

**ZONING ORDINANCE  
KEARNEY TOWNSHIP  
ANTRIM COUNTY MICHIGAN**

**ARTICLE V  
SPECIAL USE PERMITS**

**Section 5.01 PURPOSE.** The purpose of this Article is to provide regulations for uses which are not essentially incompatible with uses permitted by right in a given district, but which should not be permitted without restrictions or conditions being imposed by reason of special problems presented by the use itself or its particular location in relation to neighboring properties.

**Section 5.01A APPLICATION PROCEDURES.**

1. Applicant: Any person owning or having an interest in the subject property may file an application for one or more special use permits provided for in this Ordinance in the zoning district in which the land is situated.
2. Application: Applications shall be submitted through the Township Clerk to the Planning Commission. Each application shall be signed by the property owner and accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.
3. Data Required in Application: Every application shall be accompanied by sufficient copies of the following information and data:
  - A. Special form supplied by the Township Clerk filled out in full by the applicant.
  - B. Site plan, plot plan, or development plan, drawn to a readable scale, and containing that information specified in Section 5.02C, part 2.
  - C. Preliminary plans and outline specifications of the proposed development, if applicable.
  - D. A statement with supporting evidence regarding the required findings specified in Section 5.01C.
4. Upon receipt of such materials by the Township Clerk, the Township may transmit one (1) copy to each of the following agencies considered to be impacted or affected by the land use request (e.g. county drains-Antrim County Drain Commissioner; curb cut access-Antrim County Road Commission, etc.):
  - A. Antrim County Planning Department.
  - B. Antrim County Road Commission.
  - C. District No. 3 Health Department.

- D. Antrim County Drain Commissioner.
- E. Antrim County Soil Erosion Control Committee.
- F. Bellaire School District Superintendent of Schools.
- G. Fire Chief (if applicable).
- H. Police Chief (if applicable).

For their review and comment. The Clerk shall transmit the remaining copies of the preliminary site plan to the Planning Commission for review. The Planning Commission, upon receiving the comments of the above affected agencies shall proceed with a public hearing on the request.

**Section 5.01B REVIEW AND FINDINGS.**

1. Planning Commission Public Hearing: The Planning Commission shall review the application at its next regular meeting following filing and shall set a date for a public hearing within forty five (45) days thereafter. The Township Clerk shall provide notice of the public hearing meeting all of the following requirements:
  - A. The content of the notice shall include all of the following information:
    1. A description of the nature of the proposed special use request.
    2. A description of the property on which the proposed special use will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
    3. The time, date, and place the proposed special use request will be considered.
    4. The address where and the deadline when written comments will be received concerning the proposed special use request.
  - B. The notice shall be published in a newspaper of general circulation within the Township not less than fifteen (15) days before the scheduled public hearing.
  - C. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed special use will be located not less than fifteen (15) days before the scheduled public hearing.
  - D. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property on which the proposed special use will be located and to the occupants of all structures

within three hundred (300) feet of the property on which the proposed special use will be located not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.

- E. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the planning commission may adjourn, from time to time, a duly called public hearing, by passing a motion specifying the time, date, and place of the continued public hearing.

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**Section 5.01C GENERAL STANDARDS FOR MAKING DETERMINATIONS.** The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

1. 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.
2. Will not be hazardous or disturbing to existing or future neighboring uses.
3. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
4. 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 establishments of the proposed use shall be able to provide adequately any such service.
5. 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.
6. 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.
7. Will be consistent with the intent and purposes of this ordinance.

**Section 5.01D CONDITIONS AND SAFEGUARDS.**

1. Prior to granting any Special Use Permit, the Township Board may impose any additional conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the Special Use Permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will utilize the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the

community as a whole; and be consistent with the general standards as established in this Ordinance and therefore be necessary to meet the intent and purpose of the regulations contained therein.

