

ARTICLE 4

GENERAL PROVISIONS

These general provisions shall apply to all Zoning Districts.

Sec. 4.01 THE EFFECTS OF ZONING

Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.

Sec. 4.02 RESTORATION OF UNSAFE BUILDING

Subject to the provisions of the Nonconforming Uses Chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

Sec. 4.03 AREA, HEIGHT AND USE CONDITIONS AND EXCEPTIONS

- a) Required area or space. A lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.
- b) Existing Lots of Record. A lot or parcel which was platted or divided through land division as of July 15, 1975, and does not comply with the lot area and / or lot width requirements shall be deemed an existing lot of record and shall be buildable provided it complies with all other site development requirements within the underlying zoning district.
- c) Exceptions. The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, windmills, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires,

penthouses housing necessary mechanical appurtenances and television and radio reception and transmission antennas and towers which do not exceed fifty (50) feet in height. Additions to existing buildings and structures which now exceed the height limitations of their Zoning District up to the height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building.

Sec. 4.04 REQUIRED YARD OR LOT

All lots, yards parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the Zoning District in which they are located.

In all residential districts, the required front yard shall not be used for off-street parking, loading, unloading, or the display of automobiles or other items for sale, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, vehicle access drives and signs as allowed in this Ordinance.

Sec. 4.05 PRINCIPAL BUILDING ON A LOT

Unless allowed through the approval of a variance by the Zoning Board of Appeals, no more than one (1) principal building shall be placed on a lot in Ag, R-1 and R-2 Zoning Districts.

Sec. 4.06 DOUBLE FRONTAGE LOTS

Buildings on lots having frontage on two (2) intersecting or non-intersecting streets shall comply with front yard requirements on both such streets.

Sec. 4.07 ADDITIONAL SETBACKS FOR STRUCTURES ADJACENT TO MAJOR STREETS

Notwithstanding any other provision of this Ordinance, no building or structure shall be hereafter constructed, erected or enlarged on a lot abutting a street designated as a major street on the Otsego Township General

Development Plan, as the same shall be amended from time to time, inclusive of all State Highways and County Primary roads, unless it has a minimum building setback, as measured from the street centerline, of one hundred (100) feet.

Sec. 4.08 GARAGES OCCUPIED AS DWELLING UNITS

Any building erected as a garage or in which the main portion is a garage, shall in no case be occupied for dwelling purposes.

Sec. 4.09 GENERAL LIGHTING, FENCING AND SCREENING REQUIREMENTS

- a) Lighting: All lighting upon any premises, regardless of zone, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or hazard to public roadways. Any use subject to site plan review shall adhere to lighting requirements established under Section 18.03 of this ordinance.

- b) Fencing/Walls: Within any residential district, the maximum height for any fencing or walls in the front yard shall be four (4) feet. The maximum height for any fencing or walls in the side or rear yards within a residential district shall be six (6) feet. In order to maintain visibility for vehicular or pedestrian movement, non-opaque fencing, such as picket, split rail or chain link is encouraged. Opaque fencing may be used within the side and rear yards provided it is composed of conventional fencing material and constructed for stability.

Within any commercial or industrial district, the maximum height for any fencing in the front yard shall be six (6) feet and in the side and rear yards the maximum height shall be eight (8) feet. The use of barbed wire shall be subject to review and approval by the Planning Commission and indicated on the approved site plan.

- c) Screening: Except as otherwise provided in this Zoning Ordinance, all premises used for commercial or industrial purposes, and located in a C General Business District or I Industrial District, shall be screened from adjoining premises located in any residential district (R-1, R-2, R-3, or RMH District) by either of the following:
- 1) A natural compact planting area of evergreens or shrubbery which maintain their density and screening effect throughout the calendar year, not less than five (5) feet in height at the time of planting, and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
 - 2) An artificial wall or fence of sufficient density or compactness to screen the activities of the business from the view of occupants or adjoining premises, not less than five (5) feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
 - 3) No such planting area, wall or fence shall be closer than ten (10) feet from any adjoining street right-of-way line and in no way shall create a traffic hazard due to reduced visibility.

