indicating compliance with the conditions. The applicant must re-submit the site plan to the Planning Commission for final approval after conditions have been met, unless the Planning Commission waives its right to review the revised plan, and instead authorizes the Township Zoning Administrator to review and approve the site plan after all required conditions have been addressed.
- F. Minor modifications to an approved site plan may be reviewed by the Township Zoning Administrator and Township Engineer.
 1. Minor Modification Defined. Minor modifications are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public services, or the danger from hazards. Examples of minor modifications include:

- a. An addition to an existing commercial or industrial building that does not increase or decrease the floor space by more than twenty-five percent (25%) or two thousand (2,000) square feet, whichever is less.
- b. Re-occupancy of a vacant building that has been unoccupied for less than twelve (12) months.
- c. Changes to building height that do not add an additional floor.
- d. Alterations or modifications involving less than twenty (20) parking spaces.

The construction of a new building or structure, adding or deleting parking or the addition of curb cuts onto a public road are examples of modifications which are not considered minor.

2. Determination of Minor Modification. The Township Zoning Administrator shall determine if the proposed modifications are minor in accordance with the guidelines in this section.

3. Modifications Not Deemed "Minor". If the modifications are not deemed minor by the Township Zoning Administrator, or if the Township Zoning Administrator finds (in the Township Zoning Administrator's sole discretion and professional opinion) that there are characteristics of the site plan that warrant Planning Commission review, the full review and approval by the Planning Commission shall be required. Planning Commission review and approval shall be required for all site plans that involve a request for a variance, a Special Land Use, a proposal that involves a discretionary decision, or a proposal that involves a nonconforming use or structure.

4. Recording of Action. Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file at Township Hall. The Planning Commission shall be advised of all minor site plan modifications approved by the Township Zoning Administrator and such modifications shall be noted on the site plan and in the minutes of the Planning Commission.

- G. Two copies of the approved final site plan with any required modifications thereon shall be maintained as part of the Township records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the chairman of the Planning Commission for identification of the finally approved plans. If any variances from the zoning ordinance have been obtained from the Planning Commission the minutes concerning the variance duly signed shall also be filed with the Township records as a part of the site plan and delivered to the applicant for his information and direction.

605.6 Criteria for review.

- A. In reviewing the application and site plan and approving, disapproving or modifying the same, the Planning Commission shall be governed by the following standards:
 - 1. That there is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to assure the safety and convenience of pedestrian and vehicular traffic.
 - 2. That the buildings, structures and entryways thereto proposed to be located upon the premises are so situated and designed as to minimize adverse effects therefrom upon owners and occupants of adjacent properties and the neighborhood.
 - 3. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar

purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.

4. That any adverse effects of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or landscaping.
5. That all provisions of the Township Zoning Ordinances are complied with unless an appropriate variance therefrom has been granted by the Planning Commission. The approval of the site plan does not result in any waiver of any code provisions unless specifically disclosed to the Planning Commission and is accepted by the Planning Commission as part of the site plan approval.
6. That the height and location of all portions of buildings and structures are accessible to available emergency vehicles and equipment.
7. That the plan as approved is consistent with the intent and purpose of zoning to:
 - a. promote public health, safety, morals and general welfare;
 - b. encourage the use of lands in accordance with their character and adaptability;
 - c. avoid the overcrowding of population;
 - d. lessen congestion on the public roads and streets; to reduce hazards to life and property;
 - e. facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements;
 - f. conserve the expenditure of funds for public improvements and services, to conform with the most advantageous uses of land, resources and properties;
 - g. conserve property values and natural resources; and
 - h. give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses and the general and appropriate trend and character of land, building and population development.
8. Prior to the grant of an occupancy permit by the Building Inspector, a final review shall be conducted to determine compliance with site plan requirements, including any conditions related to Township Engineer and Fire Department approvals.

605.7 Conformity to approved site plan.

- A. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission or Zoning Administrator as provided by Section 605.5(E). If construction and development does not conform with such approved plan, the approval thereof shall be forthwith revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at his last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission may, upon proper application of the developer and after a hearing, approve a modification in the site plan to coincide with the developer's construction provided such construction complies with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of the Township Zoning Ordinance.
- B. Approval of the site plan shall be valid for a period of one year after the date of approval. If a building permit has not been obtained and on-site development actually commenced within said one year, the site plan approval shall become void and new application for site

plan approval shall be required and new approval obtained before any construction or earth change is commenced upon the site.

605.8 Amendment to site plan.

- A. A proposed amendment, modification or alteration to a previously approved site plan shall be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed, unless:
1. The amendment was required as a condition for approval by the Planning Commission under Section 6.505(E) and was reviewed and approved as compliant by the Zoning Administrator; or
 2. The amendment is considered minor under Section 6.505(F) and was reviewed and approved as compliant by the Zoning Administrator; or
 3. The amendment meets all of the following three criteria:
 - i. The amendment does not involve a change in use or addition of a new use; and
 - ii. The amendment does not increase required parking beyond the number of spaces presently located on the site and any area designated on the original site plan for future parking; and
 - iii. The amendment does not change the access point(s) or general circulation within the site.
- B. If an amendment meets the criteria of Section 605.8(A)(3), the amendment to the site plan shall instead be subject to review and approval by the Zoning Administrator, who may utilize professional advice in determining whether such amendment complies with the requirements of this section of the Zoning Ordinance. This provision for administrative site plan review shall in no way be deemed to deprive the Zoning Administrator of discretion to refer a proposed amended site plan to the Planning Commission for its review and approval.

605.9 Repeal

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

605.10 Severability

Should any section, clause, or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part or portion thereof so declared to be invalid.

605.11 Effective Date

This Ordinance shall become effective eight (8) days after its publication following final adoption.

300.606 - Violations and Penalties.

606.1. *Nuisance Per Se.* Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance, is

hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407, as amended, and as otherwise provided by law.

606.2. *Violation.* Any person who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

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

	Minimum Fine	Maximum Fine
1st Offense	\$100.00	\$500.00
2nd Offense	\$200.00	\$500.00
3rd Offense	\$325.00	\$500.00
4th or More Offense*	\$500.00	\$500.00

* within the three calendar years immediately preceding the date of the offense at issue.

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which Nottawa Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 be ordered.

Remedial Action. Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof."

300.607 - Vested rights.

Sec. 607. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

300.608 - Severance clause.

Sec. 608. Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

300.609 - Effective date.

Sec. 609. This Ordinance shall become effective when a true copy of the same is first published in its entirety following passage by the Township Board of the Township of Nottawa.