2. Conditions and requirements stated as part of Special Use Permit authorization shall be a continuing obligation of Special Use Permit holders. The Zoning Administrator shall make periodic investigations of developments authorized by Special Use Permit to determine compliance with all requirements.
3. Special Use Permits may be issued for time periods as determined by the Township Board. Special Use Permits may be renewed in the same manner as originally applied for.
4. In authorizing a Special Use Permit, the Township Board may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the Township Clerk at the time of issuance of the permit authorizing the use or activity. As work progresses, the Township Board may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.
5. Continuance of a Special Use Permit by the Township Board shall be withheld only upon a determination by the Zoning Administrator to the effect that:
  - A. Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period.
  - B. Violations of conditions pertaining to the granting of the permit continue to exist more than thirty (30) days after an order to correct has been issued.
6. All plans, specifications and statements submitted with the application for a Special Use Permit shall become, along with any changes ordered by the Township Board, a part of the conditions of any Special Use Permit issued thereto.
7. No application for a Special Use Permit which has been denied wholly or in part by the Township Board shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the Township Board.
8. The foregoing general standards are basic to all special uses; and the specific requirements accompanying the following Sections relating to particular uses are in addition and shall be required in all applicable situations.

**Section 5.01E APPEALS.** Recourse for a person considering himself aggrieved by a decision of the Township Board in the granting or denial of a Special Use Permit shall be to the Circuit Court of Antrim County as provided by law.

**Section 5.01F NONRESIDENTIAL STRUCTURES AND USES.**

General Standards: Inasmuch as the nonresidential 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:

1. Hazardous areas must be adequately fenced to avoid accidents; such areas include public utility substations.
2. If possible, all permitted nonresidential uses should front on a major street (minor arterial or collector).
3. Motor vehicle entrance and exit should be made on a major street to avoid the impact of traffic generated by the nonresidential use upon the residential area.
4. Site locations should be chosen which offer natural or manmade barriers that would lessen the effect of the intrusion of a nonresidential use into a residential area.
5. Nonresidential uses should not be located so as to cause costly public improvements.
6. Nonresidential structures shall be located no closer than one hundred (100) feet to adjacent property lines.

**Section 5.01G AUTOMOBILE SERVICE STATIONS AND COMMERCIAL GARAGES.**

1. Intent: It is the intent of this Section to provide standards for automobile service and commercial garages. Generally, automobile service stations will be located adjacent to arterial or collector streets and intended to serve residential neighborhoods. Commercial garages shall be located near high volume arterial highways.
2. Permitted Uses:
  - A. The following uses may be permitted in conjunction with automobile service stations:
    1. Retail sales of gasoline, oil and similar products.
    2. Automobile washing.
    3. Automobile maintenance, including minor mechanical repairs.
  - B. The following uses may be permitted in conjunction with commercial garages:
    1. Automobile towing, including parking of a wrecker and operative vehicles waiting for immediate repair.
    2. Parking and storage of inoperative vehicles, provided that such parking or storage area shall be within an enclosed building or shall be screened by an opaque fence not less than six (6) feet in height.

3. Automobile body repairs.

3. Site Development Standards: The Township Board shall only issue Special Use Permits for automobile service stations and commercial garages which comply with the following site development standards:

A. The minimum site size shall be fifteen thousand (15,000) square feet and, in addition, the following:

1. Gasoline service station shall have five hundred (500) square feet of site area for each additional pump over four (4), and one thousand (1,000) square feet of site area for each additional vehicle storage space.
2. Commercial garages shall have one thousand (1,000) square feet of site area for each additional service bay over two (2). There shall also be threehundred (300) square feet of additional site area for each space intended for storage of inoperable vehicles.

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3. The minimum site width shall be one hundred fifty (150) feet.
4. All points of entrance or exit for motor vehicles shall be no closer than thirty (30) feet from the intersection of the right of way lines for those streets on which it fronts. Points of entrance or exit for motor vehicle shall be no closer than twenty (20) feet from any adjacent property line. The minimum driveway width at the curb line shall be twenty-two (22) feet and the maximum driveway width at the curb line shall be thirty (30) feet. The minimum width of access drive shall be sixteen (16) feet. The angle of intersection of the centerline of any driveway with the centerline of the street shall not be less than sixty (60) degrees unless separated acceleration and deceleration lanes are provided.
5. All equipment including hydraulic hoist, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. Any such portion of a building containing auto body shop or washing areas shall consist of a solid masonry wall or equivalent, approved by the Zoning Administrator, with no openings other than those required for access. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment except that outdoor trash storage may be provided in a properly screened container.
6. All activities, except those required to be performed at the fuel pump, shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.