Sec. 4.10 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION AND ODORS

Every use shall be so conducted and operated so that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise, vibration or vision obstruction beyond the lot on which the use is located.

The use of any free-standing outdoor furnace structure that is designed to provide heat or located within the residence or accessory building, shall be subject to the following requirements:

- a) A building permit, and any other required mechanical, plumbing or electrical permits, shall be obtained prior to the installation of the furnace.
- b) The minimum lot area required for use of such furnaces shall be two (2) acres and such furnace shall be located within the rear yard, setback no less than 100 feet from any adjoining property line and no less than 50 feet from the principal building (dwelling unit) or accessory building that it serves.
- c) The only fuel material that shall be used for such operation shall be that fuel specified by the manufacturer of the furnace. The outdoor storage of any fuel material (wood, corn, pellets, etc.) associated with the furnace shall be setback no less than 50 feet from any adjoining property line. In no instance shall the furnace be used for incineration of non-fuel products or waste.
- d) The furnace shall not emit dense smoke for more than twenty minutes within any hour of a 24-hour period, when the fire is being kindled, or such emission shall be a violation of this ordinance. The emission of “dense smoke” shall be defined as: Smoke of a density equal to or greater than the smoke described as number 2 (#2) on the Ringelmann Smoke chart, hereby adopted by reference, as published by the Department of the Interior, Bureau of Mines, as amended or revised.
- e) The chimney of the outdoor free-standing furnace structure shall have a spark arrestor installed at the top of the chimney stack and the height of the stack shall be no less than six feet (6’) above the height of the roof on that portion of the building where it has been installed. In no instance shall this height be any less than two feet (2’) above any other roof surface within then (10’) feet of the stack location

Sec. 4.11 ACCESSORY USES

In any Zoning District, accessory uses, incidental only to a permitted use, are permitted when located on the same lot; provided, however, that such accessory uses shall not involve the conduct of any business, trade or industry.

Sec. 4.12 ACCESSORY BUILDINGS

- a) In any Zoning District, an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building. The architectural character of all accessory buildings shall be compatible and similar to the principal building.
- b) Detached accessory buildings shall not be located closer than five (5) feet to the rear lot line or closer than forty (40) feet to the waters edge in the case of a waterfront lot (except that pump houses may be located within forty (40) feet of the waters edge if they do not exceed three (3) feet in height) and shall not occupy more than thirty percent (30%) of any required rear yard space; they shall not be closer to any side lot line or front lot line than the principal building is permitted.
- c) The distance between a detached accessory building and any principal building shall not be less than ten (10) feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two (2) buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.
- d) A garage may be constructed, erected and placed in the front yard of any waterfront lot which is platted or otherwise of record as of the effective date of this Ordinance if it is an accessory building and if it is located not less than ten (10) feet from the edge of the street.

- e) No accessory building or structure shall include residential or living quarters for human beings except a guest house located in the AG or R-1 Zoning Districts.

Sec. 4.13 TEMPORARY USES OR STRUCTURES REQUIRING ZONING INSPECTOR AUTHORIZATION

- a) Upon application, the Zoning Inspector shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary for construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Inspector for four (4) additional successive periods of six (6) calendar months or less at the same location if such building or yard is still incidental and necessary for construction at the site where located.
- b) Upon application, the Zoning Inspector shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Inspector for four (4) additional successive period of six (6) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.
- c) Tents, mobile homes and/or travel trailers shall not be used for dwelling purposes; provided, however, that upon application, the Zoning Inspector shall issue a permit for a mobile home or travel trailer to be used for temporary dwellings for a total period of not more than fourteen (14) days in any one year when located upon premises having running water and sewage facilities. The provisions for this section shall not be construed to permit long-term occupancy of travel trailers in mobile home parks.

d) Upon Application, the Zoning Inspector shall issue a temporary permit for Temporary and Seasonal Open Air Businesses. Permitted sales include plants, flowers, trees, garden supplies, landscape supplies, cut Christmas trees, fruits and vegetables, fireworks displays and inventory reduction sales. Each permit shall be valid for a period not to exceed more than two months. In granting approval, the following shall be considered:

- 1) Temporary and Seasonal Open Air Businesses are only allowed in C, Commercial Zoning District and must be located in or adjacent to the parking lot.
- 2) Tents, lights and other items incidental to the use shall be allowed if use of such items does not restrict the flow of traffic or present a hazard to pedestrian or vehicular traffic. All sales inventory, poles, lights or other items incidental to this use shall be removed from the premises at the termination of the business or by the end of the permit period which ever comes first.
- 3) For Temporary and Seasonal Open Air Businesses located on the parking lot surface, the maximum allowed area shall not be greater than 20 % of the total parking area excluding traffic lanes.

