

KINDERHOOK TOWNSHIP

ZONING ORDINANCE

BRANCH COUNTY, MICHIGAN

Adopted September 24, 1990

Revised:      January 25, 1999  
                  May 16, 2002  
                  December 11, 2003  
                  May 8, 2012  
                  June 30, 2015  
                  October 30, 2017

## Table of Contents

Title

Preamble

Article 1...Enacting Clause

Short Title

Section 101 page 6

Purpose

Section 102

Article 2...Construction of Language and Definitions

Construction of Language

Section 201

Definitions

Section 202

Article 3... Zoning District and Map

District Established; Residential, Non-Residential Districts

Section 300 page 16

District Boundaries'

Section 301

Districts Boundaries' Interpreted

Section 302

District Requirements

Section 303

Uses Not Permitted in Any District

Section 304

A Agricultural District

Section 305 page 20

R-1 Residential District

Section 306

R-2 High Density Residential District

Section 307

R-3 Waterfront Residential District

Section 308

R-4 Mobile Home Park District

Section 309

Trailer Coaches and/or Mobile Homes Used as Dwellings

Section 310

C-1 Neighborhood Commercial District

Section 311

C-2 General Commercial District

Section 312

I Industrial Districts

Section 313

Open Space Preservation

Section 314 page 33

Article 4...General Provisions and Exceptions

Supplementary Regulations

Section 401

Miscellaneous Regulations

Section 402

Non-Conforming Uses

Section 403

Parking Requirements

Section 404

Sign Regulations

Section 405

Article 5...Special Use Permits		
Applications and Determinations	Section 501	page 56
Multiple Family Residential Developments	Section 502	
Other Specials	Section 503	
Wind Powered\Energy Turbines	Section 503.3A	page 71
Solar Power	Section 503.3B	page 91
Adult Type Uses	Section 504	
Article 6...Administration and Enforcement		
Enforcement	Section 601	page 95
Board of Appeals	Section 602	
Changes and Amendments	Section 603	
Penalties	Section 604	
Vested Right	Section 605	
Severance Clause	Section 606	
Effective Date	Section 607	

**KINDERHOOK TOWNSHIP ZONING ORDINANCE**  
Branch County, Michigan

TITLE

Ordinance enacted under Act 184, Public Acts of 1943, as amended, governing the unincorporated portions of the Township of Kinderhook, Branch County, Michigan, to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated; to provide for the location, the size of, and the type of uses that be made of the open spaces; to provide for sanitary, safety, light and other protective measures; to provide for the maximum number of families that may be housed in dwellings, buildings, and structures, including mobile homes,; to provide for the administration and amendment of said ordinance; to be followed by the Board of Appeals; and to provide for penalties for the violation of said ordinance.

PREAMBLE

Pursuant to the authority conferred by Act 184 of 1943 and Act 168 of the public acts of the State of Michigan in such case, made and provided for the purpose of promoting, and protecting the public health, safety, peace, comfort, convenience and general welfare of the inhabitants of the Township by protecting and conserving the charter and social, and economic stability of the residential, commercial, industrial and other use area; by securing the most appropriate use of the land; preventing overcrowding of the land and undue congestion of the population; providing adequate light, air and reasonable access; and facilitating adequate and economical provisions of transportation, water, sewers, schools, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan, now therefore:

**Kinderhook Township requires the property owner to obtain a zoning, building, electrical, mechanical, plumbing and other applicable permit prior to any construction or alteration of any dwelling, accessory structure, or structure within the Township.**

**ENACTING CLAUSE**  
The Township of Kinderhook Ordains

**ARTICLE 1: SHORT TITLE, PURPOSE**

**SECTION 101: SHORT TITLE:**

This ordinance shall be known as the “Kinderhook Township Zoning Ordinance:

**SECTION 102: PURPOSE:**

This Ordinance has been established for the purpose of:

- 102.1 Promoting and protecting the public health, safety and general welfare;
- 102.2 Protecting the charter and the stability of the agricultural, residential and commercial areas within the incorporated portions of Kinderhook Township and promoting the orderly and beneficial development of such areas;
- 102.3 Providing adequate light, air, privacy and convenience of access to property;
- 102.4 Regulating the intensity of use of the land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light, air and to protect the public health;
- 102.5 Lessening and avoiding congestion in the public highways and streets;
- 102.6 Providing for the needs of agriculture, residence and commerce in future growth;
- 102.7 Providing healthful surroundings for family life in residential and rural areas;
- 102.8 Protecting the public and adjacent areas from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, radio activity and other health and safety hazards;
- 102.9 Preventing overcrowding of land and other concentration of buildings and structures, so far as possible and appropriate in each zoning district, by regulating the use and bulk of buildings in relation to the land surrounding them;
- 102.10 Enhancing the economic stability in the Township;
- 102.11 Conserving the taxable value of land, buildings and structures in the Township;
- 102.12 Enhancing the aesthetic desirability of the environment throughout the Township;
- 102.13 Conserving the expenditure of funds for public improvements and services to conform with the most advantageous uses of land.

## ARTICLE 2: CONSTRUCTION OF LANGUAGE AND DEFINITIONS

### SECTION 201: CONSTRUCTION OF LANGUAGE:

For the purpose of this ordinance, certain terms are herewith defined. When not inconsistent with the context, the present tense includes the future; words used in the singular number include the plural number. The word “shall” is always mandatory and not discretionary. The word “May” is permissive. The word “Person” includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual. The words “used” or “Occupied” include the words “intended”, “designed” or “arranged” to be used or occupied.

### SECTION 202: DEFINITIONS:

Terms not herein defined shall have the meaning customarily assigned to them in the latest addition of “Webster’s Unabridged Dictionary”.

- 202.1 **Accessory Structure:** A structure customarily incidental and subordinate to the principal structure. It has a floor space of over 100 square feet in area, and is located on the same zoning lot as the principal building.
- a. Small accessory building is less than 100 square feet.
  - b. Large accessory building is 100 square feet and larger.
- 202.2 **Accessory Use:** A use customarily incidental and subordinate to the principal use of the land or building and located on the same zoning lot as the principal use, and not used for human habitation.
- 202.3 **Agriculture:** Any land or building used for pasturage, horticulture, floriculture, orchards, viticulture, and dairying, livestock, and poultry husbandry.
- 202.4 **Alterations:** Any change, addition or modification in construction or type of occupancy; and any change in the structural members of a building, such as walls, partitions, may be referred to herein as “altered” or “reconstructed”.
- 202.5 **Attached:** Means: permanently attached to existing structure. Joined by a wall, not free standing, joining the roof line to existing structure; the creation of a doorway for access into the newly attached structure. Attachment must be a clear extension of the existing structure, not just cosmetically. **(Constructing the new structure near the existing structure and connecting with siding only is NOT attached).**
- 202.6 **Basement:** A portion of a building more than half of which is below the average grade level.
- 202.7 **Buildings:** Any structure either temporary or permanent, erected on a site, having a roof, and used or built for the shelter and enclosure of persons, animals or

property of any kind, a mobile home or mobile structure, a pre-manufactured, a pre-cut structure above or below ground.

Revised: 5/8/12, 11-6-14

- 202.8 **Building Administrator:** The appointed official of Branch County or the delegated representative charged with the issuance of building, electrical, mechanical or any other applicable permits associated with construction or structural changes.
- 202.9 **Building Height:** The vertical distance from the established grade to the highest point of the roof surface. Where a building is on a sloping terrain, the height may be measured from the average ground level of the grade at the building wall.
- 202.10 **Building Inspector:** The appointed official of Branch County or their delegated representatives responsible for inspecting various phases of construction to ascertain said construction is in compliance with applicable building codes, adopted by the county.
- 202.11 **Building Line:** A line parallel to the front line at the minimum required set back line.
- 202.12 **Certificate of Zoning Compliance:** A certificate issued by the Township Zoning Administrator to a party or parties intending to initiate any work or change any use of property in the Township.
- 202.13 **Club:** An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics, or the like, but not for profit, and open to only members and not the general public.
- 202.14 **District:** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.
- 202.15 **Dwelling, Single Family:** A detached building designed for or occupied by one family
- 202.16 **Dwelling, Two Family:** A detached building designed for or occupied exclusively by two families living independently of each other.
- 202.17 **Dwelling, Multiple Family:** A building designed or used as residence for three or more families living independently of each other.
- 202.18 **Dwelling Unit:** A building which is occupied wholly as the home, residence or sleeping place of one or more human beings, either permanently or transiently, containing lawful cooking and sanitary facilities reserved for the occupancy thereof, and complying with the following minimum standards:

- A. Each dwelling unit shall contain at least a minimum actual living space area of 1000 square feet, consisting of one or two bedrooms or separate areas, plus an additional 150 square feet of living space for each additional bedroom or sleeping area exceeding two, exclusive of garages or basements.
- B. The minimum ceiling height shall have 7'6" of open air space.
- C. Each dwelling shall have two separate entrances and exits.
- D. It shall comply with additional square footage required of this ordinance for the zone in which it is located.
- E. The dwelling shall comply in all respects to those standards and regulations for construction as composed by Township building code, and any Federal or State standard or regulation in effect.
- F. The dwelling shall contain a storage capacity area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate fully enclosed structure on the site, said separate structure being of standard construction similar to or of better quality than the principle dwelling, such storage area shall be in addition to the space for storage of automobiles and shall be equal to not less than ten percent of the minimum square footage requirement of this ordinance for the zone in which the dwelling is located.
- G. A dwelling shall also include earth homes or underground shelter homes which must have one exposed side of at least 14 feet in width with a height of not less than 7' 6", and meet all building codes and regulations pertaining thereto, and the other minimum requirements set forth therein.
- H. Each dwelling shall have a permanent foundation according to the county building code, except as defined elsewhere in this ordinance.

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

202.20 **Essential Services:** The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, electrical, steam, fuel or water transmission systems, including towers, poles, wires, mains, drains, boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including office buildings or depots.



- 202.21 **Family:** An individual or two or more persons related by blood or marriage or adoption, or a group not to exceed two persons not related by blood or marriage, occupying a premises and living as a single housekeeping unit.
- 202.22 **Farm:** Any parcel of land containing at least twenty acres which is used for gain in the raising agricultural products, livestock, poultry or dairy products. It includes the necessary farm structures within prescribed boundaries and the storage of farm equipment used. It excludes the raising of fur bearing animals, commercial dog kennels, and stone, gravel or sand quarries.
- 202.23 **Fences:** An artificial contracted barrier of wood, metal, stone or any other manufactured materials erected for the enclosure of yard areas.
- 202.24 **Finished Living Area:** This means a dwelling that is finished to the standards of the Michigan building codes enforced by the Branch County Building Inspection Department at the time of construction. Further, finished area SHALL have permanently partitioned/walled off rooms clearly demarking the bathroom facilities, and a minimum of one bedroom. The balance of the finished area may be open area.
- 202.25 **Filling:** The depository or dumping of any matter into or onto the ground except common household gardening and general care.
- 202.26 **Floor Area Gross:** Is the sum of all gross horizontal areas of several floors of a building or buildings measured from the outside dimensions of the structure enclosed porches, courtyards or patios, whether covered or uncovered shall not be considered as part of the gross floor area unless used for commercial purposes such as sales of outdoor equipment or nursery beds.
- 202.27 **Floor Area Useable:** For the purposes of computing parking requirements, is that area to be used for the sale of merchandise or services, or for the use to serve patrons, clients or customers. Such floor which is used or intended to be principally for the storage or processing of merchandise: hallways, stairways and elevator shafts, or for utilities or sanitary facilities shall be excluded from this computation of “useable floor space”, measurement of useable floor space shall be the sum of the horizontal areas of several floors of the building, measured from the interior faces of the exterior walls.
- 202.28 **Free Standing Sign:** A structure erected for the purpose of advertising a business or activity on the same parcel. Such structures shall not be attached to a building which may also be located on the same parcel. Such a sign may also be know as a pylon sign.
- 202.29 **Funneling:** Funneling development (also known as “keyhole development”) is the use of a waterfront lot as a common open space for waterfront access for a larger number of users than are typical from a single family waterfront lot.  
*(FUNNELING IS PROHIBITED IN ALL ZONED DISTRICTS)*

**202.30 Gasoline Service Stations:** A structure used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for storage, motor repair, or servicing, but not including bumping, painting, refinishing or conveyor-type car wash operations.

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

**202.32 Home Occupation:** Any use customarily conducted entirely within a dwelling or accessory building and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and occupations shall consist of such things as hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate, insurance sales, state licensed group day care homes (7-12 children), professional office for not more than one physician, surgeon, dentist, attorney, architect, engineer, or similar recognized professional practitioner, provided such home occupation shall satisfy the following conditions:

- A. The non-residential use shall only be incidental to the primary residential use.
- B. The occupation shall utilize no more than 25% of the ground floor area of the structure.
- C. Only normal domestic or household equipment and equipment characteristic of above named occupations shall be used to accommodate the home occupation.
- D. The home occupation shall involve no employees other than members of the immediate family residing on the premises.
- E. All activities shall be carried on indoors; such occupation shall not create a nuisance as defined herein. No outdoor activities or storage shall be permitted, except in the case of licensed daycare.
- F. There shall be no external evidence of such occupations except a small announcement sign not larger than two (2) square feet in area.
- G. The permission for home occupation as provided herein is intended to secure flexibility in the application of the requirements of this ordinance; but such

permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities.

Revised: May 8, 2012

- H. Garage sales, rummage sales, yard sales, and similar activities may be conducted for no longer than three days and no more than twice per calendar year on the same property.
- 202.33 **Junk:** For the purpose of this ordinance the term “junk” shall mean any motor vehicles, machinery, appliances, products or merchandise with parts missing or scrap metals or other scrap materials that are damaged or deteriorated.
- 202.34 **Junk Yard:** Any land or building used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in normal running conditions, machinery or parts thereof.
- 202.35 **Kenel, Commercial:** Any lot or premises used for the commercial sale, boarding, or treatment of dogs, cats, or other domestic pets.
- 202.36 **Loading Space:** Is an off street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.
- 202.37 **Lot:** Land occupied or to be occupied by a building, structure, land use or group of buildings, together with such open spaces or yards as are required under this ordinance and having frontage upon a street.
- 202.38 **Lot, Corner:** A lot which has at least two contiguous sides abutting upon a street for their full length.
- 202.39 **Lot, Depth of:** The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.
- 202.40 **Lot, Interior:** A lot other than a corner lot.
- 202.41 **Lot Line:** Any of the lines bounding a lot as defined herein.
- 202.42 **Lot of Record:** A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds in Branch County, Michigan, or a parcel or lot described by metes and bounds, the deed to which has been recorded in the office of the Register of Deeds in Branch County, Michigan, prior to the adoption of this ordinance “September 24<sup>th</sup>, 1990”.

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

202.44 **Master Plan or Comprehensive Development Plan:** The statement of policy by the Township Zoning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written material representing in summary form the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating the very best community living conditions.

202.45 **Mobile Home:** A moveable or portable dwelling of thirty-five (35) feet or more in length, which is constructed to be towed on its own chassis, is capable of being connected to public utilities, and is designed for year-round living as a single family dwelling unit without the necessity for a permanent foundation. The term shall not include pick-up campers, travel trailers, converted buses, or tent trailers.

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

202.47 **Nuisance:** Is an offensive, annoying, unpleasant, or obnoxious thing or practice. A cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics or activity or use across a property line which can be perceived by or effects a human being, or the generation of an excessive or concentrated movement of people or things such as:

- A. Noise
- B. Dust
- C. Smoke
- D. Odor
- E. Glare
- F. Fumes
- G. Flashes
- H. Vibration
- I. Shock Waves

- J. Heat
- K. Electronic or Atomic Radiation
- L. Objectionable Effluent
- M. Noise of a congregation of people especially at night
- N. Passing traffic
- O. Invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities

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

202.49 **Principal Structure:** Is the primary building used as a dwelling on a lot or parcel which is the main permitted use by right.

202.50 **Private Drive:** A drive not designated as public that services (2) two or more properties, and needs to be a minimum of 20 ft. wide.

202.51 **Zoning Commission:** The Township Zoning Commission of the Township of Kinderhook, Branch County, Michigan.

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

202.53 **Shed:** Any structure 100 sq. ft. in size and under.

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

202.55 **Sign:** Any devise designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding one square foot in area bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- B. Flags and insignias of any government, except when displayed in connection with commercial connotations.

- C. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
- D. Integral decorative or architectural features of buildings except letter trademarks, moving parts or flashing lights.
- E. Signs directing and guiding traffic and parking to private property, but bearing no advertising matter

**202.56 Special Use Permit:** A permit issued by the Township Board to a person or persons intending to undertake the operation of an activity upon land or within a structure which is not specifically mentioned in the ordinance and possesses a unique characteristic found to be not injurious to the health, safety, convenience and general welfare of the Township's inhabitants.

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

**202.58 Structure:** Anything constructed or erected which requires permanent location on the ground or attached to something having such location on the ground, and extending 12 inches above grade level.

**202.59 Subdivision:** The division of a lot, tract, or parcel of land into five or more lots, tracts or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term "sub-division" shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land of more than ten (10) acres.

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

**202.61 Yards:**

- A. Yard, Front: A yard extending the full width of the lot and lying between the front line of the lot and the nearest wall line of the principal building excluding up to a 24" overhang.
- B. Yard, Rear: An open space extending the full width of the lot and lying between the rear line of the lot and the nearest wall line of the principal building excluding up to a 24" overhang.
- C. Yard, Side: An open space between the side line of the lot and the nearest wall line of the principal building excluding up to a 24" overhang and extending from the front yard to the rear yard.

*Revised 1/4/2001, 12/11/2003, 5/8/12*

D. In such cases where the lot line lies within the public road rights-of-way, then front or rear line shall be edge of right-of-way.

**202.61 Wireless Communication Facilities** shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of receiving and/or transmitting radio signals. This may include, but shall not be limited to: radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities, short wave facilities, amateur radio facilities and satellite dishes.