**Section 5.01H DRIVE-IN OR FAST FOOD RESTAURANTS.**

1. Intent: It is the intent of this Section to provide development regulations for DRIVE-IN or fast food restaurants which potentially present special problems in their relationships to adjacent uses and traffic patterns in the districts in which they are permitted.
2. Site Development Standards: The Township Board shall only issue Special Use Permits for DRIVE-IN restaurants, which comply with the following site development standards:
  - A. The minimum site size shall be twenty thousand (20,000) square feet.
  - B. The minimum lot width shall be one hundred fifty (150) feet.
  - C. All points of entrance or exit for motor vehicles shall be no closer than thirty (30) feet from the intersection of the right of way lines of two streets. The minimum driveway width at the curb line shall be thirty (30) feet. No more than two driveway approaches shall be permitted on any street frontage. The outdoor space used for parking and vehicle stacking shall be hard surfaced and adequately drained.
  - D. All areas used for the storage of trash and rubbish shall be enclosed on at least three sides by a structure with the fourth side or access point having a view obstructing door.
  - E. DRIVE-IN restaurant management shall provide adequate trash and litter containers, and policing for the parking lot and the shoulders of adjacent roadways.

These areas shall be completely cleared of accumulated debris as often as necessary.

**Section 5.01I MOBILE HOME PARKS.**

1. Intent: It is the intent of this Section to provide for the establishment in a district of comparable intensity of land use, well designed mobile home parks. The regulations and conditions contained in this Section are designed to ensure that mobile home parks will provide a comfortable and pleasing environment for persons who seek mobile home residence. Regulations and conditions contained in this Section are intended to ensure that mobile home park developments will be served adequately by essential public facilities and services such as access streets, public water, sanitary sewer and storm drainage facilities, refuse disposal, schools, and police and fire protection.
2. The Township Board may, by the issuance of a Special Use Permit, authorize the establishment of a mobile home park in the "A" Agricultural and "R2" Residential districts or such authorization shall be granted only when all the applicable procedures and requirements stated herein are complied with.
3. General Requirements, Restrictions and Standards:
  - A. Minimum Project Area: Minimum project area for a mobile home park development shall be fifteen (15) acres.

B. Location: Mobile home parks may be located only in the "A" Agricultural and "R2" Residential districts upon approval of the Zoning Board and in accordance with the following standards:

1. The site shall be adjacent to and serviced by a major arterial or county primary street.
2. The site shall be serviced by existing or programmed essential public facilities and services such as access streets, public water, sanitary sewer and storm drainage facilities, and police and fire protection.

C. Uses Permitted: Only the following land and or building uses may be permitted under the provisions of this Section:

1. Mobile homes as defined in this Ordinance.
2. One office building exclusively for conducting the business operations of the mobile home park.
3. Utility buildings for laundry facilities and auxiliary storage space for mobile home tenants.
4. Recreation areas, community building, playground and open space for use by mobile home park tenants.
5. Such additional accessory buildings and uses as are customarily incidental to mobile home park development, except that this shall not include the sale of mobile home units other than by their individual resident owners or the servicing of mobile home units except as is required for normal maintenance by the individual resident owner or his contractors.
6. Signs pertaining exclusively to the mobile home park.

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D. General Development Standards: The design and development of mobile home parks shall be subject to all current provisions of the Mobile Home Commission General Rules as adopted by the Michigan Mobile Home Commission, which are here by incorporated by reference as a part of this Ordinance.

E. Operating Standards:

1. The operation and business practices of mobile home parks shall be subject to all current provisions of the Mobile Home Commission General Rules as adopted by the Michigan Mobile Home Commission, which are hereby incorporated by reference as a part of this Ordinance.
- 2.



2. No part of any mobile home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of mobile home parks.
- 3.
3. The keeping of livestock shall be prohibited from mobile home parks.

