ARTICLE I
PURPOSE OF ZONING

An Ordinance to establish zoning districts and regulations governing the development and use of land within Powell Township, in accordance with the provisions of Act 184, Public Acts of 1943, ZEA Act 2006, as amended: to provide for regulations governing nonconforming uses and structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits, fees, penalties and other administrative provisions to enforce this Ordinance; and to provide for regulations regarding conflicts with other ordinances or regulations.

THE TOWNSHIP OF POWELL HEREBY ORDAINS:

SECTION 101 PURPOSE

Pursuant to the authority conferred by the Public Acts of the State of Michigan, this Ordinance has been established for the purpose of:

A. Promoting and protecting the public health, safety, and general welfare;

B. Implementing the various concepts, objectives, and directions of the Powell Township Comprehensive Plan;

C. Protecting the character and stability of the Township's most valuable natural resources--its minerals and forests;

D. Promoting the orderly and beneficial development of residential and non- residential areas within Powell Township;

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

F. Lessening and avoiding congestion or other traffic related problems on the public highways and roads;

G. Providing for the needs of mining, forest resource production, agriculture, housing, and commerce in future growth;

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

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

J. Enhancing social, recreational, and economic stability in the Township, conserving the taxable value of land, buildings and structures in the Township, enhancing the aesthetic desirability of the environment throughout the Township and

K. Conserving the taxable value of land, buildings and structures in the township.

L. Enhancing the aesthetic desirability of the environment throughout the Township, and

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

SECTION 102 SHORT TITLE

This Ordinance shall be known and may be cited as the Zoning Ordinance of Powell Township, Michigan.

SECTION 103 PLANNING/ZONING COMMISSION

Responsibility – The zoning commission shall adopt and file with the legislative body the following recommendations:

1. A zoning plan for the areas subject to the zoning of the local unit of government.
2. The establishment of zoning districts, including boundaries of those districts.
3. The text of a zoning ordinance with necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole
4. The manner of administering and enforcing the zoning ordinance.

The Planning/Zoning Commission shall hold a minimum of two (2) regular meetings annually.

ARTICLE II
DEFINITIONS

SECTION 201 CONSTRUCTION OF LANGUAGE

The following rules of construction shall apply to the text of this Ordinance:

A. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases that have a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning.

B. The particular shall control the general.

C. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

D. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

E. The word "use" includes the words, structures and buildings associated with such use.

F. When not inconsistent with the context, words in the present tense shall include the future and words in the singular number shall include the plural.

G. The word "building" includes the word "structure," and the word "dwelling" includes the word "residence." A "building" or "dwelling" includes any part thereof.

H. The words "used" or "occupied" include the words "intended," "designed," or "arranged" to be used or occupied.

I. The word "person" includes any firm, association, organization, partnership, trust, corporation, or similar entity, as well as an individual.

J. The word "lot" includes the words "plot" and "parcel" and "tract".

K. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either... or," the conjunction shall be interpreted as follows:

1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
3. "Either/Or" indicates that the connected items, conditions, provisions, or events shall apply single but not in combination.

L. Words in the singular number shall include the plural number and words in the plural number shall include the singular number. The masculine gender shall include the feminine and the feminine gender shall include the masculine.

M. Whenever a reference is made to several sections and the section numbers are connected by the word "to," the reference includes both sections whose numbers are given and all intervening sections.

SECTION 202 DEFINITIONS

For the purpose of the Ordinance words pertaining to access, building, property, land use, building use, building measurement, and enforcement shall have the following meaning:

1. ACCESSORY BUILDING: A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building. In the high risk erosion areas described in this ordinance, accessory structures are limited to the following, whether or not a principal structure is on the lot: tents, storage structures, seasonal structures and equipment, sheds and other structures which can be easily and economically moved or removed.