**ARTICLE 3: ZONING DISTRICTS AND MAP**

**SECTION 300: DISTRICTS ESTABLISHED:**

For the purposes of this ordinance, the Township of Kinderhook is hereby divided into the following districts:

**Residential Districts:**

- A Agricultural District
- R-1 Residential District
- R-2 High Density Residential District
- R-3 Waterfront Residential District
- R-4 Mobile Home Park District

**Non-Residential Districts:**

- C-1 Neighborhood Commercial District
- C-2 General Commercial District
- I Industrial District

**SECTION 301: DISTRICT BOUNDARIES:**

The boundaries of these districts are hereby established as shown on the zoning map of this ordinance, Township of Kinderhook Zoning Ordinance which map with all notations, references and other information shown thereon shall be as much a part of this ordinance as if fully described herein. The official zoning map shall be identified by the signature of the Township Supervisor attested by the Township Clerk, under the following words. This is to certify that this is the official zoning map referred to in Section 301 of the adopted ordinance. If, in accordance with the provisions of this ordinance, changes are made to district boundaries or other matter portrayed on the official zoning map, such changes made on the official zoning map after amendment has been approved by the Township Board together with an entry on the official zoning map as follows: On (date), by official action of the Township Board the following changes were made (brief description with reference number to board proceedings). One copy of the official zoning map is to be maintained and kept up to date by the Township Clerk, accessible to the public and shall be final authority as to the current zoning status of the properties in the Township.

**SECTION 302: DISTRICT BOUNDARIES INTERPRETED:**

Where uncertainty exists with respect to the boundaries of various districts as shown on the zoning map, the following rules shall apply:

- 302.1 Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines.



- 302.2 Boundaries indicated as approximately following platted lot lines shall be construed as following Township limits.
- 302.3 Boundaries indicated as approximately following Township limits shall be construed as following Township limits.
- 302.4 Boundaries indicated as following railroad lines shall be construed as midway between the main tracks.
- 302.5 Boundaries indicated as shorelines shall be construed to follow such shorelines, and in the event of changes in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center line.
- 302.6 Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above, shall be construed as boundaries. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- 302.7 Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 6 above, the Board of Appeals shall interpret the district boundaries.
- 302.8 Unless otherwise specifically noted herein, or on the official zoning map, boundaries in the waterfront districts around lakes, rivers, and other bodies of water shall include all land within 500 feet from the shoreline of such lake, river, or other body of water.

**SECTION 303: DISTRICT REQUIREMENTS:**

All buildings and uses in any district shall be subject to the provisions of Article 4.

“General Provisions and Exceptions”.

**SECTION 304: USES NOT PERMITTED IN ANY DISTRICT:**

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

- 304.1 The wrecking, storage or dismantling of automobiles or the maintenance and/or operation of junk yards is prohibited, except as provided in Article 5 “Special Use Permits”.
- 304.2 No condition shall be allowed to exist which will constitute a hazard to the health, safety or welfare, is inconsistent with the accepted appearance of the zoning district, or in any way creates a nuisance or damages adjoining property.
- 304.3 Funneling is prohibited in all zoned districts.
- 304.4 No person, firm or corporation shall park or store or permit to be parked or stored upon any premises with Kinderhook Township any vehicle, including any conveyance, boat, aircraft, or trailer of any kind or new or used parts therefrom. Any of the above is allowed only after a SPECIAL USE PERMIT has been obtained; all items shall be within a fully-enclosed building or in an area 100% obscured from adjacent premises, adjacent roads, highways etc. by natural land contours, evergreen screening or fencing.
  - E. Any vehicle, including any conveyance, boat, aircraft, or trailer of any kind of conveyance requiring a license plate to travel in the State of Michigan, shall have all of its main component parts properly attached as hereinafter defined as: Those parts required by State law or by necessity for its operation upon a public highway, waterway or airway or it is in violation of this ordinance.
  - F. Any vehicle, including any conveyance, boat, aircraft, or trailer of any kind shall be, upon inspection and/or time of complaint, be legal to be upon a public highway, waterway or airway or it is in violation of this ordinance.
  - G. Any vehicle, including any conveyance, boat, aircraft, or trailer of any kind shall be properly licensed and/or registered by the State of Michigan or it is in violation of this ordinance.

REVISED: 5/8/12

## **SECTION 305: A DISTRICT: AGRICULTURE DISTRICT:**

305.1 **Purpose:** It is the purpose of the Agricultural district to preserve prime soils for agricultural use and to protect viable agricultural enterprises. It is to be applied to areas which have soils well suited to agricultural activities. The district is designed to preserve these areas by prohibiting the intrusion of non-agricultural and incompatible uses into the prime agricultural areas. The district is intended to create large contiguous blocks of agricultural land, both by original designation and by future annexation of smaller holdings, at owners request to existing blocks. It is also the intent of this district to help maintain land values at levels which farm activities can support and to avoid property value increases through speculation for higher density uses, which force prime farm land into non-agricultural uses.

### **305.2 Uses Permitted by Right:**

- A. Single family residential dwellings
- B. General Farming as defined in Section 202.22
- C. Public or private conservation area
- D. Accessory uses including:
  - 1) Barns, silos, sheds, equipment storage, and similar structures and uses customarily incidental to the permitted principal uses and structures.
  - 2) Roadside stand for agricultural produce raised on the property
  - 3) Home occupation

305.3 **Uses Permitted by Special Use Permit:** The following uses are permitted in this district subject to obtaining a special use permit as provided for in Article 5.

- A. The removal of soil, sand, gravel and other materials.
- B. Public and private parks, camps, golf courses, clubs, garden nurseries, greenhouses, commercial stables, and bed and breakfast establishments.
- C. Public and private hospitals, schools, cemeteries, churches, and government buildings.
- D. Airports
- E. Public utility structures and substations.

*Revised 1/4/2001*

- F. Trailer as a Temporary Use. Mobile homes as a temporary use in cases where disaster results in substantial destruction of the principal dwelling, when authorized by the Planning Commission as a SPECIAL USE. The Planning Commission may authorize the Zoning Administrator to issue a temporary use permit for a period of one (1) year, provided that the following conditions are found to exist:
  - 1. The mobile home is connected to an approved water well and septic tank system.
  - 2. All requirements of SECTION 305 of the Agriculture District are met.
  - 3. The mobile home has at least six hundred and seventy-five (675) square feet of usable floor area.
- G. Veterinarians, commercial kennels and animal clinics.
- H. Public or private sanitary land fills or junk yards.
- I. Transient amusements (carnivals, circuses, and similar).
- J. Central sewage treatment facility in accordance with State of Michigan and Branch County Health Department standards.
- K. Agriculture migrant labor housing constructed under the provision of Public Act 289 of 1965 as amended, and the administrative rules promulgated thereunder.
- L. The keeping for profit or pleasure of non-domesticated fur-bearing animals.
- M. More intensive uses than stated in 305.4 (A) (3).
- N. Wireless communications facilities per section 402.6

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

- A. Minimum Lot Areas:
  - 1) No farm building or structure used for the raising or keeping of cattle, hogs, horses, ponies, goats and similar livestock whether for profit or pleasure be established on any parcel less than five (5) acres in area.
  - 2) No single family residential dwelling shall be established on any parcel less than one (1) acre in area.

*Revised: 5/8/12, 11/6/2014  
10/30/17*

- 3) On lots of more than 5 acres, no farm building or structure shall be established to house more than 5000 pounds of animals per acre of lot size. Farming operations shall at all times be operated and maintained in accordance with the recommendations set forth in the generally accepted agricultural management practices for manure management and nutrient utilization, approved by the Michigan Agricultural Commission, in accordance with 1981 Public Act 93, as amended.
- B. Minimum Lot Width: The minimum lot width shall be two hundred (200) feet. Every parcel in the Agricultural zoned district shall have a minimum of 200 lineal feet on either a public road or private drive.
- C. Yard and Setback Requirements:
- 1) Front Yard: Forty (40) feet from street or road upon which lot or parcel principally fronts.
  - 2) Side Yard: For residential buildings and structures, there shall be total side yards of not less than fifty (50) feet; provided, however, that no side yard shall be less than twenty (20) feet. For all other buildings, there shall be two (2) side yards of not less than fifty (50) feet each. Except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
  - 3) Rear Yard: Fifty (50) feet.
  - 4) Small accessory structure rear line setback: Five (5) feet.
- D. Maximum Height Requirements:
- 1) For dwelling and non-farm structures. Height shall not exceed thirty-five (35) feet.
  - 2) For general and specialized farm buildings and structures, height shall not exceed one hundred (100) feet.
- E. Minimum building floor area. No residential dwelling unit shall have less than one thousand (1000) square feet of living area exclusive of garages and basements. Plus, an additional 150 square feet of living area for each sleeping area or bedroom exceeding two (2)
- F. No lot of record may be divided more than once (1) into a parcel of less than 20 acres.

Revised: 5/8/12

## **SECTION 306: R-1 RESIDENTIAL DISTRICT:**

306.1 **Purpose:** It is the purpose of the residential district to provide for single or two-family residences. This housing is intended to provide a moderate density living environment. However, it must be recognized that without sanitary sewage treatment facilities, allowable densities for such housing must respect the limitations of septic systems. Therefore, while the designation of this district is moderate density, the interpretation of that term is relative to other allowable densities within the Township.

### **306.2 Uses Permitted by Right:**

- A. Single family residential dwelling
- B. Duplex or two family residential
- C. Accessory uses associated with single family residential structures, such as garages, shed for yard tools, play house, boat houses, etc.

**306.3 Uses Permitted by Special Use Permit:** The following uses are permitted in this district subject to obtaining special use permit as provided for in Article 5:

- A. Home occupations
- B. Central sewage treatment facility in accordance with State of Michigan and Branch County Health Department standards.
- C. Public parks and government buildings
- D. Public and private hospitals, schools, churches, and golf courses.
- E. Public utility structures and substations.
- F. Community buildings associated with a housing development
- G. Trailer as a Temporary Use. Mobile homes as a temporary use in cases where disaster results in substantial destruction of the principal dwelling, when authorized by the Planning Commission as a SPECIAL USE. The Planning Commission may authorize the Zoning Administrator to issue a temporary use permit for a period of one (1) year, provided that the following conditions are found to exist:
  - 1) The mobile home is connected to an approved water well and septic tank system.

*Revised??/??/2014*

2) All requirements of SECTION 6.03 and SECTION 6.04 of the Residential Zone are met.

3) The mobile home has at least six hundred and seventy-five (675) square feet of usable floor

**306.4 Regulations and Standards:** The following maximum and minimum standards shall apply to all uses and structures in the “R-1” district:

A. Minimum Lot Area:

- 1) Single family detached dwellings shall require a minimum parcel area of fifteen thousand (15,000) square feet.
- 2) Duplex or two-family dwellings shall require a minimum parcel area of twenty thousand (20,000) square feet.

B. Minimum Lot Width: The minimum lot width shall be one hundred (100) feet. Every parcel in the R-1zoned district shall have a minimum of 100 lineal feet on either a public road or private drive.

C. Minimum Yard and Setback Requirements:

- 1) Front Yard: Thirty (30) feet from roadway upon which lot or parcel principally fronts
- 2) When a lot width is less than eighty (80) feet, (4) structures on both sides of the subject property (if 4 exist on either side of subject) requesting a determination of a setback different than that stated in section 308.4c, the average of the (8) existing structures (if less than 8 existing-use average of those existing) shall determine the minimum setback. The zoning administrator has the authority to write a zoning permit. However, this minimum shall not be less than (4) four feet from a sideline of any property. Except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
  - a. If the request for averaging is for a principal structure, the averaging shall be from other principal structures.
  - b. If the request for averaging is for an accessory structure, the averaging shall be from other accessory structures. If there is no accessory structure, the principle structure will be used in the averaging.
  - c. Averaging does not pertain to sheds of 100 sq.ft. or less in size, and shall not be used in the developing of the averaging of principal structures and accessory structures.



3) Rear Yards: Twenty-five (25) feet.

a. Small accessory structure rear line setback: Five (5) feet.

D. Maximum Height Requirements: No dwelling shall exceed thirty-five (35) feet. All other structures shall not exceed twenty (20) feet.

E. Minimum Building Floor Area: Each residential dwelling unit shall contain a minimum of one thousand (1000) square feet of floor area for each family unit, exclusive of walls, stairways, basements, garages, or storage areas. Plus an additional 150 square feet for each additional bedroom or sleeping area exceeding two, for each dwelling unit.

## **SECTION 307: R-2 HIGH DENSITY RESIDENTIAL DISTRICT**

**307.1 Purpose:** It is the purpose of the high density residential district to provide for a variety of housing types – single family, duplex, apartments and townhouses. This housing is intended to provide a moderately high density living environment. However, it must be recognized that without sanitary sewage treatment facilities, allowable densities for such housing must respect the limitations of septic systems; therefore, while the designation of this district is high density, the interpretation of that term is relative to other allowable densities within the Township.

### **307.2 Uses Permitted by Right:**

- A. Single family residential dwelling.
- B. Duplex or two family residential.
- C. Multiple family residential dwellings or developments containing three or more living units.
- D. Accessory uses associated with residential structures such as garages and sheds for yard tools.

**307.3 Uses Permitted by Special Use Permit:** The following uses are permitted in this district subject to obtaining special use permit as provided in Article 5.

- A. Home occupations.
- B. Central sewage treatment facility in accordance with State of Michigan and Branch County Health Department standards.
- C. Public parks and government buildings.
- D. Public and private hospitals, schools, churches, and golf courses.
- E. Public utility structures and substations.
- F. Community buildings associated with a housing development.
- G. Trailer as a Temporary Use. Mobile homes as a temporary use in cases where disaster results in substantial destruction of the principal dwelling, when authorized by the Planning Commission as a SPECIAL USE. The Planning Commission may authorize the Zoning Administrator to issue a temporary use permit for a period of one (1) year, provided that the following conditions are found to exist:

*Revised????/2014*

- 1) The mobile home is connected to an approved water well and septic tank system.
- 2) All requirements of SECTION 3.07 6.04 of the Residential Zone are met.
- 3) The mobile home has at least six hundred and seventy-five (675) square feet of usable floor.

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

A. Minimum Lot Area:

- 1) Single family detached dwellings shall require a minimum parcel area of fifteen thousand (15,000) square feet.
- 2) Duplex or two-family dwellings shall require a minimum parcel area of twenty thousand (20,000) square feet.
- 3) Structures containing three or more dwelling units shall require eight thousand (8,000) square feet per unit.
- 4) When public sewers are available, duplex and multiple family residential may be constructed on the basis of five thousand (5,000) square feet per unit.

B. Minimum Lot Width: The minimum lot width shall be one hundred (100) feet. Every parcel in the R-2 zoned district shall have a minimum of 100 lineal feet on either a public road or private drive.

C. Minimum Yard and Setback Requirements:

- 1) Front Yard: Thirty (30) feet from roadway upon which lot or parcel principally fronts.
- 2) Side Yards: Ten (10) feet except in the case of corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
- 3) Rear Yards: Twenty-five (25) feet.
  - a. Small accessory structure rear line setback: Five (5) feet.
- 4) Multiple family residential dwellings or developments containing three or more living units must also meet the requirements set forth in Section 503.

Revised: 5/8/12

- D. Maximum Height Requirements: No dwelling shall exceed thirty-five (35) feet. All other structures shall not exceed twenty (20) feet.
- E. Minimum Building Floor Area: Each residential dwelling unit shall contain a minimum of one thousand (1000) square feet of floor area for each family unit, exclusive of walls, stairways, basements, garages, or storage areas. Plus an additional 150 square feet for each additional bedroom or sleeping area exceeding two, for each dwelling unit.

## **SECTION 308: R-3 DISTRICTS: WATERFRONT RESIDENTIAL DISTRICT**

**308.1 Purpose:** It is the purpose of the waterfront residential district to provide for single family residential uses, at moderate densities, in areas adjacent to lakes, streams and rivers. It is further the purpose to require lot areas large enough to protect Township lakes, streams, and rivers and ground waters from excessive pollution due to excessive concentration of septic systems adjacent to them. It is further the desire and intent of the Township of Kinderhook to control, regulate and maintain the physical characteristics of it's waterfront districts and to prevent over population, overuse, and safety and the pollution of the waters, streams, ponds, and drainage ways within the Township of Kinderhook. It is a further desire and purpose to protect the integrity of riparian rights associated with lakes, streams, rivers, ponds and drainage ways of the Township, and to regulate and prohibit funneling to said waters.

### **308.2 Uses Permitted by Right:**

- A. Single or two family residential dwelling.
- B. Accessory uses associated with single or two family residential structures, such as garages, sheds for yard tools and play houses.

**308.3 Uses Permitted by Special Use Permit:** The following uses are permitted in this district subject to obtaining a special use permit as provided in Article 5.

- A. Home Occupations.
- B. Public and private parks, clubs, camps and golf courses.
- C. Public and private hospitals, schools, churches and governmental buildings.
- D. Public utility structures and sub-stations.
- E. Trailer as a Temporary Use. Mobile homes as a temporary use in cases where disaster results in substantial destruction of the principal dwelling, when authorized by the Planning Commission as a SPECIAL USE. The Planning Commission may authorize the Zoning Administrator to issue a temporary use permit for a period of one (1) year, provided that the following conditions are found to exist:
  - 1) The mobile home is connected to an approved water well and septic tank system.
  - 2) All requirements of SECTION 3.08 of the Residential Zone are met.
  - 3) The mobile home has at least six hundred and seventy-five (675) square feet of usable floor.

*Revised 1/25/1999 Revised 11/6/2014*

**308.4 Regulations and Standards:** The following maximum and minimum standards shall apply to all uses and structures in “R-3” districts:

A. Minimum Lot Area:

- 1) No building or structure shall be established on a parcel less than fifteen thousand (15,000) square feet in area, provided that where a public sewer is provided, a lot size of twelve thousand-five hundred (12,500) square feet may be permitted.

B. Minimum Lot Width: The minimum lot width shall be 80 feet at the lake side building line, provided that a public sewer is provided, a minimum lot width of 75 feet may be permitted.

C. Yard and Setback Requirements:

1) Front Yard:

- a. Properties with water frontage: No building or structure shall be closer than 30 feet from front property line. In the case of actual water frontage; the measurement shall be where the grass meets the High-Water Mark. If there is a seawall, the measurement shall be from where the grass meets the seawall. NOTE: In cases where an extra wide seawall exists; the Zoning Administrator should view seawalls on either side of the subject lot to ensure a similar point of measurement is used. The maximum width of a seawall to be considered for a setback measurement shall be twelve (12) inches from the water side of the wall. Sidewalks as part of the seawall shall not be used as the starting point.
- b. Properties without water frontage: No buildings or structures shall be located closer than 30 feet from front property line.
- c. When two or more structures in existence at the time of the effective date of this ordinance are within 300 feet in the same zoned district and on the same side of the street, the setback from the waterfront or the setback from the front property line shall not be less and need not be greater than the average of the four principal structures on either side or the average of the existing structures when less than eight structures exist.