**Section 5.01J PUBLIC OR PRIVATE JUNK YARDS.**

1. Intent: It is the intent of this Section that certain minimum standards of operation be established for junk yards as uses that because of prior functional characteristics have a high potential of impacting surrounding properties or the aesthetic quality of the community as a whole.
2. Such uses shall be established and maintained in accordance with all applicable State of Michigan statutes and regulations.
3. The Township Board may, by the issuance of a Special Use Permit, authorize the establishment of a public or private junk yard in the "A" Agricultural district, such authorization shall be granted only when all the applicable procedures and requirements stated as specified in Section 5.01J are complied with.
4. The minimum site area allowable for a junk yard shall be forty (40) acres in size and properly screened from the view of the public. If the junk yard is not screened naturally the use shall be completely screened by a finished fence or masonry wall eight (8) feet in height or by a well maintained evergreen planting.
5. All activities shall be confined within the fenced areas. No equipment, material, signs, or lighting shall be used or stored outside the fenced area.
6. Fences shall be set back one hundred (100) feet from any public street.
7. No burning beyond the limited amount normally associated with a residence shall be permitted.
8. 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.

**Section 5.01K PLANNED SHOPPING CENTERS.**

1. Intent: It is the intent of this Section to provide for the establishment of planned shopping centers, which can efficiently serve day-to-day shopping needs. Consolidation of convenience shopping facilities into planned shopping centers is encouraged in order to avoid strip commercial development, lessen traffic conflicts and improve the safety and convenience of customers. Consolidation is also encouraged in order to economically provide for the appropriate landscape buffers needed to protect property values in adjacent areas. The regulations and conditions contained in this Section are designed to insure that planned

shopping centers will be developed at locations which will most efficiently serve the convenience shopping needs of the community.

2. Site Development 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 reserved. In addition, new landscaping shall be added to enhance the beauty of the development. A landscaping plan shall be included with the site plan.

**Section 5.01L TELECOMMUNICATION TOWER OR ALTERNATIVE TOWER STRUCTURE PURPOSE.**

The following defined purpose is per Ordinance No. 5 of 1997.\*

Purpose. The purpose of this ordinance is to establish general guidelines for the location of wireless telecommunication towers, alternative tower structures and antennas. The Township recognizes that it is in the public interest to permit the location of wireless telecommunication towers, alternative tower structures and antennas within the Township. The Township also recognizes the need to protect the scenic beauty of Kearney Township from unnecessary and unreasonable visual interference, and that wireless telecommunication towers, alternative tower structures and antennas may have negative aesthetic impacts upon adjoining and neighboring uses. As such, this ordinance seeks to:

- 1. Protect residential areas from potential adverse impact of towers and antennas;
- 2. Encourage the location of towers in nonresidential areas;
- 3. Minimize the total number of towers throughout the community;
- 4. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
- 5. Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
- 6. Enhance the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- 7. Consider the public health and safety of telecommunication towers and alternative tower structures; and
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- 8. Avoid potential damage to adjacent property from tower failure.

\*Administrative Note: The Purpose Statement, including paragraph 1 through 8 noted above at the beginning of Section 5.01L is not an adopted portion of the Zoning Ordinance.

**Section 5.01L TELECOMMUNICATION TOWER OR ALTERNATIVE TOWER STRUCTURE STANDARDS.**

1. In addition to the standards set forth in a particular zone and the standards set forth in Section 5.01C of this Ordinance, the uses below must meet the following additional standards:

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A. Telecommunication tower or alternative tower structure.

1. **Application.** The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternate tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
  - a. No existing towers or alternative tower structures are located within the geographic area which meet applicant's engineering requirements.
  - b. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
  - c. Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternative tower structures, or the antenna on the existing towers or alternative tower structures would cause interference with the applicant's proposed antenna.
  - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - g. The applicant demonstrates that an alternative technology that does not require the use of towers or alternative tower structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be

presumed to render the technology unsuitable.