Inventory reduction sales are only permitted for those businesses that have permanent locations adjoining the parking area.

Sec. 4.14 ESSENTIAL SERVICE

The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in

connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any Zoning District.

Notwithstanding the exceptions contained in the immediately preceding sentence:

- a) Electrical substation and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
- b) Public utility facilities in any Zoning District are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

Sec. 4.15 GOVERNMENTAL IMPROVEMENTS

The provisions of this Ordinance shall be applicable to and enforceable against the Township itself and all other governmental agencies and units, federal, state or local.

Sec. 4.16 REMOVAL OF TOPSOIL, SAND, GRAVEL, OR OTHER SUCH MATERIALS

Earth removal, quarrying, gravel processing, mining, and all related mineral extractions may be conducted on any property in the Township only after authorization by the Planning Commission as a special use. In considering such authorization, and in the conduct of such uses, the following shall apply:

- 1) Definitions - When used in this ordinance, the following terms or phrases shall have the following meanings:
 - a) **Cell:** a predetermined and mapped area of the mining operation no larger than five (5) acres.

- b) **Mineral:** a naturally occurring element or combination of elements that occur in the earth in a solid state.
- c) **Mining and/or mineral extraction:** earth removal, quarrying, gravel processing, mining and or related mineral extraction and processing of mineral materials.
- d) **Mining operations:** those businesses in which a principal, major, or essential activity involves earth removal, quarrying, gravel processing, mining and/or related mineral extraction businesses on any site required to be licensed hereunder.
- e) **Mining permit or permit:** a special use permit approved by the Planning Commission, whether on a regular or temporary basis, for those mining and mineral extraction businesses subject to the within regulations.
- f) **Operation:** use of trucks, gravel trains, and any other heavy equipment, traveling to or from the mining site, as well as within the mining site, but not to include cars and pickup trucks.
- g) **Operator:** any person or agency, either public or private, engaged in or who has applied for permission to engage in mining or mineral extraction, whether individually, jointly, or through subsidiaries, association, firm or partnership, trust, corporation, or other entity engaged in managing or controlling a mining operation.
- h) **Permit Holder:** the person or company whose name appears on the application and/or the company doing the mining.
- i) **Person:** an individual, partnership, cooperative, limited liability company, corporation, or agency, either public or private, or any individual, whether incorporated or not.
- j) **Planning Commission:** Otsego Township Planning Commission.

- k) **Reclamation plan:** the operator's proposal for the reclamation of the site which must be approved by the Otsego Township Planning Commission under this ordinance prior to the issuance of the mining permit.
- l) **Structure:** any building, whether for human habitation or not.
- m) **Waste:** all accumulation of waste mined material and overburden placed on the land surface, whether above or below water.

2) Required Mining Permit

a) Except as set forth below, it shall hereafter be unlawful for any operator to engage in mining and/or mining extraction, or mining operations, regulated by this ordinance without first obtaining a mining permit on a regular or temporary basis from the Township of Otsego in accordance with the provisions of this Ordinance.

b) Any operator who engages in mining and/or mineral extraction, or mining operations, pre-existing the affective date of this Ordinance, shall apply for a mining permit if one or more of the following exist:

- 1) The amount of mineral materials produced on an annual basis increases by twenty-five (25) percent over the highest annual amount produced in any of the five (5) years ending prior to the effective date of this Ordinance.
- 2) The amount of waste material produced on an annual basis in the mineral extraction process increases by twenty-five (25) percent over the highest annual amount produced in any of the five (5) years ending prior to the effective date of this Ordinance.
- 3) The mining and processing equipment used in the operations changes in kind or nature. Replacement of existing equipment shall not constitute a change.