2) Side Yards: Ten (10) feet except in the case of corner lot, where the side yard on the street side shall not be less than the setback required for the front yard. When a lot width is less than eighty (80) feet, (4) structures on both sides of the subject property (if 4 exist on either side of subject) requesting a determination of a setback different than that stated in section 308.4c, the average of the (8) existing structures (if less than 8 existing-use average of those existing) shall determine the minimum setback the zoning administrator has the authority to write a zoning permit for. However, this minimum shall not be less than (4) four feet from a sideline of any property. Except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.

Revised 10/30/17

- a. If averaging is requested or necessary for a principal structure, it shall be measured by the Zoning Administrator and from other principal structures. ~~If the request for averaging is for a principal structure, the averaging shall be from other principal structures~~
- b. ~~If averaging is requested or necessary for any accessory structures attached to the principal structure such as a garage or porch, they shall be measured from the other garages or porches attached to the principal structures, if they exist~~
- c. If the request for averaging is for an accessory structure, the averaging shall be from accessory structures ~~that were placed on the lot not attached to principal structure having been issued a zoning permit and have complied with the zoning permit and or variances as issued other accessory structures.~~ If there is no accessory structure the principle structure ~~or attached garage shall~~ will be used in the averaging. ~~Averaging does not pertain to sheds of 100 sq.ft. or less in size, and shall not be used in the developing of the averaging of principal structures and accessory structures.~~
- d. ~~This average shall be for any Front Yard, Rear Yard or Side Yard average request in the R3 District~~

3) Rear Yards:

- a. Thirty (30) feet, which in the case of property with water frontage refers to the property line opposite the waterfront side.
- b. When two or more principal structures in the existence at the time of the effective date of this ordinance are within 300 feet in the same zoned district, the property line shall not be less than the average of the four principal structures on either side or the average of the existing structures when less than eight structures exist.
- c. Maximum Height Requirements: No dwelling shall exceed thirty-five (35) feet. All other structures shall not exceed twenty (20) feet.
- d. Minimum building floor area: no residential dwelling unit shall have less than one thousand (1,000) square feet of living area, exclusive of garages and basements, plus an additional 150 square feet of living area for each additional bedroom or sleeping area exceeding two (2).

**308.5 Garages and Boat Storage Units:** Garages and/or boat storage units must comply with all set backs established in these sections.

- 308.6 **Regulations Existing in Planned Residential Developments:** The use of any waters, streams, ponds, drainage ways of all types shall be restricted to that right of use enjoyed by virtue of riparian rights only, and shall be confined to reasonable use by the owners or occupants, their immediate families or social invitees, or a riparian parcel which is contiguous to the water and has riparian rights as of the date of this ordinance.
- 308.7 **Special Uses:** If a riparian parcel is proposed to be used by persons other than the owners or occupants, and their immediate family and social invitees, for a park, beach, boat launch, picnic area or similar use for outdoor recreation, then in such an event said use may be made of said riparian parcel only, when permitted by the Zoning Board of Appeals as a special exception, as provided in Sections 602.5 and 602.7 in the Zoning Ordinance.
- 308.8 **Special Use Considerations:** The Zoning Board of Appeals shall take into consideration as explicitly spelled out in the foregoing Section 602.5 that the proposed use does not impair the natural appearance of said land or overcrowd the parcel or water surface to tend to produce unreasonable noise or annoyance to surrounding properties. That the proposed construction or use because of its intensive nature of proposed location, does not pose substantial environmental hazards, and that all other factors considered in light of the proposed use and specific characteristics of the property and surroundings are favorable towards the proposed use; and that no use shall be made of any land or water for boat liveryes or public or commercial beaches or recreational use operated for profit.
- 308.9 Any dredging and/or filling of water areas shall be permitted only after review and approval from the Michigan Department of Natural Resources, Branch County Drain Commission, and the Kinderhook Township Board of Zoning Appeals.
- 308.10 Dwellings in the R3 Waterfront Residential District shall submit with the site plan proof that 75% of the required square footage for dwelling will have a foundation under the perimeter forty-two (42) inches below ground level. (2 bedrooms = 1,000 sq.ft., 3 bedrooms = 1,150 sq.ft., etc...)
- 308.11 Dwellings in the Ag, R1, R2 & R3 Districts shall have a core area minimum of 20 feet by 20 feet.



## **SECTION 309: R-4 DISTRICT: MOBILE HOME PARK DISTRICT**

309.1 **Purpose:** It is the purpose of the mobile home park district to provide for the location of mobile home dwellings in an attractive and orderly manner in Kinderhook Township. It is the particular purpose to concentrate such dwelling units in areas or similar housing and to avoid wherever possible the scattering of such units throughout the Township. Kinderhook Township recognizes that mobile home dwellings provide respectable, lower cost housing for persons who might otherwise be unable to economically locate within the Township. No travel trailer, camper trailer, or other mobile living unit may be used for occupied dwelling purposes in any area of Kinderhook Township. However, mobile homes designed for permanent residential living may be located in a residential district provided they meet the regulations and standards of that residential district or in areas zoned thereunder as mobile park home districts.

309.2 **Uses Permitted:** Subject to conditions set forth in Sections 309.3, 309.4, 309.5, 309.6.

- A. Mobile home dwellings within a mobile home park on a parcel of at least twelve thousand (12,000) square feet which may be reduced to six thousand (6,000) square feet if public sewers are provided.
- B. Accessory uses as described in Section 306.2 (C) and included community building and park maintenance equipment storage buildings.
- C. Home occupations by special use permit only.

309.3 **Definitions:**

- A. Mobile Home: Means a movable or portable dwelling of thirty-five (35) feet or more in length, which is constructed to be towed on its own chassis. Is capable of being connected to public utilities, and is designed for year-around living as a single family dwelling unit without the necessity for a permanent foundation. The

term shall not include pick-up campers, travel trailers, converted buses, or tent trailer campers.

- B. Mobile Home Lot or Site: Means a parcel of land for placement of a single family unit and the exclusive use of its occupants within a licensed mobile home park.
- C. Mobile Home Park: Means a parcel of land under single ownership which has been planned and approved for the placement of mobile homes as defined in Section 309.3 (A).
- D. Mobile Home Stand: Means a part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.
- E. Mobile Home Sub-divisions: Means a sub-division established in accordance with Act 288 of the Michigan Public Acts of 1967, exclusively for the location of mobile homes.

**309.4 Procedure and Permits:** The following describes the procedures and permits necessary for the development of a mobile home park:

- A. Planning Stage: In addition to those procedures described in this ordinance, the developer of a mobile home park shall first obtain a construction permit from the Director of the State of Michigan Department of Public Health and otherwise satisfy all other requirements and receive State approval as required in the State of Michigan Trailer Coach Act, being Act 243 of the Michigan Public Acts of 1959, as amended.
- B. Construction Permit: Said developer shall further obtain a building permit from the Kinderhook Building Administrator as required in the Township building code.
- C. Periodic Inspections: The Kinderhook Building Inspector or other agents authorized by the Kinderhook Township Board are granted the power and authority to enter upon the premises of such park at any time for the purposes of determining and/or enforcing any provision or provisions of this or any other Kinderhook Township Ordinance applicable to the conduct and operation of mobile home parks. The management shall maintain a current list of all persons occupying, permanently or temporarily, any mobile home located in the park which shall be available for inspection by Kinderhook Township Representatives.

**309.5 Regulations and Standards for Mobile Home Parks:**

- A. Park Area: The land area of a mobile home park shall not be less than fifteen (15) acres.

- B. Mobile Home: Each mobile home within such park shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for attachment to appropriate external systems.
1. The mobile home shall be connected to a public sewer and water supply system or to such private facilities approved by the local Health Department.
  2. Mobile homes shall in all respects shall comply with all construction, plumbing, electrical, and insulation requirements of a type and quality conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 CF 3280, and from time to time such standards may be amended.
  3. The Mobile home shall have a minimum floor area of one thousand (1000) square feet.
  4. The mobile home shall be aesthetically compatible in design and appearance with other residences in the vicinity and district. The compatibility in design and appearance shall be determined by the Township Zoning Officer upon review of the plans submitted for the particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals within fifteen (15) days of a decision.
- C. Yard Requirements: Each mobile home site shall have a minimum side yard of twenty (20) feet at the entry side of the mobile home and a minimum side yard of ten (10) feet between the side and end of mobile home and rear lot lines. Expandable rooms, enclosed patios or other structural appurtenances shall be included in determining the mobile home stand or concrete apron area. Patios and individual storage areas shall be disregarded when determining yard widths. The edge of an internal hard surfaced street shall be deemed a site boundary line.
- 1) Minimum small accessory structure setbacks: Rear: five (5) feet and Side: ten (10) feet.
  - 2) Minimum Large accessory structure setbacks: Rear: ten (10) and Side: ten (10) feet.
- D. Height: No multiple decking of mobile homes shall be allowed. Maximum height shall not exceed fifteen (15) feet.
- E. Other dimension requirements: No mobile home shall be located closer than thirty (30) feet to any private street or roadway, or the boundary of such park which is not a public street. No mobile home shall be located closer than seventy-five (75) feet to any public right-of-way, or fifty (50) feet to any service building.

The buffer area thus created is to be landscaped and maintained by the park management in a neat and orderly manner.

- F. Each mobile home site shall be provided with a stand, consisting of a solid pad of reinforced concrete not less than four (4) inches thick, and not less than the length and width of the mobile home that will use that site. (The support can also be 16 inch diameter concrete piers extended four (4) feet below grade). Tie down facilities will also be incorporated into the concrete so that guy lines shall be installed under the mobile home at sufficient intervals to prevent upheaval of mobile homes during severe winds and storms. The pad or piers shall so be graded, constructed and placed on durable and adequate for support of maximum load during all seasons.
- G. Each mobile home shall be supported on uniform jacks or block supplied by the mobile park management. (Revised: 5/8/12)
- H. No mobile home shall be occupied by more than one family which is defined, as an individual or two or more persons related by blood, marriage or adoption, or a group not to exceed two (2) persons not related by blood or marriage, occupying a premises and living as a single housekeeping unit.
- I. Uniform skirting on each mobile shall be required within thirty (30) days after initial placement. Such skirting shall be of twenty-six (26) gauge solid sheet metal, aluminum or other non-corrosive material, or properly mortared concrete blocks; and so constructed and attached to the mobile home so as to deter and prevent entry of rodents and insects. Storage of goods and articles underneath any mobile home, or outdoors at any mobile home site, shall be prohibited. Skirting shall be vented and shall provide access to water supply and sewage disposal systems for inspection purposes.
- J. Canopies and awnings may be attached to any mobile home and may be enclosed and used for recreation or sun room purposes. When enclosed for living purposes, such devices shall be considered as part of the mobile home and a permit required, issued by the Township Zoning Administrator, before such enclosure may be used for living purposes.
- K. On site indoor or outdoor laundry (coin operated washer and dryer accepted) of adequate area and suitable location, shall be provided and where outdoor drying space is required or desired, individual clothes drying facilities on each site of the collapsible umbrella type of hanging apparatus shall be allowed, with park management providing a concrete embedded socket at each site.
- L. All mobile homes within such parks shall be suitably connected to sewer and water services provided at each mobile home site, cost to be totally assumed by developer, and shall meet the requirements and be approved by the Branch County Health Department.

- 1) All sanitary sewage facilities, including plumbing connections to each mobile home site, shall be constructed so that all facilities and lines are protected from freezing, from pumping or creating any type of health nuisance or health hazard. Sewage facilities shall be of such capacity to adequately serve all users at peak periods with running water from a state tested and approved supply, designed for a minimum flow of two hundred (200) gallons per day per mobile home site which shall be piped to each mobile home. Sewer connections shall not exceed ten (10) feet in length above ground.
- 2) Storm drainage sewers shall be constructed as to protect those who reside in the mobile home park, as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to insure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park.

M. Disposal of Garbage and Trash:

- 1) All garbage and trash shall be placed in an approved container, and the removal shall take place not less than once a week. Individual incinerators shall be prohibited.
- 2) The method used for such removal shall be approved by the State and inspected periodically by the Branch County Health Department.
- 3) Disposal of garbage and trash is the responsibility of the park management.

N. All electric, telephone and other lines from supply poles outside the park or other sources to each mobile home site shall be underground. In addition, street lights shall be provided and attached to poles or other structures approved by the Kinderhook Township. They shall have the minimum capacity equal to seventy-five (75) watt mercury vapor lamp and shall be located at least each one hundred and seventy (170) feet along the street or streets situated in the mobile home park.

O. Every mobile home park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size and number and so located in the park to satisfy regulations of the State Fire Marshall and the Kinderhook Fire Chief or Department serving that area.

P. Open Space and Recreation:

- 1) A buffer of trees and shrubs not less than fifty (50) feet in-depth shall be located and maintained along all boundaries of such park, except at entrances and exits serving such park. When necessary for health, safety and welfare, a fence shall be required to be erected by developer to separate park from an adjacent property.

- 2) Any and all plantings within the park shall be hardy plant materials and shall be maintained thereafter in a neat and orderly manner. Weathered and dead plant material shall be replaced within a reasonable period of time but no longer than one growing season.
- 3) A recreation space shall be developed and maintained by the park management. This area shall not be less than one hundred (100) feet in its smallest dimension and its boundary no less than five hundred (500) feet from any mobile home site served. Streets, sidewalks and parking areas and accessory buildings are not to be included as recreation space in computing the necessary area.

Q. Street Systems:

- 1) All mobile home parks shall be provided with at least two (2) points of safe and convenient vehicular access from an abutting street. No entrance to a park shall be closer than one hundred twenty-five (125) feet from the point of the proposed right of way of any two streets.
- 2) Each mobile home site shall abut, face or have clear unobstructed access to a drive, street or road within the park. All streets shall have an approved cross section in accordance with the standards of the Branch County Road Commission and the paved surface shall not be less than twenty-four (24) feet in width. No park shall provide or have direct access through any recorded single family subdivision.
- 3) All streets or drives shall be provided with a smooth grade, that is drained and of a durable surface commencing from the public street to and throughout the park. All street surfaces shall be maintained free of holes and other hazards.

R. Required Parking Areas:

- 1) Off-street parking shall be provided in all mobile home parks for the use of all occupants and guests. Parking spaces shall be at the ration of at least two (2) car spaces, not less than ten (10) feet by twenty (20) feet in size for each mobile home site.
- 2) No motor vehicle shall be permitted to be parked or stored within any required open space between mobile homes or any drive or street within the park. The park developer or owner shall provide a separate area, within the park for storage of tenants camping trailers, boats, snowmobiles and other similar recreational equipment, and such items shall not be stored in any other area of the park.
- 3) Parking bays or off-street parking spaces shall be provided within the thirty (30) foot setback area between interior park streets and the mobile home

provided that no parking space shall be located closer than ten (10) feet to any other area of the park.

- 4) If carports are provided, they shall comply with all setback and open space requirements for mobile home.
  - 5) Additional parking equal to one (1) space for four (4) mobile homes shall be provided for visitor parking equally distributed throughout the park.
- S. Use of Park Areas for Non-Residential Purposes:
- 1) No part of any mobile home park shall be used for non-residential purposes, except such uses that are required for direct services and well being of park residents and for the management and maintenance of the park; provided, however, the retail sales of new or used mobile homes may be made from the park, by the owners, but all said mobile homes held for sale shall be displayed on regular mobile homes sites of the park and said mobile homes on display shall be limited to fifteen (15%) percent of the available sites.
  - 2) Nothing contained in this section shall be deemed as prohibiting the sale of mobile homes located on a stand by the individual owner or his agent.

309.6 **Site Plan Review:** An application for the approval of any land for a mobile home park shall be submitted and processed under the following procedures:

- A. Applications: An application shall be submitted to the Zoning Commission on a special form provided for the purpose. Each application shall be accompanied by the payment of a preliminary sketch review fee, amount of such fee to be determined by the resolution of the Kinderhook Board. As a part of said application, the applicant shall file at least ten (10) copies of the site plan sketches, which shall conform to the following minimum requirements:
- 1) Contain as many illustrations as necessary to show the required data in sufficient detail to allow the Zoning Commission and Township Board to determine compliance with the sketch plan requirements.
  - 2) Provide a legal description and show location, size and shape of the property involved.
  - 3) Be drawn to such a scale to adequately reflect the size, shape, and location of existing and proposed man-made and natural facilities to be part of the site.
  - 4). Show a vicinity sketch, scale and north point.

- 5) A list of the names and financial interest in the project of all owners. If owners are corporations, the names of the officers and major stockholders of these corporations should also be included.
- 6) Any other information deemed necessary by the Township Board.
- 7) Upon receipt of such materials by the Clerk, the Township shall transmit one (1) copy to each of the following:
  - a. Branch County Road Commission
  - b. Branch County Health Department
  - c. Branch County Drain Commission
  - d. School District Board of Education
  - e. Fire Chief
  - f. State Water Resources Commission

For their review and comments, the Clerk shall transmit the remaining copies of the preliminary site plan to the Zoning Commission and Township Board for their review. The Zoning Commission shall, upon receiving the comments of the County and Local Agencies, undertake a study of the preliminary site plan and shall report their findings to the Township Board within forty-five (45) days of the receipt of the application, unless extended by mutual agreement between the petitioner and the Zoning Commission.