2. **Setbacks.** The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this Ordinance would be better served thereby:
  - a. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
  - b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
3. **Security Fencing.** Towers and attendant accessory structures shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device.
4. **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this Ordinance would be better served thereby.
  - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.
  - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
5. **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

6. **Aesthetics.** Towers and antennas shall meet the following requirements:
  - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - b. At a tower site, the design of the buildings and related structures shall, to the extent possible use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - d. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
7. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative and design chosen must cause the least disturbance to the surrounding views.
8. **Compliance with Codes.** Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
9. **Interference with Residential Reception.** Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
10. **Signs.** No signs shall be allowed on an antenna or tower, except for any sign related to emergency service or controlling agency or owner of tower.
11. **Spacing - Towers.** Towers shall be located no closer than one (1) mile from an existing telecommunication tower or alternative tower structure containing one or more antenna, as measured in a straight line between the base of the existing tower and the proposed base of the proposed tower.

12. **Spacing - Residences.** A tower shall not be located within two hundred feet (200') or three hundred percent (300%) of the height of the tower, whichever is greater, of a single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the lot line of the single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons.
  
13. **Removal of Abandoned Antennas and Towers.** Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond or other letter of credit equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.

#### **Section 5.01M SEXUALLY ORIENTED BUSINESSES.**

**STATEMENT OF RATIONALE:** Sexually Oriented Businesses require supervision in order to protect and preserve the health, safety, and welfare of the patrons of such business as well as the citizens of the communities where they locate.

There is convincing evidence that sexually oriented businesses because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential area adjacent to them, causing increased crime and downgrading the quality of life in the adjacent area.

Kearney Township desires to prevent these adverse effects and thereby protect the health, safety, and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight.

It is not the intent of this ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact a content neutral ordinance which addresses the adverse secondary effects of sexually oriented businesses.

It is not the intent of Kearney Township to condone or legitimize the distribution of obscene material, and the Township recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against such illegal activities within Kearney Township.

**Section I: PURPOSE AND INTENT.** It is the purpose of this Ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, and welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of the Ordinance do not have the purpose of imposing limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials.

**Section II: DEFINITIONS.**

**Adult:** Any person eighteen (18) years or older.

**Adult Bookstore or Adult Video Store:** Means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals, or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas.
2. Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and may still be categorized as Adult Bookstore or Adult Video Store. The sale or rental of those items described in subparagraphs (1) and (2) above shall be deemed to constitute a principal business purpose of an establishment if it comprises fifty percent (50%) or more of sales volume or fifty percent (50%) or more of the floor area or visible inventory within the establishment.

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

**Adult Mini-Theater:** Means a commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis of specified sexual activities or specified anatomical areas.

**Adult Entertainment Establishment:** Means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an

admission fee and which are characterized by the exposure of specified anatomical areas or specified sexual activities.

**Adult Cabaret:** Means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity.  
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2. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
4. Persons who engage in lewd, lascivious, or exotic dancing or performances that are intended for the sexual interests of titillation of an audience or customers.

**Permittee:** Means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individuals listed as an applicant on the application for a permit.

**Permit:** Means a special use permit for the operation of a sexually oriented business and issued pursuant to this Sexually Oriented Business Ordinance.

**Nudity or State of Nudity:** Means the appearance of a human bare buttocks, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if completely and opaquely covered.

**Person:** Means an individual, proprietorship, partnership, limited liability company, corporation, association, or other legal entity.

**Sexually Oriented Business:** Means an adult bookstore, adult video store, adult motion picture theater, adult mini-theater, adult entertainment establishment, or adult cabaret.

**Specified Anatomical Areas: Includes:**

1. Less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola.
2. Human male genitals in a discernible turgid state, even if complete and opaquely covered.

**Specified Sexual Activities:**

1. Acts of human masturbation, sexual intercourse, or sodomy.  
1
2. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.