- 4) The normal hours of operation increases beyond the limits specified in Section 4.16(5) c.
 - 5) The amount of noise, vibration, or dust from the operation increases substantially.
 - 6) Any other substantial change in the type of mining or method of operations at the mining site, as determined by the decision of the Planning Commission.
 - 7) The extent of the area of the mining operation increases beyond the limits of land designated or held for that purpose at the time of adoption of this Ordinance.
- c) Topsoil or sand may be moved from one part of a lot to another part if this will not cause a sand blow, stagnant water pools, bogs, other possible future injury to adjoining properties or any other type or kind of injurious area. Up to two thousand (2,000) cubic yards of topsoil or sand may be removed from a lot without authorization from the Planning Commission for the purpose of erecting or constructing a building or structure thereon. Earth removal for the purpose of the construction of structures or infrastructures by the township, county, or state shall not be regulated by this Ordinance.
- 3) Location
 - a) All such operations shall be located on a state or county primary road for ingress and egress or on a local road which does not create traffic through an area developed primarily for residential purposes. Where necessary, reasonable, and appropriate, the applicant shall be required by the Otsego Township Planning Commission to maintain, improve, construct and/or re-construct roads to prevent the breaking up of existing roads.

- b) Sufficient setbacks shall be provided from all property lines, public highways and roads to assure adequate lateral support for adjacent public and private property. No such excavation operations shall be permitted closer than one- hundred fifty (150) feet to boundary lines of the property, or such larger setbacks as may be required by the Otsego Township Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation then the Otsego Township Planning Commission may reduce or eliminate the required setback from that boundary line. In addition, such setback may be temporarily reduced to fifty (50) feet if reclamation of the land is promptly effected to increase the setback to at least one-hundred fifty (150) feet in accordance with the reclamation plan approved by the Otsego Township Planning Commission, and adequate lateral support as set forth is at all times maintained.
- c) No mining operation shall be permitted within fifty (50) feet of adjoining public right-of-way except for the lowering of land adjoining said right-of-way to the grade level of said right-of-way. Such operations shall at no time be permitted where adequate lateral support for the maintenance of adjoining land is not maintained.
- d) The permanent and movable processing plant and its accessory structure shall not be located closer than two hundred fifty (250) feet from the property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of material and to the location of transportation equipment.
- e) No excavation operation shall be located within one hundred (100) feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission or such other state commissions having jurisdiction thereof. No mining operations shall

interfere with the natural established flow of surface water to the detriment or damage of adjoining public or private properties.

- 4) Sight Barriers - Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:
 - a) Earth berms constructed to a height of six (6) feet above the mean elevation of the centerline of the adjacent public highway or six (6) feet above the general level of terrain along property lines, as the case may be. Such berms shall have slopes that are not in excess of one (1) foot vertical to three (3) feet horizontal and shall be planted with grass, trees, or shrubs.
 - b) Plantings or evergreen trees or shrubbery in rows parallel to the boundaries of the property not less than four (4) feet in height at the time of planting and which grow to not less than six (6) feet in height at maturity and sufficiently spaced to provide effective sight barriers within six (6) feet in height.
 - c) Masonry walls or attractive solid fences made of uniform new materials constructed to a height of not less than six (6) feet.
- 5) Nuisance Abatement
 - a) Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
 - b) Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operations designed to avoid any excessive dust and dirt or other air pollution

injurious or substantially annoying to adjoining property owners.

Interior and adjoining roads used in the operations shall have their surface treated as frequently as necessary to minimize dust on interior roads and all designated public roads used as a haul route.

c) The hours of operation shall be restricted to no earlier than 6 a.m. and no later than 6 p.m. No operations shall be allowed on Sundays, Legal Holidays, or after 3 p.m. on Saturdays. This includes trucks traveling to and from the mining site, as well as mining activities within the site.

d) All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.