- B. Hearing: After adequate review and study of any application, the Township Zoning Commission shall hold a joint public hearing. Following the hearing (not necessarily the same day) the Zoning Commission and Township Board may impose any additional conditions and safeguards deemed necessary for the general welfare, then either approve or deny the preliminary permit.
- C. Final Detailed Site Plan: Following preliminary approval of the sketch site plan, the petitioner shall submit to the Township Clerk ten (10) copies of the detailed construction documents and site plan, as well as any other data, exhibits and information required, and pay to the Clerk a detailed site plan review fee, the amount of such fee to be determined by resolution of the Kinderhook Township Board.
  - 1) Every detailed site plan submitted to the Zoning Commission shall be in accordance with the following requirements:



- a. Contain as many illustrations as necessary to show required data in sufficient detail to allow the Zoning Commission and Township Board to determine compliance with the detailed site plan requirements.
  - b. Vicinity sketch of a scale of one (1) inch to one thousand (1,000) square feet.
  - c. Drawings other than vicinity sketch to be of scale of one (1) inch equals one hundred (100) feet.
  - d. Scale, North Point and all boundary dimensions.
  - e. Lot lines, including accurate dimensions, angles, and sizes correlated with the legal description of said property.
  - f. Existing natural features, topography, wood lots, streams, rivers, lakes, drains, wetlands, and similar features.
  - g. Existing man-made features such as buildings, structures, high tension towers, pipelines, existing utilities, excavations, bridges, culverts, drains and casements.
  - h. Any changes in existing natural or man-made feature intended, e.g. grading plan, landscape plan, etc.
  - i. Location, area and dimensions of proposed mobile home sites and stands; accessory building or buildings; height of all principal and accessory building or buildings; and a density schedule showing the number of proposed mobile home units.
  - j. Proposed streets, driveways, sidewalks, exterior lights and other vehicular and pedestrian circulation features within and adjacent to the site; location, area, number and dimensions of parking spaces, and identification of service lanes and services parking areas. Details of road and drives.
  - k. Location use and size of all utility service facilities, including any common fuel storage tank facilities, water and fire hydrants.
  - l. Plans shall be designed and prepared by a qualified and registered professional architect, engineer, landscape architect, planner, or other professional.
  - m. Any other information deemed necessary by the Zoning Commission.
- 2) Upon receipt of such materials by the Clerk, the Township shall transmit one copy to each of the following:

- a. Branch County Road Commission
- b. Branch County Health Department
- c. Branch County Drain Commission
- d. School District Board of Education
- e. Fire Chief
- f. State Water Resources Commission

For their review and written comments, the Clerk shall transmit the remaining copies of the detailed site plan to the Zoning Commission and Township Board prior to its next regularly scheduled meeting. The Zoning Commission and Township Board shall, upon reviewing the comments of the County Agencies, undertake a study of the detailed site plan and shall within sixty (60) days after Clerk's acceptance or within an extension of the sixty (60) days if there is mutual acceptance of this extension between the petitioner and the Township Zoning Commission, give their approval or disapproval of said detailed site plan.

## **SECTION 310: TRAILER COACHES AND/OR MOBILE HOMES USED AS DWELLINGS**

- 310.1 **Purpose:** Where trailer coaches and/or mobile homes may be permitted to be used as a dwelling under the terms of the Kinderhook Zoning Ordinance, other than in the mobile home park district, the additional following rules and regulations shall apply.
- 310.2 **Procedures and Permits:** The following described procedures and permits shall be necessary before a trailer coach or mobile home may be moved upon or located on any lot or premises or parcel of land outside of a licensed mobile home park.
- A. The owner of such lot or premises or parcel of land shall file with the office of the zoning officer a description of the trailer coach and/or mobile home and the legal owners' name and address.
  - B. Permit: Upon the filing of a written application containing the information required above, the zoning officer will determine if there is full compliance with this zoning ordinance and all of the, if any, other Township code ordinances currently in effect, in which event the zoning officer shall issue a permit to park and occupy the described trailer coach and/or mobile home as a dwelling.
  - C. Appeal: Any party considering himself aggrieved by the decision of the zoning officer may file an appeal to the Board of Appeals established hereafter and according to the procedure established in Article 6.
- 310.3 **Occupancy:** To inhabit, conduct or operate a mobile home or trailer, the owner shall conform to all of the requirements of the Branch County Health Department currently in force as to the water supply and sewage disposal system to be used in and for said dwelling.
- 310.4 **Building Code Permit:** Secure any and all necessary building code permits as may be required by the Township building code ordinance then in force in Kinderhook Township.
- 310.5 **Regulations and Standards:** Each mobile home permitted and parked in the Township, outside of a licensed mobile home park, shall be subject to the additional regulations and standards found in Section 309.5 F through 309.5 J.

## **SECTION 311: C-1 DISTRICTS: NEIGHBORHOOD COMMERCIAL**

311.1 **Purpose:** It is the purpose of neighborhood commercial district to provide for the day-to-day shopping and service requirements of persons residing within the Township while at the same time does not encroach in an undesirable manner on such uses.

### **311.2 Permitted Uses:**

- A. Those non-residential uses which are permitted in the residential zoning districts, except as specifically provided otherwise in this chapter, to the same conditions, restrictions, and requirements, as are provided in the residential zoning districts.
- B. Antique shop without repair or restoration.
- C. Bakery goods store.
- D. Banks, loan and/or finance offices.
- E. Barber or beauty shops.
- F. Book, stationery or gift store.
- G. Candy stores, soda fountain and/or ice cream stores.
- H. Clothing and dry goods stores.
- I. Delicatessen stores.
- J. Drug stores.
- K. Florist and gift shops without nursery.
- L. Grocery stores, meat markets, and convenience stores.
- M. Hardware stores.
- N. Laundromats.
- O. Offices, with all activities carried on indoors.
- P. Retail fuel sales combined with any of the above permitted uses.

311.3 **Special Use Permits:** The following uses are permitted in this district subject to obtaining a special use permit as provided for in Article 5.

- A. Service stations
- B. Restaurants and/or cafes without dancing, floor shows, drive-in service, or the serving of alcoholic beverages.
- C. Funeral homes.

311.4 **Regulations and Standards:** The following maximum and minimum standards shall apply to all uses and structures in the “C-1” district.

A. **Minimum Lot Area:** All uses permitted in this district shall provide a minimum lot of fifteen thousand (15,000) square feet in area.

B. **Minimum Lot Width:** The minimum lot width shall be one hundred (100) feet.

C. **Yard and Setback Requirements:**

1) **Front Yard:** Where all the frontage on the same side of a street between two intersecting streets is located in a commercial zoning district and where a setback has been established by fifty percent (50%) of said frontage, then this established setback shall determine the required front yard. In all other cases there shall be a front yard of not less than fifty (50) feet.

2) **Side Yard:**

a. Where the side of a lot in a commercial zoning district abuts upon the side of a lot in a residential or agricultural zoning district, each side yard shall be not less than twenty-five (25) feet.

b. There shall be a side yard of not less than forty (40) feet on the street side of a corner lot.

c. No side yard shall be required when directly abutting other commercial uses or land included in a commercial or industrial district.

3) **Rear Yard:**

a. Where the rear of a lot in a commercial zoning district abuts upon the side yard of a lot in any residential district or agricultural zoning district, there shall be a rear yard of not less than twenty-five (25) feet.

b. In all other cases, there shall be a rear yard not less than ten (10) feet.

D. **Maximum Height Requirements:** Thirty-five (35) feet measured from the average finished grade at the front setback line.

E. **Landscaping:** All commercial buildings and their parking areas shall be landscaped in a manner which is both attractive and which provides a buffer between adjacent non-commercial uses and roadways. Such landscaped areas shall be adequately maintained. Plans for such landscaping shall be approved by the Planning Commission.

## **SECTION 312: C-2 DISTRICTS: GENERAL COMMERCIAL DISTRICT**

312.1 **Purpose:** The purpose of this district is to provide areas primarily dedicated to community-wide general retail needs, as well as service needs of the motoring public.

### **312.2 Uses Permitted by Right:**

- A. All uses permitted in the neighborhood commercial district.
- B. Amusement enterprises.
- C. Antique shop with repair and restoration, provided all articles for sale are displayed or stored within the shop.
- D. Automobile and other vehicle sales.
- E. Automobile repair shop or garage, including major repair operations.
- F. Bank, loan and finance offices including drive-in branches.
- G. Clinics – dental and medical including laboratories.
- H. Contractor (plumbing, heating, electrical, etc.) provided all operations and storage are completely enclosed in a building.
- I. Eating places – including restaurants with the serving of alcoholic beverages, bars, grills, cocktail lounges, and drive-ins.
- J. Florist and gift shops including nurseries.
- K. Hotels, motels, motor hotels.
- L. Liquor stores.
- M. Lodge halls, private clubs, veterans' clubs.
- N. Malt beverage, liquor and wine distribution.
- O. Marinas.
- P. Offices.
- Q. Professional studios.

- R. Plumbing and heating shops, provided all operations and storage are completely enclosed in a building.
- S. Resale shops including “auction houses”.
- T. Resorts including seasonal cabins.
- U. Service stations.
- V. Taxidermists.
- W. Warehousing and storage structures.
- X. Wholesale sales.
- Y. Billboards and business signs.
- Z. Outdoor motor vehicle, boat, mobile home sales, rental, repair, and display or services.

**312.3 Uses Permitted by Special Use Permit:** *(Revised 1/4/2001)*

- A. Shopping centers.
- B. Outdoor theaters.
- C. Car washes, automatic and self serve.
- D. Transient amusement enterprises such as carnivals, circuses, and tent shows.
- E. Commercial beaches.
- F. Truck terminals.
- G. Other uses not specifically mentioned elsewhere of a commercial character.
- H. Wireless communications facilities per Section 402.6

**312.4 Regulations and Standards:** The following maximum and minimum standards shall apply to all uses and structures in the “C-2” district:

- A. **Height Area and Yard Requirements:** Height, area and yard requirements in the C-2 zone are the same as the C1-zone.
- B. **Fencing:** Commercially zoned properties may have a 6 foot high fence. In addition, this fence may contain up to 3 strands of barbed wire for security purposes.

*Revised 11/6/2014*



## **SECTION 313: I DISTRICTS: INDUSTRIAL DISTRICTS:**

313.1 **Purpose:** It is the purpose of the industrial district to provide for a variety of industrial land uses. This industrial district is limited to large tracts located along or with access to state highways and major county thoroughfares. These regulations are intended to provide standards of external effects or amenities compatible with the surrounding or abutting property owners. To these ends, development is limited to a low concentration, external effects are limited, and uses are limited to those industrial activities which can be operated in a clean and quiet manner and which will be least objectionable to adjoining owners.

### **313.2 Uses Permitted by Right:**

- A. The manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils.
- B. The manufacture, compounding, assembly, or treatment of articles from the following previously prepared material: Aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood and yarn.
- C. The manufacture, only by electricity or gas, pottery and figurines or other ceramic products, using only previously pulverized clay.
- D. Petroleum storage located at least five hundred (500) feet from any residentially zoned property.
- E. Auto repair shops.
- F. Auto washes.
- G. Contractor yards.
- H. Machine shops.
- I. Printing shops.
- J. Sign painting and servicing shops.
- K. Taxidermists.
- L. Warehouses and storage.
- M. Wholesale sales.

- N. Junk Yards.
- O. Airports.
- P. Parking lots.
- Q. Radio and TV towers.
- R. Billboards, business signs, real estate signs, identifying signs, name plates.
- S. Public buildings and public utility structures.
- T. Accessory uses relating directly to and servicing the principal use on the site, including:
  - 1) Restaurant or cafeteria for employees
  - 2) Office facilities

**313.3 Special Use Permit:**

- A. Drive-in theaters.
- B. Any other industrial uses.
- C. Wireless communication facilities per Section 402.6.

**313.4 Regulations and Standards:** The following maximum and minimum standards shall apply to all uses and structures in the “I” district:

- A. Minimum Lot Area: All uses permitted in this district shall provide a minimum lot of twenty thousand (20,000) square feet in area.
- B. Minimum Lot Width: The minimum lot width shall be two hundred (200) feet.
- C. Maximum Lot Coverage: The maximum lot coverage shall not exceed fifty (50) percent.
- D. Yard and Setback Requirements:
  - 1). Front Yard: Fifty (50) feet from street or road upon which lot or parcel principally fronts.
  - 2). Side Yards: Ten (10) feet, except in the case of a corner lot where the side yard on the side street shall not be less than the setback required for the front

yard, except when the side yard of a lot abuts the side yard of a lot zoned other than industrial, the side yard shall be fifty (50) feet.

- 3). Rear Yard: Fifty (50) feet.
- E. Maximum Height Requirements: Forty-five (45) feet measured from the average finished grade at the front setback line (see Section 401.7 for exceptions).
- F. Landscaping: All industrial buildings and their parking areas shall be landscaped in a manner which is both attractive and which provides a buffer between adjacent non-industrial uses and roadways. Such landscaped areas shall be adequately maintained. Plans for such landscaping shall be approved by the Planning Commission.
- G. Residential Buildings or Structures: All residential buildings and/or structures must comply with the requirements of Section 202.17.
- H. **Fencing:** Industrial zoned properties may have a 6 foot high fence. In addition, this fence may contain up to 3 strands of barbed wire for security purposes.

**SECTION 314: OPEN SPACE PRESERVATION** *(Section added 12/11/2003)*

**314.1 Open Space Preservation Option:** At the option of the developer, land zoned R-1, R-2, R-3 may be developed for detached single-family residential subdivisions and condominiums in the fashion established under P.A. 177 of 2001. Land developed under this option must adhere to the following requirements:

- A. **Minimum Open Space Required:** In all developments proposed under the standards of this option, at least fifty (50) percent of the gross buildable area of the subject property must be perpetually preserved as open space. Gross buildable area is defined as that portion of the gross site area not containing open bodies of water, streams, wetlands (as defined by the MDEQ), and areas within the 100-year flood plain.
- B. The following land areas shall not be applied toward satisfaction of the minimum open space requirements stated under 314.1 (A).
  - 1) Unbuildable land, including wetlands, open bodies of water and streams, and areas within the 100-year flood plain.
  - 2) The area of any public road right-of-way or private road easement.
  - 3) Areas within lots or units.
  - 4) Public or private golf courses.
- C. The following land areas may be applied toward satisfaction of the minimum open space requirements stated under 314.1 (A).
  - 1) Uncleared areas of the site left in their natural condition.
  - 2) Landscaped greenbelts.
  - 3) Public and private parks developed with recreation amenities including but not limited to: landscaping, gazebos, benches, play equipment, pathways (woodchip or paved), and wildlife enhancements.
  - 4) Storm water management facilities, including detention, retention and sedimentation basins, up to 25% of the total amount of open space required under 314.1 (A).

**314.2 Open Space Standards:** Open space intended to satisfy the minimum requirements stated under 314.1 (A) must adhere to the following standards:

- A. Open space shall be centrally located, located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development.
- B. Open space must either be left in its natural condition, provided with recreational amenities, or landscaped. Preserved open space shall not be left primarily as lawn. This shall not apply to storm water management basins.
- C. Open space provided along exterior public roads shall generally have a depth of at least one hundred (100) feet, and be either landscaped or left in a natural wooded condition. In either case, open space along exterior public roads shall be provided with a minimum of one (1) evergreen or canopy tree for each thirty (30) feet of road frontage. Such plantings shall be planted in staggered rows or clustered into natural groupings to provide a natural appearance. Preservation of existing trees may be credited towards meeting this frontage landscaping requirement.
- D. Open space must be accessible. Access can be provided via sidewalks and pathways throughout the development or where open space abuts road right-of-ways within the development.
- E. Connections with adjacent open space, public land or existing or planned pedestrian/bike paths may be required by the Planning Review Committee and/or the Planning Commission.
- F. Views of open spaces from lots (or units) and roads within the development are encouraged. For larger developments (Over 100 residential units or golf course communities), the Planning Commission may require view-sheds of lakes or other areas as a condition of approval. A view-shed shall be composed of at least one hundred (100) lineal feet of road frontage having an unobstructed view of a lake or other landscape feature found acceptable to the Planning Review Committee and the Planning Commission.
- G. Where lakes and ponds are located within or abut a development, the Planning Commission may require open space to provide lake access.

314.3 **Means of Open Space Preservation:** Open space shall be set aside by the developer through an irrevocable recorded document that is found acceptable to the Planning Review Committee and the Planning Commission, such as:

- A. Recorded deed restrictions;
- B. Covenants that run perpetually with the land;
- C. Dedication to a land conservancy approved by the Planning Commission.

- D. A conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (MCL 324.2140)

314.4 **Protection of Open Space:** Preservation of open space as described above under 314.1-314.3 shall assure that open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. The recorded document utilized shall indicate the proposed allowable use(s) of the preserved open space. The Planning Review Committee and/or the Planning Commission may require the inclusion of open space restrictions that prohibit, or require, the following:

- A. Dumping or storing of any material or refuse;
- B. Activity that may cause risk of soil erosion or threaten any living plant material;
- C. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
- D. Use of motorized off-road vehicles;
- E. Cutting, filling or removal of vegetation from wetland areas;
- F. Use of pesticides, herbicides or fertilizers within or adjacent to wetlands;
- G. Require that the preserved open space be maintained by parties who have an ownership interest in the open space;
- H. Provide standards for scheduled maintenance of the open space;
- I. Provide for maintenance to be undertaken by the Township of Kinderhook, at the Township's option, in the event that the preserved open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

314.5 **Continuing Obligation:** The preserved open space shall remain open space, subject only to uses approved by the Township on the approved site plan or plat. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easement for utilities and septic system, shall be strictly prohibited.

314.6 **Allowable Structures:** Any structure(s) or buildings(s) accessory to a recreation, conservation or agriculture use may be erected within the preserved open space, subject to the approved site plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one (1) percent of the required open space area. Accessory structures may include:

- A. Maintenance buildings;
- B. Clubhouses;
- C. Recreation structures (gazebos, boardwalks, docks, play equipment, etc.);
- D. Other structures as approved by the Planning Committee or Planning Commission.

**314.7 Lot Size Reduction:**

- A. The minimum lot width and lot area for lots or units in the single-family detached residential developments, as stated in the Schedule of Regulations for each zoning district, may be reduced by up to fifty (50) percent when developed using the option provided under this sub-section.
- B. Notwithstanding 314.7 (A), no lot area shall be reduced below 6,600 square feet, nor shall the lot width be reduced below sixty-six (66) feet. Larger lot area may be required to the requirements of P.A. 288 of 1968, the Subdivision Control Act.
- C. Every square foot of lot area reduction proposed below the minimum lot area normally permitted for the district must be preserved as open space, and may be counted toward the minimum required open space described above under 314.1.
- D. Required yard setbacks shall not be reduced.