3. Human genitals in a state of sexual stimulation or arousal.

**Transfer of Ownership or Control:** Of a sexually oriented business means and includes any of the following:

1. The sale, lease or sublease of the business.
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means.
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**Section III: PERMIT AND/OR LICENSE REQUIRED.**

1. It shall be unlawful for a person to operate a sexually oriented business without a valid permit issued by the Zoning Administrator.
2. An application for a permit must be made on a form provided by the township. The application must be accompanied by a sketch or diagram showing the configurations of the premises, including a statement of total floor space occupied by the business. The sketch or diagram must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.
3. Application for a permit shall be made and delivered to the Zoning Administrator by the intended operator of the establishment. The intended operator shall be required to give the following information on the application form:
  - A. (1) The name and street address and mailing address, if different, and the drivers license number of the intended operator if he/she has such a drivers license.  
(2) The name and street address and mail address, if different, of the owner(s).
  - B. The name under which the establishment is to be operated and a general description of the services to be provided.
  - C. The telephone number of the establishment or, if unavailable, the operator's phone number.
  - D. The address and legal description of the tract of land on which the establishment is to be located.
4. The fact that the person possesses other types of state or county permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually oriented business permit from the township.

5. The application shall be accompanied by the following:
  - A. Payment of the application fee in full.
  - B. Proof of current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance.
  - C. If the persons identified as the fee owner(s) of the tract of land in item B are not also the owners of the establishment, then the lease purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the ownership or proposed owners of the establishment to have or obtain the use and possession of the tract, or portion thereof, that is to be used for the establishment for the purpose of the operation of the establishment.
6. The application shall contain a statement under oath that states:
  - A. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct.
  - B. The applicant has read the provisions of this article.

**Section IV: ISSUANCE OF PERMIT.**

1. The Zoning Administrator shall approve the issuance of a permit to an applicant within thirty (30) days after the receipt of an application unless he/she finds one or more of the following to be true:
  - A. An applicant is under eighteen (18) years of age.
  - B. An applicant is overdue in his/her payment of taxes, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
  - C. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
  - D. An applicant who has been denied a permit by the Township to operate.
  - E. The premises to be used for the sexually oriented business have not been approved by the health department for the use intended, if applicable, or any occupancy permit has not been issued by the Building Inspector, if applicable.
  - F. The permit fee required by this Ordinance has not been paid.

- G. An application for the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.
- H. An applicant has been convicted of any of the following criminal offenses in any jurisdiction:
  - 1. Prostitution, procuring a prostitute, or solicitation of a prostitute.
  - 2
  - 3. Sale, distribution or display of obscene material.
  - 4
  - 3. Soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor.
  - 4. Possession, sale or distribution of child pornography.
  - 5
  - 5. Public lewdness.
  - 6. Indecent exposure.
  - 6
  - 7. Indecent conduct with a child.
  - 8. Sexual assault.
  - 9. Incest.
  - 10. Sexual solicitation of a child.

The applicant shall certify, as a part of the application, that he/she has not been convicted of any one or more of the foregoing criminal offenses.

- I. Zoning approval as required by the Township Ordinance has not been obtained.
- 2. Notwithstanding compliance with the provisions of Section IV above, the Zoning Administrator, if granting the permit, may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effects reasonably documented to emanate from adult businesses for the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall serve as grounds for revocation of the permit, after written notice and an opportunity to be heard.
- 3. The permit if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
- 4. In the event that the Zoning Administrator determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within

thirty (30) days of the receipt of application by the Zoning Administrator. The applicant may request, in writing that such a period be extended for an additional period of not more than ten (10) days at any time before the notice is issued. This would provide time to make modifications necessary to comply with this Ordinance.

5. An applicant may appeal the decision of the Zoning Administrator regarding a denial to the Kearney Township Zoning Board of Appeals by filing a written notice of appeal within twenty-one (21) days after the applicant is provided with notice of the Zoning Administrator's decision.
6. The Zoning Administrator may also take all steps necessary to revoke a permit if he/she determines that a permittee gave false or misleading information in the material submitted during the application process.

**Section V: INSPECTION.** An applicant or permittee shall allow the Township Zoning Administrator or representatives of the Township Code Enforcement Office to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

**Section VI: ACTION TO REVOKE PERMIT.** The Zoning Administrator shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:

1. A permittee gave false or materially misleading information in the application process.
2. A permittee or employee has been convicted of using and/or allowing the use of controlled substances within the establishment.
3. A permittee or employee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitating prostitution within the establishment or elsewhere.
4. A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct the solicitation thereof within the establishment or elsewhere.
5. A permittee or employee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
6. There has been a transfer of ownership or control of an establishment without the prior consent of the Zoning Administrator, as required herein.