6) Reclamation of Mined Areas

a) Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations. Substantial completion of reclamation and rehabilitation shall be effected within one (1) year after termination of mining or excavation activity. Inactivity for a twenty-four (24) month consecutive period shall constitute, for this purpose, prima facie evidence of termination of mining activity.

b) The following standards shall control reclamation and rehabilitation:

1) All excavation shall be either to a water producing depth of not less than five (5) feet below the average summer level of water in the excavation, or shall be graded with like materials. This shall exclude using the site as a landfill of any sort.

2) The excavated area shall not collect stagnant water and not allow the same to remain therein.

- 3) The surface of areas which are not permanently submerged shall be graded as necessary to produce a gently rolling surface that will minimize wind and water erosion and which will be generally compatible with the adjoining land area.
- 4) The banks of all excavations shall be sloped to the waterline in a water producing excavation, and to the pit floor in a dry operation, at a slope which shall not be steeper than one (1) foot vertical to three (3) feet horizontal. Underwater slopes shall be one (1) foot vertical to six (6) feet horizontal to a depth of six (6) feet, thirty-six (36) feet from the shore.
- 5) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water except where streets, beaches, or other planned improvements are to be completed within a one (1) year period. Where used, top soil shall be applied to a minimum depth of four (4) inches sufficient to support vegetation.
- 6) Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetation cover on the land surface and to minimize erosion.
- 7) Upon cessation of mining operations by abandonment or otherwise, the operator, within a reasonable period of time, not to exceed twelve (12) months thereafter, shall remove all mining plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used in the agriculturally zoned area, may be retained.
- 8) The mining shall be accomplished by using cells. No more than three (3) cells will be in operation at one time. To open a new cell one of the first three must be reclaimed. An additional two (2) cells may be used for stockpiling processed minerals.

c) The operator may file with the Otsego Township Board a request for release of bond at such time as the operator has satisfactorily completed all reclamation in accordance with the approved reclamation plan on any and all affected lands. The final reclamation report shall contain the following:

- 1) A map or aerial photograph in which the operator shall indicate the final conditions, slope angles of the affected land, surface water drainage and ponds, and locations of any remaining structures and the conditions of any roads affected by the operation.
- 2) A description of reclamation activities leading to completion of the approved reclamation requirement including topsoil disposition and thickness, re-vegetation practices, disposition of waste dumps, tailing pond, sediment control practices, and maximum depth of artificial lakes or ponds.
- 3) On site inspection by the zoning enforcement officer to determine information and maps required to evaluate the completion of reclamation. The zoning enforcement officer will make a recommendation on the advisability of returning the operator's bond, cash, or irrevocable bank letter of credit used to insure compliance with the reclamation plan.
- 4) If the reclamation is found to be unsatisfactory, the Otsego Township Planning Commission shall notify the operator by registered mail setting forth the reasons for denial and the corrective action necessary for the release of the bond, cash, or irrevocable bank letter of credit.
- 5) If the reclamation is found to be satisfactory, the Otsego Township Planning Commission shall release the appropriate amount of bond, cash, or irrevocable bank letter of credit with thirty (30) days after such approval.

7) Bonding

- a) A performance bond, cash, or irrevocable bank letter of credit shall be furnished to the Otsego Township Clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than three-thousand (\$3,000.00) dollars per acre proposed to be mined or excavated in the following twelve (12) month period in accordance with this Ordinance and the applicant's filed plan. Mined areas resulting in a water depth of five (5) feet or more shall be deemed to be reclaimed areas to within fifteen (15) feet of any vertical shoreline thereon and to the extent of the shoreline where the same has been sloped to a grade of not more than one (1) foot vertical to three (3) feet horizontal for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually, on or about the anniversary date of the mining permit, for adjustment and compliance with the foregoing requirements by the zoning inspector and the Otsego Township Planning Commission. In no event shall such financial guarantee be less than three-thousand (\$3,000.00) dollars in amount.
- b) Since heavy loads can cause excessive wear and possible damage to the roads in the township, the operator must supply a written agreement from the Allegan County Road Commission as to the present condition of the roads in the designated haul route to be used in the Operator's plan. The Operator shall be responsible for damage to the road beyond the normal wear demonstrated in the records of the Allegan County Road Commission for prior years' use. If the operator fails to pay for these repairs, the mining permit may be revoked by the Otsego Township Planning Commission.