## ARTICLE 4: GENERAL PROVISIONS AND EXCEPTIONS

### SECTION 401: SUPPLEMENTARY REGULATIONS:

- 401.1 **Accessory Buildings and Structures:** No accessory building or structure which is not attached and made structurally a part of the principal building shall be closer than ten (10) feet to any other structure on the lot. Accessory buildings are subject to all setbacks and side yard requirements applying to the principal building.
- 401.2 **Fences, Walls and Screens:** The following regulations shall apply to all fences, walls, screens or similar devices of structural or plant materials.
- A. No fence, wall, screen of any material including plant materials shall be erected higher than six (6) feet from the average grade elevation of the property.
  - B. No fence, wall, screen or any planting shall obstruct the visibility of motorists at driveway entrances to streets.
  - C. No fence, wall, screen or planting shall be higher than three (3) feet if within twenty (20) feet of the front property line or if within thirty (30) feet of the waterfront property line if the property has water frontage.
  - D. In the R3 Waterfront Residential District, no fence shall exceed thirty-six (36) inches in height beyond the front line of the DWELLING with the greatest setback from the water using the property line for which the fence is proposed to be installed upon or near. Any fence installed that extends beyond the front of the main portion of the residence shall be a fence that does not obstruct the view of water from any direction. No solid fences allowed in front of lake front dwellings.
- 401.3 **Variance Requirements on Lots of Record:** Any residential or waterfront residential lot created and recorded prior to the effective date of this ordinance may be used for residential purposes even though the lot area and/or are less than those required for the district in which the lot is located, provided that all other requirements of the district are met.
- 401.4 **Lot Area can be Allocated Once:** No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.
- 401.5 **Uncovered Paved Terraces, Patios and Decks:** These structures are subject to the same requirements established for accessory buildings and structures if they exceed twelve (12) inches above the grade level of the principal structure.
- 401.6 **Swimming Pools:** All swimming pools are subject to the same requirements established for accessory buildings and structures.



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

- A. Church spires, belfries and flag poles.
- B. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smoke stacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, masts and aerials, television antennas, fire hose towers, wire transmission structures and cooling towers.
- C. Those structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five (5) feet above height limitations and have no windows openings.
- D. Public utility structures.

**401.8 Conditional Zoning is allowed.**

**401.9 Animals: The allowed Animal Density Shall Be:**

- A. On a lot of one (1) acre or more in a non-agriculture district the animal density shall not exceed the aggregate of one thousand (1000) pounds.
- B. On a lot of one (1) acre, but less than five (5) acres in an agriculture district, the animal density shall not exceed the aggregate of twenty-five hundred (2500) pounds.

**401.9A Livestock, Wild Animals, 4-h, FFA & Youth Programs:**

Livestock and wild animals may be kept in the A, R-1, R-2, C-2 & I zoned districts provided there is a minimum property size of one (1) acre. No livestock or wild animals shall not be allowed to encroach on adjacent properties in any way. Livestock and wild animals may not be kept in the R-3 and R-4 residential districts.

Any A or R-1 or R-2 zoned properties of less than one (1) acre may be used for the purpose of keeping chickens and rabbits only and shall meet the following requirements:

1. No person shall keep more than four (4) chickens and/or four (4) rabbits.
2. No person shall be allowed to keep any roosters.
3. No person shall keep any chickens or rabbits inside a single-family dwelling.
4. Chickens and rabbits must be kept in the rear yard with a covered enclosure with a fenced enclosure provided.
5. Said enclosure shall not be located closer than 25 feet to any property line of an adjacent property.

6. Disposal of waste material from chickens or rabbits must be done in such a way that does not create a smell or nuisance to property or neighboring properties.

*Revised 5/8/2012*

**401.10 Use of Vacant Land or Yard Space:** No vacant land, yard space or parcel of land encompassing a dwelling or commercial building shall be used for open air storage, wrecking, parking, dismantling, storage, accumulation or abandonment, either temporary or otherwise, of disused, discarded or dismantled vehicles, machinery, apparatus, implements, furniture, appliances, used lumber, watercraft or any junk or similar used property, with the exception of currently and properly licensed vehicles that are road worthy and have all their main components; also recreation equipment that are road worthy and have all their main components.

## **SECTION 402: MISCELLANEOUS REGULATIONS:**

- 402.1 **One Building on a Lot:** No more than one principal building may be permitted on a lot or parcel, unless specifically provided elsewhere in this ordinance.
- 402.2 **Unsafe Buildings:** Nothing in this ordinance shall prevent compliance with an order by an appropriate authority to correct, improve or strengthen, or restore to a safe condition any building or any part of a building declared to be unsafe.
- 402.3 **Building Grades:** The finished surface of ground areas of outside walls or any building constructed or altered shall be so designed so that surface waters shall flow away from building walls in such a direction and collection that inconvenience or damage to adjacent properties shall not occur.
- 402.4 **Required Water and Sanitary Sewage Facilities:** Any structure erected for human occupancy after the effective date of this ordinance and used for a dwelling, business, industrial, and recreation purposes shall be provided with a safe, sanitary and potable water supply and with a safe and effective means of collection treatment and disposal of human, commercial or industrial wastes. All such installations shall comply with the requirements of the State of Michigan and Branch County Health Departments. No outdoor sanitary (privies) shall be allowed.
- 402.5 **Required Permits:** Kinderhook Township requires the property owner to obtain a zoning, building, electrical, mechanical, plumbing and any other applicable permit prior to any construction or alteration to any dwelling, structure, accessory structure within the Township.
- 402.6 **Wireless Communications Facilities** are permitted by special use permit in the following districts: A - Agricultural, C-2 – General Commercial and I – Industrial with the following standards:
- A. Monopole construction only.
  - B. At least three (3) collocations must be allowed in addition to the original company on every tower.

*Revised 1/4/2001 & Revised 5/8/12*

## **SECTION 403: NON-CONFORMING USES:**

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

403.2 **Structural Changes:** The building that is non-conforming shall not be structurally changed, enlarged, altered, unless the building conforms to the provisions of this ordinance for the district in which it is located, except as provided below.

403.3 **Repairs:** Any lawful non-conforming building may be repaired, reinforced, or reconstructed during its life to correct deterioration, obsolescence, depreciation and wear provided:

- A. The addition or replacement may not increase the number of violations that existed at the adoption of the ordinance.
- B. The severity of the violation that existed at the adoption of the ordinance may not be increased.

403.4 **Alterations and Improvements:** Nothing in this ordinance shall prohibit the alteration, improvement or modernizing of lawful non-conforming building provided:

- A. The addition or replacement may not increase the number of violations that existed at the time the ordinance was adopted.
- B. The severity of the existing violation at the time of the adoption of this ordinance may not be increased.

403.5 **Prior Construction Approval:** Nothing in this ordinance shall prohibit the completion of construction and use of a non-conforming building for which a building permit has been issued prior to the effective date of this ordinance, provided that the construction be commenced within ninety (90) days; after the date of issuance of the permit, that construction is carried out diligently and without interruptions for a continuous period in excess of thirty (30) days; and that the entire building shall be completed according to the plans filed with the permit application within one (1) year after the issuance of the building permit.

- 403.6 **Discontinuance or Abandonment:** Whenever a non-conforming use has been discontinued for more than twelve (12) consecutive months, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the non-conforming use. At the end of this period of abandonment, the non-conforming use shall not be re-established and any future use shall be in conformity with the provisions of this ordinance.
- 403.7 **Reversion to a Non-Conforming Use:** If a non-conforming use is changed to a use permitted in the district in which it is located, it shall not revert or be changed back to a non-conforming use.
- 403.8 **Displacement of Conforming Use:** No non-conforming use shall be extended to displace a conforming use.
- 403.9 **Non-Conforming to Non-Conforming Use:** The Township Board of Appeals may authorize a change from one non-conforming use to another non-conforming use **provided** the proposed use would be more suitable to the zoning district in which it is located than the non-conforming use which is being replaced.
- 403.10 **Termination of Non-Conforming Land Use:** The non-conforming use of land, where no building is located, existing at the effective date of this ordinance may be continued, provided that the non-conforming land use shall be terminated and converted to conform with the provision of this ordinance within one (1) year after the effective date of this ordinance, and provided further that the non-conforming land use shall not in any way be expanded or extended during this one (1) year interval, either on the same property or on adjoining property, provided, however, that vacant lands may be used for agricultural cultivation and crops.
- 403.11 **Illegal Non-Conforming Uses:** Those alleged non-conforming uses which cannot be proved conclusively to have been existing prior to the effective date of this ordinance shall be declared illegal non-conforming uses and shall be discontinued following the effective date of this ordinance.
- 403.12 **District Changed:** Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district or another classification, the foregoing provisions shall also apply to any existing uses that become non-conforming as a result of the boundary changes.
- 403.13 **Elimination of Non-Conforming Uses:** The Township Board may acquire properties on which non-conforming buildings, or uses are located, by condemnation or other means, and may remove such uses or structures. The resultant property may be leased or sold for a conforming use or may be used by the Township for a public purpose. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

**SECTION 404: PARKING REQUIREMENTS:**

404.1 **Purpose:** It is the purpose of these requirements that parking space shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles used by the occupants, employees, or patrons of each building constructed or altered under the provisions of the ordinance.

404.2 **Use of Parking Areas:** No commercial repair work, servicing or selling of any kind shall be conducted on any parking area except that which is specifically permitted by this ordinance. No items such as plastic animals, streamers, cloth signs, children’s play areas, mechanical entertainment devices, or any other similar device shall be permitted in the parking area or outside a building. However, such devices may be permitted for short periods of time for advertising purposes upon receipt of a special permit from the Zoning Commission.

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

<b>USE</b>	<b>NUMBER OF SPACES</b>
Residential	2 dwelling unit
Housing for elderly	1 each living units
Mobile Homes	2 dwelling unit
Institutional, churches, hospitals, auditoriums, theaters, clubs (public and private)	1 every 4 persons permitted by state law to occupy the building
Schools or colleges	1 each full time teacher or administrator and 1 each 3 students
Retail businesses	1/500 square feet of usable floor area
Restaurants, taverns	1 every 4 patron seats
Bowling alleys	5 each alley
Motels, hotels	1 each occupancy unit
Barber, beauty shops	2 each customer service station
Car washes, automatic	15 standing spaces/each bay
Car washes, self-service	3 standing spaces/each bay

Offices, banks	1/200 square feet of usable floor area
Gasoline service stations	2 each service bay plus 1/each employee
Industrial	1 each 2 employees in the largest work shift

**404.4 Design and Construction Requirements:**

- A. Minimum area per space shall be two hundred (200) square feet.
- B. Each space shall be clearly accessible to a public street.
- C. Parking areas shall be accessible by drives at least 20 feet wide, except in residential districts.
- D. Parking areas shall be maintained in a smooth, dust free condition and provided with adequate drainage.
- E. Parking areas for more than 10 vehicles shall be lighted, if used after dark, to insure safety of users, in a manner which minimizes the glare of lights visible to adjacent properties on the street.
- F. Parking adjoining a residential district shall not be closer than 10 feet to the property line and screen shall be provided to buffer adjacent residential properties.
- G. Parking areas shall not be located closer than 10 feet to the street right-of-way line.
- H. Parking areas shall be landscaped in an attractive manner, and shall be maintained in a litter free condition.

## SECTION 405: SIGN REGULATIONS

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

405.2 **Signs in Residential and Agricultural Districts:** Signs in accordance with the definition set forth in Section 202.49 of this ordinance shall be permitted subject to the following restrictions:

A. Signs no larger than seventeen (17) square feet in area shall be permitted in the Residential districts not to exceed six and one-half (6 ½) feet in height from the natural grade. Sign content shall not appear on the border or supporting structures of sign.

Signs no larger than sixteen (16) square feet shall be permitted in the Agricultural Districts not to exceed (6) feet in height from the natural grade.

B. Temporary signs may be permitted by the Zoning Administrator for no more than one (1) year provided they do not exceed thirty-two (32) square feet in area.

C. Public institutions and churches permitted in residential districts shall comply with regulations specified within the requirements of the Special Use Permit.

D. No flashing signs.

E. No sign of any type shall be placed within road right-of-ways, (other than required State or Local Signage).

F. Signs may be illuminated. The source of illumination shall be shielded from traffic and adjacent properties.

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

Signs may be illuminated. The source of illumination shall be shielded from traffic and adjacent properties.

Free standing signs shall:

1) Not obstruct a clear view of traffic.

Revised 10/30/17



2) Not exceed twenty-five (25) feet in height.

3) Not to exceed one per property, regardless of number of businesses.

Shall not be placed within road right-of-way.

Flashing signs may not operate between the hours of 12:00 a.m. to 6:00 a.m.

## ARTICLE 5 SPECIAL USE PERMITS

### SECTION 501: APPLICATIONS AND DETERMINATIONS

501.1 **Purpose:** It is recognized that certain uses may not be totally compatible with the uses permitted in any district without careful attention to design features, location, and the public health, safety, and welfare of adjacent uses, as well as that of the entire community. For this reason, certain uses shall be required to obtain special use permits prior to their establishment in the appropriate zoning district. Therefore, the special use permit is created in order to provide for a more detailed consideration of certain specified activities as they may relate to proposed conditions of: location, design, size, operation, intensity of use; generation of traffic and traffic movement; concentration of population; processes and equipment; amount and kind of public facilities and services required; together with may other possible factors.

#### 501.2 **Procedures for Making Applications:**

- A. Application shall be submitted to the Township Zoning Administrator; each application shall be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover cost of processing the application. No part of any fee shall be refundable.
- B. **Date required in Application:** Every application shall be accompanied by the following information and date:
  - 1). Site plan, plot plan, or development plan, drawn to a readable scale, of the total property involved showing the locations of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses.
  - 2). Preliminary plans and outline specifications of the proposed development.
  - 3). A statement with supporting evidence regarding the required findings specified in Section 501.3.
- C. The Planning Commission shall review the proposed development prior to submitting its recommendations for development prior to submitting its recommendations for action to the Township Board, in terms of the standards set forth in this ordinance.
- D. Prior to submitting recommendations, the Planning Commission shall hold a public hearing on each application after publication of notice in a newspaper of general circulation in the Township once, not less than fifteen (15) days prior (based on State of Michigan's Open Meetings Act) in advance of the hearing. Such notice shall indicate the place, time, and subject of the hearing.

- E. Upon conclusion of hearing procedures, the Planning Commission shall recommend action to the Township Board, including any time limit or specific requirements desired following favorable action by the Township Board, the Clerk shall issue a special use permit with all conditions clearly specified in writing.

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

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

501.4 **Time Periods:** Special Use Permits may be issued for time periods as determined by the Township Board in any case, if work is not completed to at least ten percent (10%) of completion within one (1) year of issuance of the special use permit, said permit shall become null and void, special use permits may be renewed in the same manner as they were originally applied for.

501.5 **Financial Guarantee:** In authorizing a Special Use Permit, the Township Board may require that a bond or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to assure compliance with such requirements as sidewalks, drives, utilities, parking, landscaping and the like.

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

## **SECTION 502: MULTIPLE FAMILY RESIDENTIAL DEVELOPMENTS**

### **502.1 Additional Information Required:**

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

### **502.2 Standards:**

- A. No building shall be closer than fifty (50) feet to another, except when there are no windows in abutting walls, then the distance may be reduced to twenty-five (25) feet.
- B. Motor vehicle entrance and exit shall be only from a major street (minor arterial or collector) to avoid the impact of traffic generated on neighboring residential uses.
- C. Recreational facilities for the residents shall be provided in easily accessible areas, including play equipment for children, as well as adult recreation area.

- D. Plantings: The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features, when practical, and additional new landscaping shall be added for privacy, shade, beauty of buildings and ground, and to screen objectionable features. The landscaping shall be submitted in conjunction with the site plan with the application.
- E. Land use pattern: All of the elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the type and size of plot, the character of adjoining property and the type and size of buildings. The arrangement of building shall be in favorable relationship to the natural topography, existing desirable trees, and other buildings on the site.
- F. Community buildings shall be of sound construction, attractively designed, and located in convenient proximity to the greatest possible number of residential living units.
- G. Minimum open space: At least thirty percent (30%) of the land within multiple housing developments and subdivisions containing lots of less than twenty thousand (20,000) square feet shall be set aside or dedicated and permanently maintained for open space.

## **SECTION 503: OTHER SPECIAL USES:**

503.1 **Purpose and Scope:** Land and structure uses that are not specified in any other section of this ordinance may be considered for Special Use Permit providing that they will not seriously injure surrounding properties by depreciative quality and value of such property and will not generally be injurious to the community as a whole.

503.2 **Standards:** All standards expressed elsewhere in this ordinance are applicable to uses permitted by this section, as well as any specific, reasonable standards which the Township wishes to apply to the consideration of the proposed use.

### **503.3 Wind Powered/Energy Turbines**

503.3A- **Description and Purpose.** The purpose of this Section is to establish regulations for the location, installation, and operation of Wind Energy Turbines (WET's). Among other goals, the regulations in this Section are intended:

- 1) To promote the safe, effective and efficient use of WET's to produce electricity and reduce the consumption of fossil fuels.
- 2) To preserve and protect public health, safety, welfare and quality of life by minimizing the potential adverse impacts of WET's.
- 3) To establish standards and quantifiable procedures to direct the site location, engineering, maintenance and decommissioning of WET's.
- 4) To define and delineate between various types of WET's in order to properly regulate the different WET technologies (See Figure 1).

#### **Figure 1**

(obtain photo's-samples etc.)

### 5.03.3A1 – DEFINITIONS.

1. **Ambient Sound Level:** The amount of background noise at a given location prior to the installation of a WET which may include, but is not limited to, traffic, machinery, lawnmowers, general human activity, and the interaction of the wind with the landscape. Ambient Sound Level is measured on the Decibel – dB(a)-weighted scale as defined by the American National Standards Institute (ANSI).
2. **Anemometer:** A wind speed indicator constructed for the purpose of analyzing the potential for installing a WET at a given location. An Anemometer includes a tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, a data logger, instrument wiring and telemetry devices used to monitor or transmit wind speed and wind flow characteristics over a period of time. Telemetry data can include instantaneous wind speeds or characterizations of wind resource at a given location.
3. **Decommissioning:** The process of terminating the operation of a WET by completely removing the entire WET and all related buildings, structures, foundations, supports, equipment and, as appropriate, onsite access roads.
4. **Large Wind Energy Turbine (L-WET):** A Tower-mounted wind energy system, standing greater than 150 feet tall and up to 400 feet tall, that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) L-WET's have nameplate capacities that do not exceed two hundred and fifty (250) kilowatts.
5. **Medium Wind energy Turbine (M-WET):** A tower-mounted wind energy system standing between one hundred twenty-one (121) feet tall and one hundred fifty (150) feet tall that converts wind energy into electricity using equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) M-WET's have nameplate capacities that do not exceed two hundred and fifty (250) kilowatts.
6. **Nacelle:** The encasement which houses the interior electricity generating components, gear box, drive train, brakes and related equipment of a WET.
7. **Net Metering:** A special metering and billing agreement between utility companies and their customers, which facilitates the connection of sustainable energy generating systems to the power grid.
8. **Occupied Building:** A structure used by or which houses residents, customers, workers or visitors.
9. **Operator:** The entity responsible for the day-to-day operations and maintenance of a WET.