2. ACCESSORY USE: A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

3. ADULT FOSTER CARE FAMILY HOME: A private residence licensed under P.A. 218 of 1979, as amended, with the approved capacity to receive six or fewer adults who are provided with foster care for five or more days a week, and for two or more consecutive weeks, for compensation. The adult foster care home licensee must be a member of the household and an occupant of the residence.

4. ADULT FOSTER CARE LARGE GROUP HOME: A facility licensed under P.A. 218 of 1979, as amended, with the approved capacity to receive at least 13 but not more than 20 adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks, for compensation.

5. ADULT FOSTER CARE SMALL GROUP HOME: A facility licensed under P.A. 218 of 1979, as amended, with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks, for compensation.

6. AGRICULTURE: Is the art or science of cultivating the ground, including the harvesting of crops and by extension, the rearing, reproducing and managing of livestock and poultry or other animals upon the ground in fields or pastures or pens. Agricultural activity shall be further identified on the basis of intensity as:

A. Light agricultural activity: The cultivation of more than a garden but less than a farm, where the primary land use is residential and the production of crops and husbandry of domesticated animals is primarily for the consumption, enjoyment, and/or use of the occupants.

B. Traditional agricultural activity: One or more plots of land comprising a farm devoted to the raising of domestic animals and/or the cultivation of crops in quantity for the purpose of producing income.

C. Intensive agricultural activity: The keeping of animals, either in pens or buildings where one or more of the following conditions exist:

1. The quantity of animals exceeds traditional farming operations;

2. Where animal density would result in destruction of cover vegetation for 50 % or more of the enclosure area; or where

3. Animals are confined within buildings for extended periods regardless of weather;

4. Where the primary food for purposes of preparation of animals for market is produced on other property and where grazing or foraging is minimal or does not occur;

5. Where processing operations also occur on the same premises;

6. The operation consists of a fur farm, feedlot, or poultry farm;

7. Keeping of exotic, other non-domesticated or musk producing species.

7. AGRICULTURAL ENTERTAINMENT: Seasonal uses land and natural resources that provide agricultural oriented sources of recreation such as carnivals, swap meets, fairgrounds, flea markets and/or auction houses.

8. AGRICULTURAL LAND: Substantially underdeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and soil crops, grains, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

9. AGRICULTURAL PRODUCE STAND: A structure used for the seasonal sale of items propagated on the premises.

10. AIRPORT: An airport licensed by the Michigan Department of Transportation, Bureau of Aeronautics, under Section 151 of the aeronautics code of the State of Michigan, 1934 PA 327, MCL 259.86.

11. AIRPORT APPROACH PLAN and AIRPORT LAYOUT PLAN: A plan, or an amendment to a plan, filed with the zoning commission under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

12. AIRPORT MAN AGER: The individual performing as defined in section 10 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.10.

13. AIRPORT ZONING REGULATIONS: Airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

14. ALLEY: A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

15. ALTERATIONS: Any change, addition, modification to a structure or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams, or girders, the consummated act of which may be referred to herein as "Altered" or "Reconstructed".

16. ALTERNATIVE ENERGY: A nontraditional source of energy such as solar panels, wind and water mills and turbines.

17. APARTMENT: A dwelling unit in a "multiple family dwelling" as defined herein.

18. ASSISTED LIVING FACILITY: A residence for the frail elderly that provides rooms, meals, and personal care. Other services, such as recreational activities, financial services, and transportation, may also be provided.

19. AUTOMOTIVE REPAIR GARAGE: The premises where the following services may be carried out in a completely enclosed building: general repairs, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service such as body, frame or fender straightening and repair; painting and undercoating of automobiles.

20. BASAL AREA: The area of the cross section of a tree at breast height; for a stand, the total basal area per unit of area.

21. BASEMENT: That portion of a building which is partially or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story, providing the vertical distance from the grade to the ceiling is less than five (5) feet.

22. BED AND BREAKFAST: A single-family detached dwelling, containing eight or fewer sleeping rooms available for rental to transient tenants for less than 15 consecutive nights. Guest accommodations shall be subordinate to the principal use of the dwelling as a single-family residence. Breakfast shall be served to registered guests only; other meals may be served to guests in accordance with P.A. 92 of 2000, as amended.