8) Application, Submission of Operational and Reclamation Plans

No earth removal, quarrying, gravel processing, mining and related mineral extraction operations shall be allowed or commenced until a plan has been submitted to the Otsego Township Planning Commission disclosing compliance with all of the provisions of this Ordinance or the manner in which compliance will be secured by the applicant. An application for a regular and temporary mining permit hereunder shall be filed with the Otsego Township Clerk and shall contain the following information:

- a) The names and addresses of the applicant, operator, and principal officers, and resident agent of the business if other than a single proprietor.
- b) A legal description and map and/or aerial photograph of the tract or tracts of land to be involved and affected by the proposed operation.
- c) A timetable of the commencement, duration, and cessation of mining operation.
- d) Any and all mining permits held by the applicant within the state.
- e) A mining reclamation plan according to the rules set forth in Sec. 4.16(6) of this ordinance.
- f) A description of the equipment owned, leased, or to be operated by the applicant in the performance of the mining operation requested to be permitted hereunder.
- g) A description of public liability and property damage insurance carried by the applicant, including the total amount of such coverage by the applicant, and the insurance company issuing such insurance.

- h) An application fee of one hundred (\$100) dollars. This fee may be adjusted by motion of the Otsego Township Board. Upon approval of a mining permit the permit holder shall be entitled to operate its proposed business in accordance with the terms of this ordinance, other laws, and statutes pertinent thereto, for a period of twelve (12) months. Permits shall be re-issued each year. This mining permit does not replace or otherwise eliminate the need to comply with state or federal permits which may be required under the state or federal law.
- i) A plan for disposal or treatment of any harmful or toxic material found in any formations penetrated by the mining operation or produced during the processing of mineral on the affected land, and of chemicals or materials used during the mining or processing operations.
- j) A contour map of the tract of land involved in the operation, including dimensions of the same, access thereto abutting public streets and whether or not the same are "all weather roads", additional roads, if any, to be constructed and the location and nature of abutting improvements on adjoining property.
- k) The number of acres, cells description, and the location of the same, proposed to be operated upon within the following twelve (12) month period after commencement of operations.
- l) The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
- m) The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
- n) Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than one-hundred fifty (150) feet from the boundaries of the site. These soil boring tests shall disclose conditions satisfactory for lateral support of

adjacent premises as determined by the Township Engineer.

The written consent of the owners of adjoining premises and of the Otsego Township Planning Commission shall be required if mining operations shall be closer than specified in the Ordinance to the boundaries of the site. Hydrological studies may be required by the Otsego Township Planning Commission to determine off-site water and impact of mining near these water resources.

o) A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans.

p) A haul route to the nearest primary road and Township line.

9) Hearing

a) After receiving the application for a mining permit accompanied by the required plans, specifications, and fee, the Otsego Township Planning Commission shall hold a public hearing upon such application preceded by the notices required for special uses.

b) Opportunity shall be given to all present to be heard at such hearing.

c) Following such hearing, the Otsego Township Planning Commission shall recommend approval or deny the application setting forth its reasons for the decision to deny. Such decision shall be based upon the criteria set forth in this Ordinance and shall be based, in addition, on a consideration of the following:

1) Keeping in harmony with the master plan of the Township.

2) The character of the area in question and its peculiar suitability, if any, for particular uses.

- 3) Conservation of property, as well as natural resources, and the general and appropriate trend and character of development in the subject area.
 - 4) The protection and preservation of the general health, safety, and welfare of the residents of Otsego Township.
 - 5) The scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations.
 - 6) Whether or not the operations were previously in existence prior to the adoption of this Ordinance and extent and character of the previous operations.
 - 7) In making any recommendations, the Otsego Township Planning Commission shall have the right and authority to recommend such additional conditions and safeguards as it deems necessary for the protection of the health, safety, and general welfare of the neighborhood and of the adjoining residents and property owners.
 - d) The Otsego Township Planning Commission may approve an application for a temporary mining permit for a term not to exceed six months. The Otsego Township Planning Commission may subject the granting of the temporary mining permit to any or all of the standards listed in the ordinance. The Otsego Township Planning Commission may extend the effectiveness of a temporary mining permit for an additional six month period upon request of the operator, subject to the provisions of the public notice and hearing contained above.
- 10) Liability Insurance

All operators shall be required to carry personal injury insurance in the amount of ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS and

property damage insurance in the amount of ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS while any un-reclaimed or un-rehabilitated area exists. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the Otsego Township Clerk.