- 10. Owner/Applicant:** The person, firm corporation, company, limited liability corporation or other entity seeking Township approval under this Section, as well as its successor(s), assign(s) or transferee(s), for a WET or Anemometer. An owner/applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WET or Anemometer. The duties and obligations regarding a zoning approval for any approved WET or Anemometer shall be with the owner/applicant of the WET or Anemometer, and jointly and severally with the owner and operator or lessee of the WET or Anemometer if different than the owner/applicant.
- 11. Rotor:** A blade of a WET that is connected to the rotor hub and nacelle and acts as an airfoil assembly that extracts kinetic energy directly from the wind.
- 12. Rotor Diameter:** The cross-sectional dimension of the circle swept by the rotating blades of a WET.
- 13. Shadow Flicker:** The moving shadow created by the sun shining through the rotating blades of a WET. The amount of Shadow Flicker created by a WET is calculated by a computer model that measures WET location, elevation, tree cover, location of adjacent structures, wind activity and sunlight angle.
- 14. Small Tower Mounted Wind Energy Turbine (STM-WET):** A tower-mounted wind energy system standing up to one hundred twenty (120) feet that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) STM-WET's have nameplate capacities that do not exceed thirty (30) kilowatts. Anything less than 32 feet total height to tip of top blade and less than 5 Kilowatts. Must meet normal zoning district setback requirements.
- 15. Structure:** Anything constructed or erected that involves permanent location on the ground or attachment to something having such a location.
- 16. Small Structure Mounted Wind Energy Turbine (SSM-WET):** A structure-mounted wind energy system that converts wind energy into electricity through the use of equipment (e.g., base, blade, rotor, foundation, generator, nacelle, tower, transformer, vane, wire, inverter, batteries, etc.) SSM-WET's are attached to a structure's roof, walls or another elevated surface. SSM-WET's have nameplate capacities that do not exceed fifteen (15) feet as measured from the highest point of the adjacent roof or structure, excluding chimneys, antennae or similar features. SSM-WET's have nameplate capacities that do not exceed thirty (30) kilowatts. Anything less than 32 feet total height to tip of top blade and less than 5 Kilowatts. Must meet normal zoning district setback requirements.
- 17. Survival Wind Speed:** The maximum wind speed, as designated by the WET manufacturer, at which a WET in an unattended state is designed to survive

without damage to any structural equipment or the loss of the ability to function normally.

- 18. Total Height:** The vertical distance as measured from the ground level of the base of a WET tower to the uppermost vertical extension of a rotor blade, or the maximum height reached by any part of a WET.
- 19. Tower:** A free-standing monopole that supports a WET.
- 20. Wind Energy Overlay District:** A specific zoning district for the location of L-WET's.
- 21. Upwind Turbines:** As opposed to a "downwind turbine," an Upwind Turbine has the rotor blades faces into the wind source direction.
- 22. Wind Energy Turbine (WET):** A structure-mounted or tower-mounted small, medium or large wind energy conversion system that converts wind energy into electricity through the use of specialized equipment and structures.

**503.3A2 – APPLICABILITY.** This Section applies to all WET's proposed for construction after the effective date of the ordinance adding this Section. All WET's constructed prior to the effective date of the ordinance adding this Section shall not be required to meet the standards of this Section; however, any physical modification to an existing WET that materially alters the size, type, equipment or location shall require approval per the standards of this Section.

**503.3A3 – TEMPORARY USES.** Anemometers are permitted in all zoning districts, subject to the provisions of this Subsection.

- 1) The construction, installation or modification of an Anemometer shall require both a zoning compliance permit and county building permit.
- 2) Anemometers must conform to all applicable local, state and federal safety, construction, environmental, electrical, communications and FAA requirements.
- 3) Anemometers are subject to the requirements of this Section for Total Height, setbacks, separation, location, safety and decommissioning that correspond to the size of the WET(s) proposed on the site;
- 4) An Anemometer without an accompanying WET shall not be located on a site for more than 12 months when testing for SSM-WET, STM-WET or M-WET installation potential; and;
- 5) An Anemometer without an accompanying WET shall not be located on a site for more than three (3) years when testing for L-WET installation potential.

**503.3A4 – PERMITTED USES AND REQUIREMENTS.** SSM-WET’s and STM-WET’s are a permitted use in all zoning districts, subject to the following:

1. SSM-WET’s and STM-WET’s must receive a Township Zoning Compliance Permit and a Branch County Building Permit prior to construction, installation, relocation or modification. The Owner/Applicant or Operator must apply for and receive the required permits.
2. All SSM-WET’s and STM-WET’s shall be subject to the following minimum requirements:
  - A. Upwind Turbines” shall be required unless otherwise approved by the Planning Commission, based on technical specifications and site-specific information.
  - B. Visual Appearance:
    - 1) SSM-WET’s and STM-WET’s including accessory buildings and related structures, shall be a non-reflective, non-obtrusive color, such as white, gray or black.
    - 2) The appearance of the WET and all accessory structures shall be maintained throughout the life of the unit.
    - 3) Exterior lighting of a Tower, Rotor blades and Nacelle shall only be allowed in order to meet FAA mandatory requirements.
    - 4) Exterior lighting of accessory buildings or entrance points shall be permitted, provided that such exterior lighting fixtures shall be full cutoff “shoebox” fixtures. These fixtures shall not be mounted on poles or other structures that exceed a height of 20 feet, as measured from the grade at the base of the fixture.
    - 5) SSM-WET’s and STM-WET’s may not contain commercial signage, banners, flags or advertising logos, except for the identification of the turbine manufacturer and unit specifications for regulatory purposes.
  - C. Ground Clearance: The lowest extension of any rotor blade or other exposed moving component of an SSM-WET or STM-WET shall be at least 15 feet above the ground, as measured from the highest point of grade within 30 feet of the base of the WET. In addition, the lowest extension of any rotor blade or other exposed moving component of an SSM-WET or STM-WET shall be at least 15 feet above any outdoor areas intended for human use that are located below the WET. Examples include balconies, roof gardens, etc.

D. Noise Control:

- 1) Where an adjacent parcel contains any of the following: an existing residential use, residential zoning, a church, school, hospital or a public park; the noise produced by a SSM-WET or STM-WET may not exceed the lowest ambient sound level that exists between the hours of 9:00 PM and 9:00 AM along any adjacent property line used for residential purposes.
- 2) Where no adjacent parcel contains a residential use, the noise produced by a SSM-WET or STM-WET may not exceed the lowest ambient sound level that exists between the hours of 9:00 PM and 9:00 AM on the parcel, plus 5 Decibels dB(a).
- 3) Vibration: AN SSM-WET or STM-WET shall not produce vibrations that are perceptible to humans beyond any property line upon which a WET is located.
- 4) Wire Supports: Guy wires or similar apparatus shall not be allowed as part of an SSM-WET or STM-WET installation.
- 5) SSM-WET Height: The mounted height of an SSM-WET shall not exceed 15 feet above the highest point of the adjacent roof or structure.
- 6) SSM-WET Setbacks:
  - a. An SSM-WET shall be setback a minimum of 15 feet from any property line, public right-of-way, and public easement or overhead utility lines.
  - b. If the SSM-WET is affixed by any extension to a structure's walls, roof, or other elevated surface, then the setback from property lines, public rights-of-way, public easements or overhead utility lines shall be measured from the furthest outward extension of moving WET components.
- 7) SSM-WET Separation Distances: If more than one SSM-WET is installed on a property, then a distance equal to the mounted height of the adjacent SSM-WET must be maintained between the bases of each SSM-WET.
- 8) STM-WET Height: The Total Height of STM-WET shall not exceed 120 feet.
- 9) STM-WET Setbacks:

- a. On a property containing occupied buildings, STM-WET's shall only be located in the rear yard.
  - b. An STM-WET shall be setback a minimum of 20 feet from all Occupied Buildings on the subject property. This setback shall be measured from the base of the Tower.
  - c. A minimum setback equal to the Total Height of the STM-WET shall be required to any property line, public right-of-way, public easement, or overhead utility lines. This setback will be measured from the base of the Tower. This setback may be reduced if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance less than the Total Height of the WET.
- 10) STM-WET Separation Distances: If more than one STM-WET is installed on a property, then a distance equal to the Total Height of the tallest STM-WET must be maintained between the bases of each STM-WET.
- 11) Site Plan Review: SSM-WET's and STM-WET's are subject to site plan review by the Planning Commission, subject to the following:
- a. SSM-WET's and STM-WET's shall be exempt from the site plan review standards found in Article 15 of this Ordinance but shall be subject to the standards and requirements contained in this Subsection.
  - b. Owner/Applicants of SSM-WET's and STM-WET's proposed for installation shall provide the following to the Township:
  - c. A completed application for site plan review plus any applicable fees and/or escrow deposit approved by the Township Planning Commission.
  - d. A scaled site plan drawing clearly illustrating the proposed WET(s) and all accessory structures/equipment in relation to all onsite and adjacent buildings, property lines, rights-of-way, public easements, and overhead utility lines. Setbacks as required in this Section shall be shown to scale on the site plan.
  - e. A scaled site plan that clearly displays property dimensions, existing buildings on the subject property and on adjacent properties, sidewalks, non-motorized pathways and streets.
  - f. A scaled site plan that includes existing and proposed onsite grading/topography at two-foot contour intervals.

- g. Product-specific technical information from the manufacturer of the SSM-WET or STM-WET. This information shall include the proposed Total Height and type of WET, maximum noise output in Decibels, total rated generating capacity, product dimensions, Rotor blade diameter and detail of accessory structures.
- h. Documented compliance with the noise and vibration generation requirements set forth in this Section.
- i. Documented compliance with applicable local, state, and federal regulations including, but not limited to, public safety, construction, environmental, electrical, communications and FAA requirements.
- j. Proof of liability insurance.
- k. Documented evidence that the utility company has been informed of, and approved, the Owner/Applicant's intent to install as interconnected, customer-owned generator. Off-grid systems shall be exempt from this requirement.
- l. A narrative that explains the proposed methods that will be used to perform maintenance on the WET(s) in compliance with the manufacturer's recommendations and requirements.
- m. A narrative that explains how the WET will be tested after installation for compliance with the noise and vibration regulations of this Section.

12) Safety Requirements:

- a. If the SSM-WET or STM-WET is connected to a public utility system for Net Metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's current service regulations that meet federal, state and industry standards applicable to wind power generation facilities. Any such connection shall be inspected and approved by the appropriate utility company. The applicant(s)/owner(s) shall provide to the Township Clerk at any and all times the proper documentation proving compliance with all requirements.
- b. The SSM-WET or STM-WET shall be equipped with an automatic braking, governing, or feathering system in order to prevent uncontrolled rotation, over-speeding or excessive pressure on the WET.
- c. A clearly visible warning sign regarding voltage shall be placed at the base of the WET. Written and sealed documentation shall be provided

to a Kinderhook Township Official by a Wind Energy Engineering Firm assuring that the site is in compliance.

- d. The structural integrity of the WET shall conform to the design standards of the International Electrical Commission; specifically IEC 61400-1 “Wind Turbine Safety and Design,” IEC 61400-2 “Small Wind Turbine Safety,” IEC 61400-22 “Wind Turbine Certification,” and IEC 61400-23 “Blade Structural Testing,” as amended or succeeded.

13) Signal Interference: The SSM-WET or STM-WET shall not interfere with communication systems, such as, but not limited to, radio, telephone, television, satellite or emergency services communications systems.

14) Decommissioning:

- a. The SSM-WET or STM-WET owner/applicant shall complete Decommissioning within 12 months after the end of the WET’s useful life. The term “end of useful life” is defined as zero electricity generation for a period of 12 consecutive months from a particular WET.
- b. All Decommissioning expenses are the responsibility of the Owner/Applicant.
- c. The Township Planning Commission shall grant an extension of the Decommissioning for not more than one calendar year upon showing by the Owner/Applicant of (1) good cause why the decommissioning has not occurred within the 12-month period, and (2) that the granting of such an extension will not have a material adverse impact upon owners or occupants of adjoining properties.
- d. If the SSM-WET or STM-WET Owner/Applicant fails to complete the act of Decommissioning within the period described in this Section, the SSM-WET or STM-WET shall thereafter be deemed a public nuisance and subject to abatement as provided by law.
- e. For STM-WET’s, following removal of all items noted in the above, the site shall be graded and stabilized to prevent soil erosion in a manner consistent with the post-WET use of the property.

15. Public Noise Complaints:

- a. Should an aggrieved person allege that the SSM-WET or STM-WET is not in compliance with the noise requirements of this Section, the administrative enforcement procedure shall be as follows:

1. The complainant shall notify the Kinderhook Township Zoning Administrator in writing regarding the noise level.
2. The Zoning Administrator shall coordinate with other governmental agencies to test the Decibel level for compliance with the standards of this Section.
3. If the noise level test indicates that the noise level complies with the standards of this Section, then the Township will notify the complainant within 5 work days of the test results.
4. If the noise level test indicates that the WET is in violation of this Section, then the Township will take immediate action to bring the WET into compliance with this Section. The Township may require the WET to be shut down until compliance can be achieved.
5. All costs shall be bore by the owner.

**503.3A5 – SPECIAL USES.**

Medium Wind Energy Turbines (M-WET's) shall be considered a special use within the AG – Agricultural: T-Research & Technology; C-1 through C-2 Commercial; Heavy Industrial District.

Large Wind Energy Turbines (L-WET's) shall be considered a special use only within the AG- Agricultural District.

1. M-WET's and L-WET's must receive a Township Zoning Compliance and a Branch County Building Permit prior to construction, installation, relocation, or modification. The Owner/Applicant or Operator must apply for and receive all permits.
2. All M-WET's and L-WET's shall be subject to the following minimum requirements:
  - a. "Upwind Turbines" shall be required unless otherwise approved by the Planning Commission, based on technical specifications and site-specific information.
  - b. All M-WET'S and L-WET'S shall follow and comply with Article 5, Part B.
  - c. Visual Appearance:
    - 1) M-WET's shall be mounted on a tubular Tower.
    - 2) M-WET's and L-WET's, including accessory buildings and related structures, shall be a non-reflective, non-obtrusive color, such as white, gray or black.



- 3) The appearance of the WET and all accessory structures shall be maintained throughout the life of the unit.
- 4) Exterior lighting of a Tower, Rotor blades and Nacelle shall only be allowed in order to meet FAA mandated requirements.
- 5) Exterior lighting of accessory buildings or entrance points shall be permitted, provided that such exterior lighting fixtures shall be full cutoff “shoebox” fixtures. These fixtures shall not be mounted on poles or other structures that exceed a height of 20 feet, as measured from the grade at the base of the fixture.
- 6) M-WET’s and L-WET’s shall not contain commercial signage, banners, flags or advertising logos, except for the identification of the turbine manufacturer and unit specifications for regulatory purposes.

### 3. Ground Clearance

- a. WET: The lowest extension of any Rotor blade or other exposed moving component of an M-WET shall be at least 15 feet above the ground, as measured from the highest point of grade within 50 feet of the base of the Tower. In addition, the lowest extension of any Rotor blade or other exposed moving component of an M-WET shall be at least 15 feet above any outdoor areas intended for human use that are located below the WET. Examples include balconies, roof gardens, etc.
  - b. L-WET: The lowest extension of any Rotor blade or other exposed moving component of an L-WET shall be at least 50 feet above the ground, as measured from the highest point of grade within 150 feet of the base of the Tower.
4. Shadow Flicker: The Owner/Applicant(s) or Operator(s) shall conduct an analysis of potential Shadow Flicker onto any Occupied Building with direct line-of-sight to the M-WET or L-WET. The analysis shall identify the locations of Shadow Flicker that may be caused by the WET and the expected durations of the Flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify situations where Shadow Flicker may affect the occupants of the buildings for more than 30 hours per year and describe measures that shall be taken to eliminate or mitigate the problems. Shadow Flicker on a building shall not exceed 30 hours per year.
5. Noise Control:
- a. Where an adjacent parcel contains any of the following: an existing residential use, residential zoning, a church, school, hospital or a public park; the noise produced by an M-WET or L-WET may not exceed the lowest ambient sound

level that exists between the hours of 9:00 PM and 9:00 AM along any adjacent property line used for residential purposes.

- b. Where no adjacent parcel contains a residential use, the noise produced by an M-WET or L-WET may not exceed the lowest ambient sound level that exists between the hours of 9:00 PM and 9:00 AM on the parcel, plus 5 Decibels dB(a).
  - c. Vibration: An M-WET or L-WET shall not produce vibrations that are perceptible to humans beyond any property line upon which a WET is located.
  - d. Wire Supports: Guy wires or similar apparatus shall not be allowed as part of an M-WET or L-WET installation.
  - e. Electrical System: All electrical controls, control wiring, grounding wires, power lines, and all other electrical system components of the M-WET or L-WET shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the Tower wiring area are exempt from this requirement.
6. Quantity of WET's:
- a. No more than one M-WET shall be installed for every two and one-half (2.5) acres of land included in the subject parcel.
  - b. The number of L-WET's shall be determined based on WET setbacks and separation distances as required in this Section.
7. Total Height:
- a. The Total Height of an M-WET shall not exceed 150 feet.
  - b. The Total Height of an L-WET shall not exceed 400 feet.
8. M-WET Setbacks & Separation:
- a. Occupied Building Setback: An M-WET shall be setback at least 20 feet from all Occupied Buildings on the subject parcel, as measured from the base of the Tower.
  - b. Property Line Setbacks: With the exception of the locations of public roads (see below) and parcels with Occupied Buildings (see above), all internal property line setbacks shall be equal to the Total Height of the M-WET, as measured from the base of the Tower. This setback may be reduced by the Township Planning Commission as part of a special use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the Total Height of the WET.

- c. Public Road Setbacks: Each M-WET shall be set back from the nearest public road a distance equal to the Total Height of the M-WET, as measured from the nearest boundary of the road right-of-way to the base of the Tower.
- d. Communications and Electrical Lines: Each M-WET shall be set back from the nearest above-ground public electric power line or telephone line a distance equal to the Total Height of the M-WET, as measured from the base of the Tower to the existing power line or telephone line.
- e. Tower Separation: M-WET separation shall be based on industry standards and the manufacturer's recommendations. This information shall be submitted to the Planning Commission any time the standards or recommendations change.