**Section VII: TRANSFER OF PERMIT.** A permittee shall not transfer his/her permit to another, or shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. Permittee must complete application.

**Section VIII: LOCATION RESTRICTIONS.**

1. A sexually oriented business may not be operated within five hundred (500) feet of:

- A. A church, synagogue, or regular place of religious worship.
  - B. A public or private elementary or secondary school.
  - C. A boundary of any residential zoned district or any residential structure within or without a zoned area.
  - D. A public park.
  - E. A licensed daycare center.
  - F. Another sexually oriented business.
2. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
  3. For purpose of this Ordinance, measurement shall be made in a straight line, without regard to intervening structure or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot or licensed day care center.
  4. For purposes of Subsection 3 of this section, the distance between any two sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located.

**Section IX: REGULATIONS PERTAINING TO ADULT ENTERTAINMENT**

**ESTABLISHMENTS.** A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an audience which has paid or promised to pay an admission fee and which depicts specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall be required. Each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.
2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without prior approval of the Township Zoning Administrator.
4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is admitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's stations.
6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection 1 of this section. ("of" not in Ordinance)
7. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.
8. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
9. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.
10. Hours of operation shall be limited to 11:00 a.m. to 11:00 p.m.
11. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that state: 1) "Persons under the age of eighteen (18) are not permitted to enter the premises" and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
12. All off-street parking areas shall be illuminated during all open hours of the sexually oriented business, and until one hour after the business closes. ("open" not in Ordinance but makes sense.)

**Section X: EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.**

1. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.
2. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawings, or pictorial representation of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.
3. Signs shall contain no photographs, silhouettes, drawings or pictorial representation of any manner, and may contain only the name of the enterprise.

**Section XI: AGE RESTRICTIONS.**

1. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually operated business at any time that the sexually oriented business is open for business.
2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
  - A. A valid operator's, commercial operator's or chauffeur's license.
  - B. A valid personal identification certificate with photo reflecting that such a person is eighteen (18) years of age or older.

**Section XII: EXEMPTION.** It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State of Michigan, a college, junior college, or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

**Section XIII: NOTICES.**

1. Any notice required or permitted to be given by the Township or other agency under this

Ordinance to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application that has been received by the Township, or any notices of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by postal service, the Township shall cause it to be posted at the principal entrance to the establishment.

2. Any notice required or permitted to be given by the Township by any person under this Ordinance shall not be deemed given until and unless it is received by the Clerk of the Township.
3. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Clerk of the Township in writing of any changes of residence or mailing address.

**Section XIV: NON-CONFORMING USES.**

Any business lawfully operating on the effective date of this Ordinance that is in violation of the location or structural configuration requirements of this Ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be charged to a conforming use. If two or more sexually oriented businesses are within five hundred (500) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later establishment business(es) is/are non-conforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of sexually oriented business permit and/or license of a church, synagogue, or regular place of worship, public or private elementary or secondary school, licensed daycare center, public park, residential district or residential structure, within five hundred (500) feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application, permit and/or license has expired or had been revoked.

**Section XV: INJUNCTION.** A person who operates or who caused to be operated a sexually oriented business without a valid permit and/or license or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by the Township Zoning Ordinance.

**Section 5.02 SITE PLAN REVIEW.**

**Section 5.02A PURPOSE.** It is the purpose of this Section to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the Township; safe



and convenient traffic movement, both within a site and in relation to access streets; the stability of land values, and investments, by preventing the impairment or depreciation of land values and development, by the erection of structures or additions or alterations thereto, without proper attention to siting or to unsightly or undesirable appearances; harmonious relationships of buildings, other structures and uses, both within a site and/or adjacent sites; and the conservation of natural amenities and resources.

**Section 5.02B APPROVAL REQUIRED.** Site plan review approval is required as follows:

1. For those uses requiring Special Use Permit review, as specified.
- 1
2. All land uses, excepting single family detached dwellings, two family dwellings and nonresidential uses requiring less than five (5) parking spaces.