11) Revocation of Permit

Any permit issued under the within ordinance may be revoked or suspended as a result of any violation of the terms and conditions of said permit and the ordinance. Such revocation or suspension shall be determined by the Otsego Township Planning Commission at a regular meeting of the Planning Commission, preceded by notice to the permit holder of the proposed action and the time, date, and place of the meeting pertinent thereto. The permit holder shall have an opportunity to present any evidence or arguments on behalf of the permit holder at such time. The extent of the suspensions or revocation shall be in the Otsego Township Planning Commission's minutes and shall be based on the nature of the violation or violations which have occurred, the frequency thereof, and the likelihood of their correction with respect to future operations. The permit holder shall be entitled to at least seven (7) days prior notice in writing, delivered to the permit holder's place of business, of any proposed suspension or revocation and the time, date, and place of the meeting. The Otsego Township Planning Commission shall set forth its reasons for any suspension or revocation, which shall be in the minutes of the meeting of the Otsego Township Planning Commission at which such suspension or revocation is ordered, and which minutes shall be forwarded to the permit holder within eight (8) days after the Otsego Township Planning Commission's decision concern the same.

12) Notification of Transfer

No permit issued hereunder shall be transferable or assignable to any other person, firm, partnership, corporation, or entity, without notification to the Planning Commission.

Sec. 4.17 HEALTH DEPARTMENT APPROVAL

No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities, as the case may be, does not comply with the rules and regulations governing waste and sewage disposal of Allegan County.

Sec. 4.18 KEEPING OF PETS AND LIVESTOCK

The keeping of more than four (4) dogs and/or cats, the keeping of pigeons having free access outside their cages, or the keeping of poultry, pigs, hogs, horses or livestock is prohibited within any residential district or within or upon any area located within one hundred thirty-two (132) feet of such aforesaid residential properties unless such latter area is located in a C District; provided, however, that any litter of dogs and cats which causes the aforesaid limit of four (4) to be exceeded shall not constitute a violation of this provision for a period of four (4) months after birth; and provided further, however, that no more than two (2) such litters shall be allowed to so remain on the a-fore-described premises within any consecutive twelve (12) month period. All such poultry, pigs, hogs, horses, livestock or more than four (4) dogs and/or cats shall also be prohibited in any area of the Township if the same become obnoxious by reason of odors or noise. The determination of the Board of Appeals, established under the statute of this Ordinance shall, in the absence of fraud, be conclusive on the question of whether such are so obnoxious.

Sec. 4.19 TRASH, LITTER OR JUNK IN YARDS

It shall be unlawful for any person, firm, or corporation to accumulate, place, store, or allow or permit the accumulation, placement, or storage of trash, litter or junk on premises in the Township, except in a lawful sanitary landfill, a lawful junkyard, or not to exceed eight (8) days storage in watertight storage receptacles designed for the temporary accumulation of trash. Such receptacles must have tight-fitting, watertight covers.

Sec. 4.20 DISMANTLED, NON-OPERATING OR UNLICENSED MOTOR VEHICLES

- a) No person, firm or corporation shall store, place or permit to be stored or placed or allowed to remain on any parcel of land for a period of more than ten (10) days in any one year, a dismantled, partially dismantled or inoperable motor vehicle, unless the same is kept in a wholly enclosed structure, authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the following standards:
- 1) Circumstances peculiar to the situation.
 - 2) The nature of the neighborhood or surrounding area.
 - 3) The number of vehicles to be placed on the parcel.
 - 4) Potential nuisance or adverse effects.
 - 5) Comments and concerns of adjacent property owners.
 - 6) The spirit and intent of the Ordinance.
- b) 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, or unless authorized by the Planning commission as a special use. In considering such

authorization, the Planning Commission shall consider the Standards of Section (a).