9. L-WET Setbacks & Separations:

- a. Occupied Building Setback: Each L-WET shall be setback from the nearest Occupied Building located on the same parcel as the L-WET, a minimum of two times its Total Height, ~~or 1,000 feet, whichever is greater,~~ as measured from the base of the Tower.
- b. Property Line Setbacks: With the exception of the locations of public roads (see below) and parcels with Occupied Buildings (see above), all internal property line setbacks shall be a minimum of ~~one and one-half (1.5)~~ **four (4)** times the Total Height of the L-WET, as measured from the base of the Tower. This setback may be reduced by the Township Planning Commission as part of a special use permit if the applicant provides a registered engineer's certification that the L-WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the Total Height of the WET.
- c. Wind Energy District (AG Zoned District Only) Setbacks: There shall be a setback distance equal to ~~two~~ **four (4)** times the Total Height of the L-WET, as measured from the base of the Tower to any border of the Wind Energy District.
- d. Public Road Setbacks: Each L-WET shall be set back from the nearest public road a minimum of 400 feet or ~~one and one-half (1.5)~~ **four (4)** times the Total Height of the L-WET, whichever is greater, as measured from the nearest boundary of the road right-of-way to the base of the Tower.
- e. Communications and Electrical Lines: Each L-WET shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 400 feet or ~~one and one-half (1.5)~~ **four (4)** times its Total Height, whichever is greater, as measured from the base of the Tower to the existing power line or telephone line.

- f. Tower Separation: L-WET separation shall be based on industry standards and the manufacturer's recommendations. This information shall be submitted to the Planning Commission any time the standards or recommendations change.
- g. Access Driveway: All L-WET's shall be accessible from an access road in order to offer an adequate means by which public safety vehicles may readily access the site in the event of an emergency. All access roads shall be constructed to standards approved by the Branch County Road Commission.
- h. Signal Interference: An M-WET or L-WET shall not interfere with communications systems, such as, but not limited to; radio, telephone, television, satellite or emergency services communication systems.
- i. Special Use Permit Required: M-WET and L-WET projects require a special use permit prior to commencement of any on-site construction. As part of the application for a special use permit, the Owner(s)/Applicant(s) of proposed M-WET and L-WET projects shall provide the following to the Township.
  - 1) A narrative explaining the proposed methods that will be used to perform maintenance on the WET(s) in compliance with the manufacturer's recommendations and requirements.
  - 2) A copy of the lease, or recorded document, with the landowner(s) if the Owner/Applicant does not own the land for the proposed M-WET or L-WET.
  - 3) A statement from the landowner(s) of a leased site that he/she will abide by all applicable terms and conditions of the special use permit, if approved.
  - 4) In the case of a Condominium Development, a copy of the Condominium Development's Master Deed and Bylaws addressing the legal arrangement for the M-WET or L-WET.
  - 5) The proposed number, representative types and Total Height of each M-WET or L-WET to be constructed; including their manufacturer and model, product specifications including maximum noise output (measured in Decibels), total rated capacity, Rotor Diameter, and a description of ancillary facilities.
  - 6) Documentation verifying the developer/manufacturer's confirming specifications for M-WET or L-WET Tower separation as proposed on the site plan.
  - 7) Documented compliance with the noise, vibration and Shadow Flicker requirements set forth in this Section.

- 8) Engineering data concerning construction of the M-WET or L-WET and its base or foundation, including soil boring information.
- 9) A certified, registered engineer's certification that certifies the M-WET or L-WET meets or exceeds the manufacturer's construction and installation standards.
- 10) The anticipated construction schedule.
- 11) A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment, or other deliveries.
- 12) A copy of the WET maintenance and operation plan, including anticipated regular and scheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the M-WET or L-WET to conduct maintenance, if applicable.
- 13) Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, and communications standards.
- 14) Documented compliance with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and any applicable overlay zone regulations.
- 15) Proof of comprehensive liability insurance.
- 16) A statement indicating if hazardous materials will be used and stored on the site.
- 17) Evidence that the utility company has been informed of the customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- 18) A written description of the anticipated life of each M-WET or L-WET; the estimated cost of Decommissioning; the method of ensuring that funds will be available for Decommissioning and site restoration; and removal and restoration procedures and schedules that will be employed if the M-WET(s) or L-WET(s) become inoperative or non-functional.
- 19) A Decommissioning plan that will be carried out at the end of the M-WET's or L-WET's useful life, which shall be submitted as a Participating Landowner Agreement, regarding equipment removal upon termination of the lease.
  - a. As part of the Participating Landowner Agreement, an independent and certified professional engineer shall estimate the total cost of

Decommissioning (“Decommissioning Cost”) with no regard to salvage value of the equipment, and the cost of Decommissioning net salvage value of the equipment.

- b. When determining this amount, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimates shall be submitted to the Township after the first year of operation and every fifth year thereafter.
  - c. M-WET and L-WET Owner(s) shall post and maintain Decommissioning Funds in an amount equal to one hundred percent (100%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or State chartered lending institution chosen by the Owner(s) and participating landowner(s) posting the financial security. The bonding company or lending institution shall be authorized to conduct such business as approved by the Township.
  - d. Decommissioning Funds shall be in the form of a performance bond made out to the Township.
  - e. A condition of the bond shall be notification by the bond company to the Township when the bond is about to expire or be terminated.
  - f. Failure to keep the bond in effect while a M-WET or L-WET is in place will be a violation of the special use permit. If a lapse in the bond occurs, the Township may take action, up to and including requiring the cessation of operations of the WET until the bond is reposted.
  - g. The Owner(s)/Applicant(s) shall be responsible to record, at its sole expense, a copy of the approved Participating Landowner Agreement with the Branch County Register of Deeds and supply a copy, after recording, to the Township.
- 20). A study assessing any potential impacts on the natural environment, including, but not limited to, assessing the potential impact on endangered species, bats, birds and/or other wildlife, wetlands, and fragile ecosystems. The study shall conform to state and federal wildlife agency recommendations based on local conditions.
- 21). Other relevant information as may be requested by the Township to ensure compliance with the requirements of this section.
10. Site Plan Review Required: M-WET’s and L-WET’s are subject to site plan review by the Kinderhook Township Planning Commission consistent with the following:

- a. Owner/Applicants of proposed M-WET and L-WET projects shall provide the following to the Township:
    - 1) A completed and signed application for site plan review by the Township Planning Commission plus any applicable fees and/or escrow deposit(s) approved by the Kinderhook Township Board.
  - b. A scaled site plan, sealed by a professional engineer, including:
    - 1) Contact information for the Owner(s)/Applicant(s) and Operator(s) of the M-WET or L-WET, as well as contact information for all property owners on which the M-WET or L-WET is located.
    - 2) A site location map with identification and location of the properties on which the proposed M-WET or L-WET will be located.
    - 3) The location and dimensions of all proposed WET(s) and all accessory structures/equipment, including security fencing, exterior lighting and power grid connectivity equipment, whether buried or above ground.
    - 4) The location of all on-site and adjacent property lines, rights-of-way, public easements and overhead utility lines.
    - 5) The location and dimension of all setbacks as required in this Section.
    - 6) All property dimensions, zoning districts, existing buildings on the subject property and on adjacent properties, sidewalks, non-motorized pathways, large trees and streets.
    - 7) Existing and proposed on-site grading / topography at two-foot contour intervals.
    - 8) Soil erosion and storm-water drainage plans per State of Michigan DEQ Regulations.
    - 9) Plan view and cross-sectional details of all proposed access drives.
11. Safety Requirements:
- a. If the M-WET or L-WET is connected to a public utility system for Net Metering purposes, it shall meet the requirements for interconnection and operation, as set forth in the public utility's current service regulations, that meet federal, state and industry standards applicable to wind power generation facilities. Any such connection shall be inspected and approved by the appropriate utility company prior to operation.

- b. The M-WET or L-WET shall be equipped with an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding or excessive pressure on the WET.
  - c. Security measures shall be in place to prevent unauthorized trespass and access. Each M-WET or L-WET shall not be climbable up to 15 feet above ground surfaces. All access doors to M-WET's or L-WET's and accessory electrical equipment shall be locked and/or fenced as appropriate.
  - d. All spent lubricants, cooling fluids, and any other materials shall be properly and safely removed in a timely manner.
  - e. Each M-WET or L-WET shall have one sign, not to exceed 2 square feet in area, posted at the base of the tower and on the security fence if applicable. The sign shall contain at least the following:
    - 1) A warning of high voltage
    - 2) Names of Manufacturer and owner/operator(s)
    - 3) Emergency contact numbers (list more than one number).
  - f. The structural integrity of the WET shall conform to the design standards of the International Electrical Commission; specifically, IEC 61400-1 "Wind Turbine Safety and Design," IEC 61400-2 "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," as amended or succeeded.
12. Decommissioning:
- a. The M-WET or L-WET owner/applicant shall complete Decommissioning within 12 months after the end of the WET's useful life. The term "end of useful life" is defined as zero electricity generation for a period of 12 consecutive months from a particular WET.
  - b. Decommissioning shall include the removal and disposal of each M-WET or L-WET, accessory buildings and structures, electrical components, and all foundations to a minimum depth of 60 inches.
  - c. All access drives to the M-WET or L-WET shall be removed, cleared, and graded by the Owner/Applicant, unless the property owner(s) requests, in writing, a desire to maintain the access drives. All access drives shall remain private, and the Township shall have no duty to undertake any maintenance or repair of such drives.
  - d. The WET site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the Owner/Applicant of the M-WET or L-WET or its assigns. If



the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.

- e. All Decommissioning expenses are the responsibility of the Owner/Applicant.
  - f. The Township Planning Commission may grant an extension of the Decommissioning period based upon a reasonable and explanatory request by the Owner. Such extension period shall not exceed one calendar year.
  - g. The performance bond agent shall release the Decommissioning Funds when the Owner/Applicant has demonstrated in writing, and the Township concurs in writing to the bond company, that decommissioning has been satisfactorily completed.
  - h. If the M-WET or L-WET Owner/Applicant fails to complete the act of Decommissioning within the period described in this Section, then consistent with the Participating Landowners' Agreement, the Township may proceed as follows:
    - 1) Township Planning Commission shall designate a contractor to complete the Decommissioning.
    - 2) All decommissioning expenses shall be charged to the performance bond of the Owner/Applicant, or its successors or assigns or such other means available at law or equity. All decommissioning expenses shall become a lien against the premises/real estate.
    - 3) Nothing herein shall limit the right of Kinderhook Township to pursue all means of enforcement otherwise available at law, for a violation of this Section including, without limitation, seeking injunctive relief.
  - i. Kinderhook Township may proceed to collect against the performance bond and request a release of the Decommissioning Funds.
    - 1) Township Planning Commission shall designate a contractor to complete the Decommissioning.
    - 2) All decommissioning expenses shall be charged to the performance bond of the Owner/Applicant, or its successors or assigns or such other means available at law or equity. All decommissioning expenses shall become a lien against the premises/real estate.
    - 3) Nothing herein shall limit the right of Kinderhook Township to pursue all means of enforcement otherwise available at law, for a violation of this Section including, without limitation, seeking injunctive relief.
13. Certification & Compliance:
- 1. The Township shall be notified IN WRITING of a change in ownership of an M-WET or L-WET. The Township shall be notified IN WRITING when a change in ownership of the property on which the M-WET or L-WET is located within 60 days of such a transaction.
  - 2. The Township reserves the right to inspect any M-WET or L-WET, in order to ensure compliance with this Section. Any cost associated with the inspections shall be paid by the Owner/Applicant of the WET.

3. A sound pressure level analysis shall be conducted from a reasonable number of sampled locations at the perimeter and in the interior of the property containing any M-WET's or L-WET's to demonstrate compliance with the requirements of this Section. Proof of compliance with the noise standards is required within 90 days of the date the M-WET or L-WET becomes operational. Sound shall be measured by a third-party, qualified professional, with the associated fees being paid by the Owner/Applicant.
  4. The M-WET or L-WET Owner/Applicant or Operator(s) shall provide the Township with a copy of the yearly WET maintenance inspection report(s).
14. Public Noise & Shadow Flicker Complaints:
- a. Noise: Should an aggrieved person allege that the M-WET or L-WET is not in compliance with the noise requirements of this Section, the administrative enforcement procedure shall be as follows:
    - 1) The complainant shall notify the Township Zoning Administrator in writing regarding the noise level.
    - 2) The Zoning Administrator shall coordinate with other governmental agencies to test the Decibel level for compliance with the standards of this Section.
    - 3) If the noise level test indicates that the noise level complies with the standards of this Section, then the Township will notify the complainant within 5 working days of the test results.
    - 4) If the noise level test indicates that the WET is in violation of this Section, the Township will take immediate action to bring the WET into compliance with the Section. The Township may require the WET to be shut down until compliance can be achieved.
  - b. Shadow Flicker: Should an aggrieved person allege that the M-WET or L-WET is not in compliance with the Shadow Flicker requirements of this Section, the administrative enforcement procedure shall be as follows:
    - 1) The complainant shall notify the Township Zoning Administrator in writing regarding the Shadow Flicker level.
    - 2) The Zoning Administrator shall examine the Shadow Flicker complaint on the site.
    - 3) If the Shadow Flicker level indicates that the Shadow Flicker level complies with the standards of this Section, then the Township will use the deposit to pay for the test.

- 4) If the Shadow Flicker level test indicates that the WET is in violation of this Section, then the Owner/Applicant shall reimburse the Township for the Shadow Flicker level test while taking immediate action to bring the WET into compliance with this Section. The Township may require the WET to be shut down until compliance can be achieved. The Township Zoning Administrator will supply in writing an order to shut down the facility if so directed by the Township Planning Commissions review of the complaint.
- 5) All costs shall be bore by the owner.

**503.3B – SOLAR POWER ~~(to be obtained)~~**

~~503.3C – SEVERABILITY. The various parts, sections, and clauses of this Ordinance are declared to be severable. If any part, sentence, word, paragraph, section or clause is determined invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be thereby affected.~~

~~503.3D – EFFECTIVE DATE. This Ordinance will become effective upon the expiration of the seven days after publication of a notice of ordinance adoption in a newspaper of general circulation within the Kinderhook Township area — Revised 6/29/2015~~

**503.3E – Solar Energy Collectors**

**A. Applicability.** This section applies to ground-mounted solar energy collectors and commercial solar energy systems. This section does not apply to smaller-scale solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and less than five (5) feet above the ground. Cannot exceed fence ordinance requirements and or set back requirements.

**B. General Requirements**

- 1) Applications. In addition to all other required application contents, equipment and unit renderings or plans shall be submitted for review under the zoning process.
- 2) Glare and Reflection. The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A unit may not be installed or located so that sunlight or glare is reflected into neighboring residences or onto adjacent streets.
- 3) Location. Solar energy equipment shall be in the area least visibly obtrusive to adjacent residential properties while remaining functional.
- 4) Installation.
  - a) A solar energy collector shall be permanently and safely attached to the ground. Solar energy collectors, and the installation and use thereof, shall comply with building codes and other applicable Township, County, State and Federal requirements.

- b) Solar energy collectors shall be installed, maintained and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township prior to installation.
- 5) Power lines. On site power lines between solar panels and inverters shall be placed underground.
- 6) Abandonment. Solar energy collection systems that cease to produce energy on a continuous basis for 12 months will be considered abandoned unless the responsible party (or parties) with ownership interest in the system provides substantial evidence every six (6) months after 12 months of no energy production to the Township of the intent to maintain and reinstate the operation of that facility. The responsible party shall remove all equipment and facilities and restore the site to its condition prior to development of the facility within one (1) year of abandonment.

*C. Ground-Mounted Solar Energy Collectors.* These systems may be established as accessory uses to principal dwellings. The following requirements apply:

- 1) Location.
  - a) The unit may be located in the rear yard and/or the side yard but shall be subject to the setbacks for principal buildings.
  - b) The unit may be located in the front yard only if permitted by the Planning Commission in its approval of the special land use provided that the unit is no less than 150 feet from the front lot line.
- 2) Maximum Number. One (1) ground-mounted solar energy collector structure per whole acre.
- 3) Maximum Size. 1,500 square feet of collector panels per ground-mounted solar energy collector structure.
- 4) Minimum Spacing. 15 feet between ground-mounted solar energy collector structures, when multiple structures are established on a parcel.
- 5) Maximum Height. 16 feet measured from the natural grade below the unit to the highest point.
- 6) Minimum Acreage. Two (2) acres.
- 7) Screening. Screening may be required in cases where ground-mounted units impact views from adjacent residential properties.

*D. Commercial Solar Energy System.* Commercial systems may be established as approved by special use principal or accessory uses. The following requirements apply:

- 1) Minimum Setbacks. 100 feet minimum.
- 2) Maximum Height. 16 feet measured from the natural grade below the unit to the highest point.
- 3) Minimum Acreage. Five (5) acres.
- 4) Screening. Views of collectors and equipment from residential properties or public right-of-way may be required to be screened. Screening methods may include the use of materials, colors, textures, screening walls, and landscaping, that will blend the facility into the natural setting and existing environment.

5) Decommissioning. A decommissioning plan signed by the responsible party and the landowner (if different) addressing the following shall be submitted prior to approval:

- a) Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment, etc.)
- b) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels, and foundations.
- c) Restoration of property to condition prior to development of the system.
- d) The timeframe for completion of decommissioning activities.
- e) Description of any agreement (e.g. lease) with landowner regarding decommissioning, if applicable.
- f) The entity or individual responsible for decommissioning.
- g) Plans for updating the decommissioning plan.
- h) A performance guarantee shall be posted in the form of a bond, letter of credit, cash, or other form acceptable to the Township, to ensure removal upon abandonment. As a part of the decommissioning plan, the responsible party shall provide at least two (2) cost estimates from qualified contractors for full removal of the equipment, foundations, and structures associated with the facility. These amounts will assist the Township when setting the performance guarantee amount. The performance guarantee shall be valid throughout the lifetime of the facility. Bonds and letters of credit shall be extended on a regular basis with expiration dates never less than two (2) years from the annual anniversary of special land use approval.
- i) The owner and responsible party shall agree to the decommissioning plan, and the Township's requirements for decommissioning, in the form of a written agreement with the Township that shall be filed with the Branch County Register of Deeds office.