**Section 5.02C PROCEDURES FOR SITE PLAN REVIEW.**

1. **Application:** Application for Site Plan Review shall be submitted through the Township Clerk to the Planning Commission on a special application 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.
2. **Data Required in Application:** Every application shall be accompanied by the following information and data:
  - A. Application form supplied by the Township Clerk filled out in full by the applicant.
  - B. Fifteen (15) copies of a site plan, plot plan, or development plan, drawn to a readable scale showing:
    1. Property dimensions.
    - 1
    2. Size, shape and location of existing and proposed buildings and structures.
    3. The location of parking areas, all parking spaces and driveways.
    - 3
    4. Existing public rights of way, and/or private easements.
    5. Water courses and water bodies, including surface drainage ways.
    6. Existing significant vegetation.
    7. A landscaping plan indicating locations of proposed planting and screening, fencing, signs and advertising features.
    8. Zoning classification of abutting properties.

9. All site plans must be signed, dated and LL sealed.

3. **Planning Commission Review.**

A. Upon receipt of an application for Site Plan Review, including all data required in Section 5.02C2, the Township Clerk may transmit one (1) copy of the site plan to each of the following agencies considered to be impacted or affected by the request (e.g. county drains Antrim County Drain Commissioner; curb cut access Antrim County Road Commission, etc.):

1. Antrim County Planning Department.
2. Antrim County Road Commission.
3. District No. 3 Health Department.
4. Antrim County Drain Commissioner.
5. Antrim County Soil Erosion Control Committee.
6. Bellaire Public School District.
7. Fire Chief (if applicable).
8. Police Chief (if applicable) for their review and comment.

The Clerk shall transmit the remaining copies of the site plan to the Planning Commission.

B. The Planning Commission, upon receiving the comments of the above affected agencies shall proceed with review of the site plan to determine compliance with permitted land use, density of development, general traffic and pedestrian circulation, and other provisions of this Ordinance. The Planning Commission shall respond to the applicant within forty-five (45) days of filing as to the approval, denial or approval with modifications of the site plan. If denied, the Commission shall cite reasons for denial and if approved a Certificate of Site Plan Approval shall be issued to the applicant by the Zoning Administrator.

**Section 5.02D STANDARDS FOR SITE PLAN APPROVAL.**

1. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site will be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
2. The landscaping shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum

harmony with adjacent areas.

3. Special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties or bodies of water or ground water recharge areas.
4. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
5. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
6. Every structure or dwelling unit shall have access to a street, walkway or other areas dedicated to common use.
7. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
8. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential properties or public thoroughfares, shall be screened, by a vertical screen consisting of structural (fence) or plant materials no less than six (6) feet in height.
9. Exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

**Section 5.02E ACTION BY PLANNING COMMISSION.** The Planning Commission shall have the function, duty and power to approve or disapprove, or to approve subject to compliance with such modifications or conditions as it may deem necessary to carry out the purpose of these regulations, the design and site plan of all proposed buildings or structures, or the development of the entire property, the specifications of all exits, entrances, streets, highways, or other means of ingress and egress, the proposed timing of construction, the proposed manner of dedication to the public or maintenance of same and the construction of appropriate screens or buffers.

**Section 5.02F MODIFICATION OF APPROVAL OF SITE PLAN.** Once site plan approval has been granted by the Planning Commission, changes to the approved site plan shall require a resubmission and payment of fees.

**Section 5.02G FINANCIAL GUARANTEES.** In approving the site plan, the Planning Commission may require that a cash deposit, certified check, bond, or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the Township Clerk at the time of issuance of the permit authorizing the project or activity. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

**Section 5.02H APPEALS AND QUESTIONS OF INTERPRETATION OF ORDINANCE.** Any person considering himself aggrieved by the decision of the Planning Commission in granting or denial of Site Plan Approval shall have the right to appeal said decision to the Township Board. The appeal shall be exclusive and must be filed with the Township Clerk within ten (10) days of the decision of the Planning Commission.