23. BERM: A man-made, formed, earth mound of definite height and width used for obscuring purposes; the intent of which is to provide a transition between uses of differing intensity.

24. BLOCK: The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, undivided acreage, lake, river, stream, or other barrier to the continuity of development.

25. BLUFF LINE: The line which is the edge or crest on the elevated segment of the shoreline above the beach which normally has a precipitous front inclining steeply on the

lake wards side. Where there is no precipitous front indicating the bluff line, the line of perennial vegetation may be considered the bluff line.

26. BOATHOUSE: A structure used for storage of watercraft and related equipment, and for no other purpose. The watercraft and equipment stored shall be for the use of the occupants of the property on which it is located.

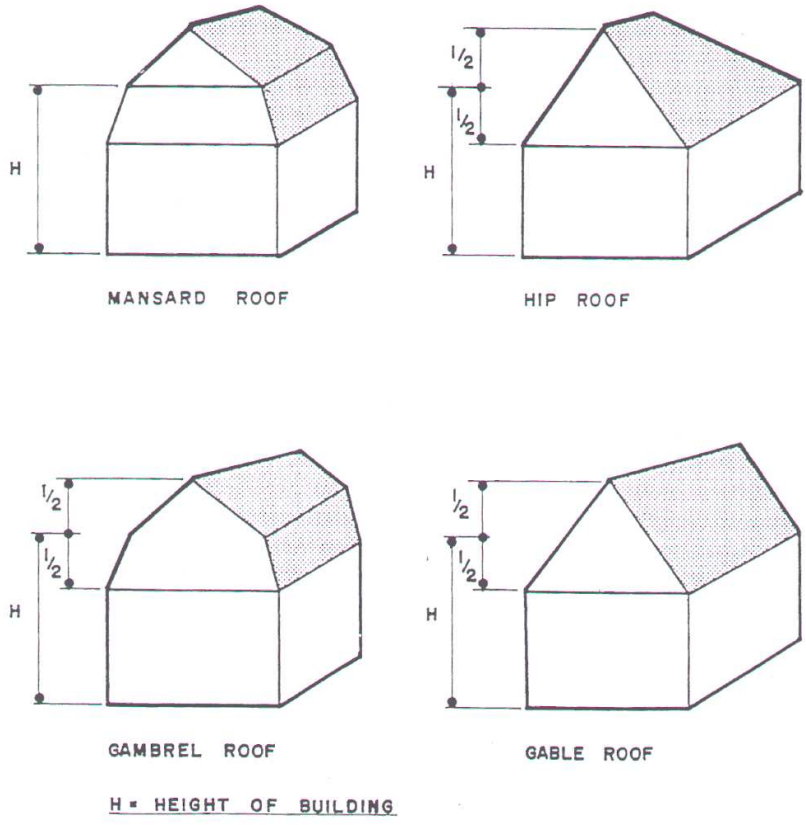
27. BOAT LIVERY: A business establishment where boats may be rented by the hour, day or week. Boat liveries may offer limited services, such as fuel, supplies, etc., but shall not provide sale, repair, docking or storage of boats other than those owned by the business.

28. BREEZEWAY: A covered structure connecting an accessory building with the principal dwelling unit. For purposes of determining yard and area requirements, such buildings shall be considered as one integral unit.

29. BUFFER: A strip of land, including any specified type and amount of planting or structures which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them.

30. BUILDING: Any structure either temporary or permanent having a roof supported by columns or walls for the shelter, support, enclosure of persons, animals or chattels, property of any kind.

31. BUILDING HEIGHT: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; to the average height between eaves and ridge for gable, hip, and gambrel roofs.



32. CAMPGROUND: A parcel of land used to provide rustic or refined outdoor temporary living for recreational purposes.

33. CARPORT: A partially open structure, intended to shelter one or more vehicles. Such structure shall comply with all yard requirements applicable to private garages.