Sec. 4.21 LOUD MOTOR VEHICLES

Motor vehicles producing loud or excessive noise as determined by the Zoning Inspector are prohibited on lands or public streets.

Sec. 4.22 STREETS

To provide for the public health and welfare through adequate light and ventilation and for the safety of persons and property in the use of the streets of the Township, all public streets platted, laid out, or dedicated and accepted by the Allegan County Road Commission shall have a right of way width of at least sixty-six (66) feet.

Sec. 4.23 PRIVATE ROAD OR STREET

A private road which serves more than one separately owned parcel, dwelling unit or ownership, or more than one dwelling unit shall only be constructed under the following conditions, as a special use requiring prior approval of the Planning Commission:

- a) Where such private road or easement extends for more than 660 feet from a dedicated public road, it shall be not less than sixty-six (66) feet in right-of-way width, twenty-four (24) feet in improved roadbed width with at least three (3) feet of improved shoulder width on each side and adequate drainage ditches and necessary culverts on both sides to accumulate and contain surface waters from the road area. It shall further be improved with not less than six (6) inches of granular soil, have a grade of not more than seven (7) percent, and if dead-ended shall have a cul-de-sac with a radius of not less than fifty (50) feet of improved roadbed for the accommodation of emergency, commercial and other vehicles.
- b) Where the private road or easement is six hundred sixty (660) feet or less in length, and is serving or intended to serve not more than four (4)

separate parcels, units or ownerships, it shall not be less than forty (40) feet in right-of-way width, twenty (20) feet in improved roadbed width with at least two (2) feet of improved shoulder width on each side, and adequate drainage ditches on both sides with necessary culverts to accommodate and contain surface waters from the road area. It shall further be improved with processed and stabilized gravel and granular soil, have a grade of not more than seven (7) percent, and a cul-de-sac where dead-ended as specified in subparagraph (2)(a) above. If said private road or easement is serving or intended to serve more than four (4) separate parcels, units or ownerships, the right-of-way and development standards set forth in (2)(a) above shall apply.

- c) If accessibility is by a private road or easement, a document “Otsego Township Private Road Maintenance Agreement” shall be recorded with the County Register of Deeds and filed with the assessor or designee specifying the method of private financing of all maintenance, improvements and snow removal, the apportionment of these costs among those benefited, and the right of Otsego Township to assess such costs against those properties benefited, plus a twenty-five (25) percent administrative fee, and to perform such improvements in the event of a failure of those benefited to privately perform these duties for the health, safety and general welfare of the area. A public hearing shall be conducted by the Otsego Township Board with notice of such hearing given to all owners of affected properties, prior to performing improvements. Affected property owners shall be notified of the proposed improvements/ maintenance or snow removal and associated assessment costs prior to the public hearing and those in attendance at the hearing shall have the opportunity to voice their opinion regarding said improvements and assessments.
- d) Any intersection between private and public roads shall contain a clear vision triangular area of not less than two (2) feet along each right-of-way

line as measured from the intersecting right-of-way lines. (Note: see sketch inserted at end of Article.)

- e) No private road shall serve more than twenty-five (25) separate parcels.
- f) All lots served by a private road must meet the Zoning Ordinance district requirements in which they exist. Setbacks shall be measured from the edge of the private road right-of-way.
- g) The private road shall have a name and street sign consistent with the Allegan County Road Commission standards. A location map of the private road and street name shall be submitted to the Otsego Fire Department, Allegan County Sheriff Department, and any emergency service organization serving the Township of Otsego.
- h) Prior to the commencement of any such private road development, the developer shall submit in writing to the Planning Commission all of the foregoing required documents, construction plans, and private road location with respect to nearby public roads and the parcels proposed to be served by the private road for the Planning Commission's review with respect to the granting or denial of the special use application. The Planning Commission shall conduct a special use hearing in accordance with this Zoning Ordinance. The Planning Commission shall consider the factors contained in the Zoning Ordinance concerning the issuance of a special use permit for the private road in question.

Sec. 4.24 MINIMUM PUBLIC OR PRIVATE ROAD FRONTAGE

Every principal building and use shall be located on a lot having a minimum road frontage equal to the minimum lot width required in the mapped district in which the lot is located.