*E. Roof mount solar* -The following shall apply to all solar energy facilities, regardless of the maximum kWh capacity:

1. Rooftop and building mounted solar energy systems are subject to the following regulations:
  - a) Roof mounted systems shall not extend more than 4 feet above the surface to which it is affixed. Roof mounted systems that do not extend more than 3 inches above the surface of the roof shall be accessory solar energy systems, regardless of the kWh capacity.
  - b). No solar energy system may protrude beyond the edge of the roof.
2. Rooftop and building mounted solar energy systems are subject to the following regulations:

Other considerations.

Building-mounted solar energy collectors not exceeding four (4) feet from the surface of the roof, provided, the outside edge of the collector does not extend past the outside edge of the roof of the building.

*Projections into Setback Areas.*

1. Architectural Features. Certain architectural features, such as cornices, bay windows (or windows without foundations), window wells, gutters, chimneys, pilasters, building-mounted solar energy collectors, and similar features may project no further than three (3) feet into any setback area.

### **Section 6-2 Qualifying Conditions**

C. *Recognizable Benefit.* The applicant shall demonstrate that the PUD provides at least four (4) of the following site design elements, which could not be attained through a project designed under conventional zoning:

Significant use of sustainable building and site design features such as: water use reduction, water efficient landscaping, innovative wastewater technologies, low impact stormwater management, optimize energy performance, on-site renewable energy, passive solar heating, reuse/recycled/renewable materials, indoor air quality or other elements identified as sustainable by established groups such as the US Green Building Council (LEED) or ANSI National Green Building Standards.

504.0 **Adult Entertainment and Retail Type Uses:** All types of Adult Entertainment SHALL be by Special Use Permit only.

1. Any adult type use or similar business or service entertainment, the following provisions shall apply to any and all designated adult type uses which shall be treated as “SPECIAL USES” under this section of the Township Ordinance, and accordingly, subject to the additional standards therein imposed.
2. This use SHALL only be considered for Special Use Permit providing that the use will not injure surrounding properties by depreciative quality, deleterious effect on adjacent areas, cause blight, or have a chilling effect upon other businesses and occupants, or cause disruption in the neighborhood and value of such property and will not be generally injurious to the community as a whole; especially when concentrated in a confined area, it is considered necessary and in the best interest of the orderly and better development of the community to prohibit the overcrowding of such uses into a particular location and require, instead, their dispersal throughout the commercial zones of the Township to thereby minimize their average impact on any specific neighborhood.
3. In order to prevent such undesirable concentration of such uses, the following uses and activities shall not be located within twelve hundred fifty **(1250) feet** of any residentially zoned district, as measured along a line forming the shortest distance between any portion of the respective properties of the existing and proposed, following specified use and activities and between such uses and the adjoining residentially zoned district:
  - a. Adult bookstore;
  - b. Adult motion picture theater;
  - c. Adult mini motion picture theater;
  - d. Adult smoking or sexual paraphernalia store;
  - e. Massage parlor;
  - f. Host or hostess establishments offering socialization with a host or hostess for consideration;
  - g. Open dance hall;
  - h. Tavern or cabaret providing live or projected entertainment where intoxication liquors may or may not be sold for consumption on the premises. “projected entertainment” shall not include standard television reception;
  - i. Sauna, hot tub or other similar health or body improvement or enjoyment enterprises;
  - j. Any combination of the foregoing.
4. For the purposes of interpreting the application of the foregoing limitations on certain business locations, the following terms or designations shall have the following meanings:

- 1) **Adult Bookstore:** An establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material.
- 2) **Adult Mini Motion Picture Theater:** An enclosure with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relation to “specified sexual activities” or “specified anatomical areas”, as hereinafter defined for observation by patrons therein.
- 3) **Adult Motion Picture Theater:** An enclosure with a capacity of more than fifty (50) persons used for the presenting material distinguished or characterized by an emphasis on matter depicting, describing or relation to “specified sexual activities” or “specified anatomical areas”, as hereinafter defined for observation by patrons therein.
- 4) **Adult Smoking or Sexual Paraphernalia Store:** An establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances.
- 5) **Massage Parlor:** An establishment where a person(s) conduct or permit to be conducted or engaged in, massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating, or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means or preparations to provide relaxation or enjoyment to the recipient.
- 6) **Open Dance Hall:** An establishment where open public dancing by patrons is available during at least four (4) days per week with or without partners furnished by the establishment.
- 7) **Host or Hostess Establishment:** Establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee.
- 8) **Sauna, Hot Tub or Other Similar Health or Body Improvement Enterprises:** Establishment where saunas, hot tubs, whirlpools, sun lamps and similar body relaxing, soothing or improving facilities are available for male and female customers with or without supervision or participation by employees or independent contractors of the business:



**9) Specified Sexual Activities:**

- a) Acts of human masturbation, sexual intercourse, or sodomy.
- b) Fondling or erotic touching of human genitals, pubic regions, buttocks, or female breasts.
- c) Human genitals in a state of sexual stimulation or arousal.

**10) Specified Anatomical Areas:**

- a) Less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola.
- b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

5. The Township Planning Commission in considering the issuance of a special use permit for any of the foregoing uses may waive the foregoing spacing requirements if it finds all the following conditions exist:

- 1) The proposed use will not be contrary to the public interests or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed.
- 2) The proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a chilling effect upon other businesses and occupants and disruption in neighborhood development.
- 3) The establishment of the additional regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal.
- 4) Where all other applicable regulations within the Township Zoning Ordinance or other pertinent township ordinances will be observed.

*Revised 6/29/2015*

## ARTICLE 6 ADMINISTRATION AND ENFORCEMENT

### SECTION 601: ENFORCEMENT:

601.1 **Responsibility:** The administration and enforcement of this ordinance shall be the responsibility of the Township Board. The Township Board shall have the right to delegate said responsibility to appropriate Township officers or employees. The person or persons administering and enforcing this ordinance shall be known as the Zoning Administrator.

601.2 **Zoning Administrator:** If the Zoning Administrator shall find that any provision of this ordinance is being violated, he or she shall notify the person responsible for such violations in writing, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of any illegal work being done or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

#### 601.3 **Violations:**

- A. Procedure: The Township Board, Building Inspector, duly authorized Attorney for the Township, Supervisor of the Township, Clerk of the Township, Zoning Administrator, or other authorized Township official may institute injunctions, mandamus proceedings, abatement proceedings, criminal prosecutions, or other appropriate action or proceedings to prevent, enjoin, abate, remove, or invoke penalties for any violation of this ordinance or any ordinance of the Township of Kinderhook. The Township Supervisor, ~~Township Clerk and~~ Zoning Administrator are hereby authorized and empowered to issue and serve appearance tickets based on reasonable cause to believe has committed a violation of this ordinance.
- B. Correction Period: All violations shall be corrected within a period of fifteen (15) days after the order to correct is issued. A violation not corrected within this time shall be reported to the Township Attorney who shall initiate prosecution proceedings or by the issuance ticket by authorized personnel or the Constable.

601.4 **Procedure or Administration:** Application for a permit for the erection, alteration, moving of any building or change of use shall be made in writing on the required form to the Zoning Administrator accompanied by all needed information and the required fee. The Zoning Administrator shall act on said application within 15 days. Upon approval of said application a permit shall be issued by the Zoning Administrator; such permit shall be valid for a period of one (1) year from date of issue. If the permit is denied, written notice shall be given stating the reasons for denial. Upon denial of a permit, the applicant may appeal the decision of the Zoning Administrator using the procedures stated in Section 602.7. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or

wholly or partly altered, or enlarged in its use or structure until a final inspection and certificate of zoning compliance shall have been issued by the Zoning Administrator. The certificate shall state that the building, structure, and lot, and use thereof, conform to the requirements of this ordinance. The Zoning Administrator shall maintain a record of all permit applications and of all certificates of zoning compliance and said record shall be open for public inspection. Failure to obtain a certificate of zoning compliance shall be a violation of this ordinance and punishable under Section 604 herein. It shall not be necessary for a legal non-conformity existing on the effective date of this ordinance to obtain certificates of zoning compliance to maintain its legal non-conforming status. However, no non-conforming building, structure, or use shall be changed, until certificate of zoning compliance shall notify the Zoning Administrator when final inspection is desired. The certificate of zoning compliance shall be issued upon final inspection or written notice shall be given to the applicant stating the reasons why said certificate cannot be issued. Such notice shall be sent to the applicant not later than fifteen (15) days after the Zoning Administrator is notified that the building, structure, or premises is ready for inspection.

**601.5 Fees:** The Township Board shall periodically establish by resolution a schedule of fees for administering this ordinance. The schedule of fees shall be posted on public display and may be changed only by the Township Board. No certificates shall be issued unless such fees have been paid in full.

## **SECTION 602: BOARD OF APPEALS:**

602.1 **Established Membership:** A Board of Appeals is hereby established in accordance with Act 184 of the Public Acts of 1943, as amended. The Board shall consist of three (3) members: A member of the Zoning Commission, a member of the Township Board appointed by the Township Board, and a third appointed by the Township Board from the electors residing in the unincorporated area of the Township. The term of office of the member from the Township Board shall not exceed his term of office on the Township Board. Should either of the first two members of the Board change, the third member must be reelected. Members may be re-appointed. No elected officer of the Township or any employee of the Township may serve simultaneously as such officer or employee and as the third member of the Board of Appeals. The member appointed from the Zoning Commission shall act as the Chairman of the Board of Appeals. The Township Board may appoint no more than two alternate members for the same term as regular ZBA members. An alternate member may be called as specified in the zoning ordinance to serve as a regular ZBA member in the absence of a regular member if the regular member is absent from or will be unable to attend two or more consecutive meetings or meetings for a period of more than 30 consecutive days. An alternate member may also be called to serve as a regular member to reach a decision on a case in which the regular member has abstained because of a conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member.

602.2 **Procedures of the Board:** The Board of Appeals shall adopt rules and regulations to govern its procedures. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to revise any order, requirements, decisions or interpretations under this ordinance or to affect any variation in this ordinance. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions, facts, and other relevant factors, including the vote of each member upon such fact, and all its official actions. All minutes shall be filed in the office of the Township Clerk.

602.3 **Hearings:** The Board of Appeals shall fix a reasonable time and date for a hearing. The Board shall send due notice of the hearing by first class mail to the parties of interest and to owners of adjacent properties. Where the matters of general applicability in the Township and does not concern only individual lots or parcels, such notice shall be given in a newspaper of general circulation in the Township. However, the Board of Appeals shall notify the parties of interest by first class mail. All notices of a hearing shall be mailed and published not less than fifteen (15) days prior (based on State of Michigan's Open Meetings Act) to the date on which the hearing is to be held.

Revised 10/30/17

- A. Zoning Administrator to make list of people to be notified.
- B. Clerk uses list to address envelopes for notices, makes copies of stamped envelopes, mails notices and returns copies of envelopes to Zoning Administrator for verification and file.

602.4 **Duties and Powers:** The Board of Appeals shall perform its duties and exercise its powers as provided in Act 184 of the Public Acts of 1943, as amended, so that the objective of this ordinance shall be attained, the public health, safety, and welfare secured, and substantial justice done. The Board of Appeals shall hear and decide only those matters which it is specifically authorized to hear and decide as provided therein, administrative review, variance, and expansions of non-conforming buildings and structures. The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms of intent of this ordinance but does have power to act on those matters for which this ordinance provides an administrative review, interpretation variance or exception.

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

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

- A. A written application for a variance is submitted, demonstrating:
- 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - 2) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
  - 3) That the special conditions and circumstances do not result from the actions of the applicant.
  - 4) That granting the variance required will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- B. Any non-conforming use of neighboring lands, structures, or buildings shall not be considered grounds for the issuance of a variance.
- C. The Board of Appeals shall make findings that the requirements of this section have been met by the applicant.
- D. The Board of Appeals shall further find that the reasons set forth in the application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building or structure.
- E. The Board of Appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.
- F. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance, and punishable under Section 605 herein.
- G. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.
- H. In exercising the above mentioned powers, the Board of Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly or may modify the order, requirements, decision, or

determination appeal from and may make such order, requirements, decision, or determination as ought to be made, and to that end shall have the powers of the public official from whom the appeal is taken.

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

- A. Each variance granted under the provisions of this ordinance shall become null and void unless:
  - 1) The construction authorized by such variance or permit has proceeded to at least 50% of completion within one hundred and eighty (180) days after the granting of such variance and pursued diligently to completion, or
  - 2) The occupancy of land or buildings authorized by such variance has taken place within one hundred and eighty (180) days after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred and sixty-five (365) days from the date of such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

**602.7 Appeals; How Taken:**

- A. Appeals to the Board of Appeals concerning interpretation and administration of this ordinance may be taken by any person aggrieved or by any office of the Township affected by any decision of the Zoning Administrator. Appeals shall be taken within a reasonable time, not to exceed ten (10) days following action by the Zoning Administrator or Township Board, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the ground thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals copies of all papers constituting the record upon which the action appealed from was taken.
- B. A fee shall be paid to the Township Treasurer, at the time of filing the notice of appeal and shall be deposited in the Township's general fund. The appeal fee shall be established by the Township Board.
- C. Any party or parties may appear at the hearing in person or by agent or attorney.
- D. The Board of Appeals shall decide upon all matters within a reasonable time. The decision of the Board of Appeals shall be in the form of a resolution containing a full record of its findings and determinations in each case.

E. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Appeals after the notice is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a Court of Record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

602.8 **Duties on Matters of Appeal:** All questions concerning application of the provisions of the ordinance shall first be presented to the Zoning Administrator. Such questions shall be presented to the Board of Appeals only on appeal from the decisions of the Zoning Administrator. Recourse from decisions of the Board of Appeals shall be to the courts as provided by law.



## SECTION 603: CHANGES AND AMENDMENTS:

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

**603.1 Procedures:** The procedure for making amendments to this ordinance shall be in accordance with Act 184 of the Public Acts of 1943, as amended. A petition, together with a completed and signed application and fees, shall be filed with the Township Clerk. The Clerk shall review the application as to form and, when it is approved, transmit the same to the Township Planning Commission for review and report. The Clerk shall, at the same time, establish a date for a public hearing on the petition for the Planning Commission and shall give proper notice of the hearing as provided in Act 184, P.A. 1943, as amended. The Clerk shall also, for any proposed amendment to the zoning map, give notice thereof, and of the public hearing, to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and two-family dwellings delivered personally or by first class mail to the respective owners and tenants at the address given in the last assessment roll. If the notice is delivered by first class mail, an affidavit of mailing shall be filed with the Planning Commission prior to the hearing. The notice shall be not less than fifteen (15) days prior ~~made at least eight (8) days~~ **(based on State of Michigan's Open Meetings Act)** prior to the hearing requirements of written notice to property owners and shall not apply to comprehensive revisions to the zoning ordinance. Public hearing requirements shall also apply to amendments initiated by the Township Board or the Township Planning Commission.

**603.2 Notice of Hearing:** The Clerk shall give notice of hearing in the following manner:

- A. By two (2) publications in a newspaper of general circulation in the Township, the first to be printed not more that thirty (30) days nor less than twenty (20) days and the second ~~not less than fifteen (15) days prior~~ **(based on State of Michigan's Open Meetings Act)** ~~no more than eight (8) days~~ before the date of the hearing.
- B. By posting the property involved at least eight (8) days prior to the hearing, and notice to contain the time, date, place and purpose of the hearing.
- C. By mailing, first class mail, at least twenty (20) days in advance of the hearing, a notice to each electric, gas pipeline, and telephone company that choose to register its name and mailing address with the Zoning Commission for the purpose of receiving such notice.
- D. By mailing, first class mail, at least twenty (20) days in advance of the hearing, a notice to each railroad operating within the Township, in the case of textual

changes, or within five hundred (500) feet of the area purposed to be rezoned, if the amendment proposed is in the nature of rezoning.

*Revised 1/25/1999*

E. In the manner prescribed in Section 603.1 regarding notice to adjacent properties.

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

- A. A legal description of the property.
- B. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- C. The name and address of the petitioner.
- D. The petitioner's interest in the property, and if the petitioner is not the owner, the name and address of the owner.
- E. Date of filing with the Township Clerk.
- F. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
- G. The desired change and reason for such change.

**603.4 Steps in Making a Change:**

- A. Petitioner submits application and fee.
- B. Clerk transmits application to Zoning Commission, sets hearing date, and publishes notices of hearing as prescribed in Sections 603.1 and 603.2.
- C. Zoning Commission holds hearing, makes a decision, transmit decision to the County Planning Commission and to the Township Board.
- D. Township Board either enacts or rejects proposed changes as an ordinance amendment and publishes the text of the change in the newspaper.

**603.5 Finds of Facts Required:** In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full, along with its recommendations for disposition of the petition, to the Township Board, within sixty (60) days of the filing date of the petition. The facts to be considered by the Planning Commission shall include, but not limited to, the following:

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

**SECTION 604: PENALTIES:** *(Revised 12/11/2003)*

Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and conditional uses and violation of approved site plans, shall constitute a civil infraction. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon the finding of responsibility, be fined according to the following schedule:

- A. Not less than \$100 nor more than \$500 for a first offense;
- B. For a second offense, in which a civil infraction ticket is issued within 90 days of a first civil infraction (even if the finding of responsibility occurs more than 90 days after the date of the first ticket or the admission of responsibility) a fine of not less \$200, nor more than \$500.
- C. For a third offense, in which a civil infraction ticket is issued within one year of a first civil infraction (even if the finding of responsibility occurs more than one year after the date of the first ticket or the admission of responsibility) a fine of not less \$400, nor more than \$500.
- D. Any permit application initiated or issued after any construction or alteration has commenced or been completed (After-the-Fact Permit) shall be assessed a penalty equal to 10% of the original permit fee for each 30 day period that has elapsed since the initial start of the construction or alteration. The maximum penalty that may be assessed is 100% of the original permit fee.

Each day such violation continues shall be considered a separate offense, subject to a separate civil infraction citation.

The owner of record or tenant of any building, structure, premises, or part thereof, and any architect, building contractor, agent, or person, who commits, participates in, assist in, or maintains such a violation may each be found guilty of a separate offense and suffer penalties herein provided. The imposition of any fine shall not exempt the violator from compliance with the provisions of this ordinance.

**SECTION 605: VESTED RIGHT:**

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

**SECTION 606: SEVERANCE CLAUSE:**

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

**SECTION 607: EFFECTIVE DATE:**

The ordinance shall become effective thirty (30) days following publication in its entirety as required by applicable law.