34. CERTIFICATE OF ZONING COMPLIANCE: A certificate issued by the Zoning Administrator to a party intending to initiate any work or change any use of property or build or construct any buildings or structures in the Township.

35. CHURCH: A building whose primary purpose is the regular assembly for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purposes.

36. CLINIC: A place where medical or dental care is furnished to persons on an out-patient basis by two or more licensed health care professionals.

37. CLUB: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities, but not operated for profit and open only to members and not the general public.

38. COMMERICAL PARKING LOT: A use open to commerce for the purposes of trade and or for industrial use that maybe unrefined containing one or more parking spaces located at or above grade accessible for the storage or parking of permitted vehicles, exclusive of drives and entrances giving access thereto.

39. COMMERCIAL VEHICLE: A vehicle licensed as a commercial vehicle registered to do business in the State of Michigan.

40. COMMON ELEMENTS: In a condominium, those portions of the property not owned individually by unit owners but in which an indivisible interest is held by all unit owners, generally includes the grounds, parking areas, recreational facilities and external structure of the building.

41. COMMON ELEMENTS, GENERAL: The portions of the condominium project other than the condominium units but not limited common elements.

42. COMMON ELEMENTS, LIMITED: A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

43. COMPREHENSIVE DEVELOPMENT PLAN: The statement of policy by the Township Planning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written materials 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.

44. CONDITIONAL USE PERMIT: A permit issued by the Planning Commission to a person or persons intending to undertake the operation of a use upon land or within a structure or building specifically identified in the affected Zoning District under Conditional Uses Authorized by Permit. These Conditional Uses possess unique characteristics and are found to be not injurious to the health, safety, convenience, and general welfare of the Township's inhabitants.

45. CONDOMINIUM PROJECT: A plan or project consisting of not less than two (2) condominium units established in conformance with the condominium act, Act 59 of 1978, as amended.

46. CONDOMINIUM UNIT: That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless whether it is intended for residential, office, industrial, business, recreational, use as a time- share unit, or any other type of use. A dwelling unit in a "multiple family dwelling" as defined herein. A condominium unit is not a lot or parcel as those terms are used in this ordinance.

47. CONSERVATION EASEMENT: means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

48. CONTIGUOUS PROPERTY: Any portion of an individual's lot or property which can be identified as one parcel, including those properties in the same ownership which would otherwise be touching except for a public right-of-way or easement running through them. Property which is joined at a common point is not considered contiguous property.

49. CONTRACTOR STORAGE YARD: A parcel of land where vehicles, equipment and or storage units are kept usually temporary for the purpose of construction and maintenance.

50. CONVENIENCE STORE: Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, alcoholic and non-alcoholic beverages and sandwiches and other freshly prepared foods, such as salads, for off-site consumption. A convenience store may be operated in combination with an automobile/gasoline service station.

51. COORDINATING ZONING COMMITTEE: A coordinating zoning committee is composed of either 3 or 5 members appointed by the legislative body of the county for the purpose of coordinating the zoning ordinances proposed for adoption under the 2006 Michigan Zoning Enabling Act with the zoning ordinances of a township, city, or village having a common boundary with the township.

52. DAY CARE CENTER: A day care operation located in a structure whose principal use is that of a day care facility, and is not the residence of the operator or any other person. Such facility shall be licensed and regulated under P.A. 116 of 1973.

53. DAY CARE FACILITY, FAMILY: A day care operation located in and subordinate to the residential use of the residence of the operator of the facility, which provides day care services for six or fewer children, and which is licensed or registered under P.A. 116 of 1973.

54. DAY CARE FACILITY, GROUP: A day care operation located in and subordinate to the residential use of the residence of the operator of the facility, and subordinate to the residential use, which provides day care services for seven to 12 children, and which is licensed or registered under P.A. 116 of 1973.

55. DEVELOPMENT RIGHTS: The rights to develop land to the maximum intensity of development authorized by law.

56. DEVELOPMENTS RIGHTS ORDINANCE: An ordinance, which may comprise part of a zoning ordinance.

57. DISTRICT: One zoning district.

58. DWELLING, SINGLE-FAMILY: A structure, including a mobile home, designed or used for residential purposes by one family. The single-family dwelling shall have a minimum exterior breadth/caliper/width of twenty (20) feet in the RR-5, LS/R, and RP-10 districts. (This is to imply that the minimum dimension between any two opposing exterior walls, measured at any point on the horizontal, shall be at least twenty (20) feet.) Breezeways, garages, porches, and other appurtenances shall not be considered part of the required 20 feet. In all other districts where single-family dwellings are permitted, the minimum breadth/caliper/width shall be fourteen (14) feet.

59. DWELLING, TWO-FAMILY: A structure containing two dwelling units each designed for residential occupancy by one family living independently from the other family. The two-family dwelling shall have a minimum exterior breadth/caliper/width of twenty (20) feet in the LS/R district. (This is to imply that the minimum dimension between any two opposing exterior walls, measured at any point on the horizontal, shall be at least twenty (20) feet.) Breezeways, garages, porches, and other appurtenances shall not be considered part of the required 20 feet. In all other districts where two-family dwellings are permitted, the minimum breadth/caliper/width shall be fourteen (20) feet.

60. DWELLING, MULTIPLE FAMILIES: A structure containing more than two dwelling units each designed for residential occupancy by one family, including condominiums.

61. DWELLING UNIT: One or more rooms with bathroom, bedroom, and kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes.

62. EARTH-SHELTERED HOME: A building which is partially or entirely below grade and is designed and intended to be used as a single-family dwelling.

63. ENVIRONMENTAL PROTECTION STRIP: A 100 to 300 ft. strip of land along streams, rivers and lakes of five acres or more in size. This strip is for the protection of the environment from excessive commercial use that would lead to erosion and altering the natural flow of water.

64. EROSION CONTROL DEVICE: Any structural or physical method used to control shoreland erosion processes. Erosion control devices include, but are not limited to, structures such as groins, seawalls, revetments or beach walls, and may also include any type of beach nourishment by filling.

65. ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, 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, substations, or structures which are enclosure or shelters for service equipment or maintenance depots.

66. EXCAVATION: Any breaking of ground, except common household gardening, general farming and ground care.

67. FAMILY: An individual, or two or more persons related by blood, marriage or adoption, or parents along with their direct lineal descendants, and adopted or foster children, or a group not to exceed three persons not related by blood or marriage, occupying a premises and living as a single cooking, sleeping, and bathroom housekeeping unit. Every additional group of three or less persons living in such housekeeping unit shall be considered a separate family for the purpose of the Ordinance. Said definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.

68. FAMILY DAY-CARE HOME/GROUP DAY-CARE HOME: Terms as defined in Section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group day-care home. A family day-care home is considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special or conditional use permit or procedure different from those required for other dwellings of similar density in the same zoning district. A group day-care home shall be issued a special use permit, conditional use permit or other similar permit if the group day-care home meets all of the following standards:

A. Is located not closer than 1,500 feet to any of the following:

1) Another licensed group day-care home.

2) Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act.

3) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code.

4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.

B. Has appropriate fencing for the safety of the children in the group day-care home as determined by the local unit of government.

C. Maintains the property consistent with the visible characteristics of the neighborhood.

D. Does not exceed 16 hours of operation during a 24-hour period. The local unit of government may limit but not prohibit the operation of a group day-care home between the hours of 10 p.m. and 6 a.m.

E. Meets regulations, if any, governing signs used by a group day-care home to identify itself.

F. Meets regulations, if any, requiring a group day-care home operator to provide off street parking accommodations for his or her employees.

69. FARM: A tract of land (of at least 20 acres) devoted to agriculture for the purpose of raising crops or animals as a source of income.

70. FEED LOT: The place of confined or concentrated feeding of farm animals which are being fattened for market whether covered or uncovered.

71. FENCE: An artificially constructed barrier of wood, metal, stone, or any manufactured materials erected for the separation of yard areas. (See also Screen, No. 114)

72. FILLING: The depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.

73. FILTER STRIPS: Used along streams, lakes and roads or road ditches to stop erosion and sedimentation due to runoff from disturbed areas.

74. FIREWOOD: Trunks and branches of trees and bushes but does not include leaves, needles, vines or brush smaller than three inches (3”) in diameter.

75. FLOOR AREA, GROSS: The sum of all gross horizontal areas of the several floors of a building or buildings, measured from the outside dimensions of the structure. Unenclosed porches, courtyards, or patios, whether covered or uncovered, basements, and breezeways shall not be considered as a part of the gross floor area unless used for commercial purposes, such as nursery beds or sales of outdoor equipment.

76. FLOOR AREA RATIO: An intensity measured as a ratio, derived by dividing the total floor area of a building(s) by the lot area.

77. FLOOR AREA, USABLE: For purposes of computing parking requirements, is that area to be used for the sale of merchandise or services, or for use to serve patron, clients or customers. Such floor area which is used or intended to be used for the storage or processing of merchandise, for hallways, stairways and elevator shafts, or for utilities or sanitary facilities shall be excluded from this computation of "usable floor area". Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of living area of the building, measured from the interior faces of the exterior walls, including private garages.

78. FUR FARM: The place of confined keeping, raising, or breeding of more than 150 animals for the purpose of producing fur or pelts.

79. GARAGE, RESIDENTIAL: An accessory building, or portion of a principal building, designed or used solely for the storage of non-commercial motor vehicles, boats, and similar items or equipment, and having no public sales or shop services in connection thereof.

80. GASOLINE SERVICE STATIONS: A structure used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such storage, minor motor repair, or servicing, but not including bumping, painting, refinishing, or conveyor-type car wash operations or vehicle dismantling.

81. GRADE: A ground elevation established for the purpose of controlling the number of stories and the height of any structure. The building 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. The average of all faces shall be used to determine the height of a structure.

82. GRANDFATHER: When a law is changed or a new law is passed, those whose specific activity was legal under the previous law are allowed to continue, by virtue of this provision.

83. GREENWAY: A contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

84. HIGH WATER MARK, ORDINARY: The line between upland and bottom land which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from up land and is apparent in the soil itself. The configuration of the surface soil and the vegetation on an inland lake, which has a level established by law, it means the high established level, consistent with the Great Lakes Submerged Lands Act, P.A. 247 of 1955, as amended, the ordinary high water mark shall be with the international Great Lakes Datum of 1955, for Lake Superior - 601.5 feet above sea level.

85. HIGH-RISK EROSION AREA: An area designated as a high risk area due to shore land erosion by the Department of Environmental Quality pursuant to the Shore Lands Protection and Management Act, P.A. 245 of 1970, as amended.

86. HOME OCCUPATIONS: Home occupation means a use or occupation conducted on the premises either within the main residential dwelling or an accessory building which is clearly incidental and secondary to residential occupancy.

87. HOTEL: A structure designed, used, or offered for residential occupancy for any period less than one month, including tourist homes, resorts, lodges, motels and youth camps, but does not include hospitals, and nursing homes.

88. IMPROVEMENTS: Those features and actions associated with a project that is considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project that is the subject of zoning approval.

89. INTENSITY OF DEVELOPMENT: The height, bulk, area, density, setback, use, and other similar characteristics of development.

90. JUNKYARD: 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.

91. KENNEL: The permanent or temporary keeping of more than three dogs that are more than six months of age.

92. LEGISLATIVE BODY: The county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar duly elected representative body of a county, township, city, or village.

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

94. LOCAL UNIT OF GOVERNMENT: A county, township, city or village.

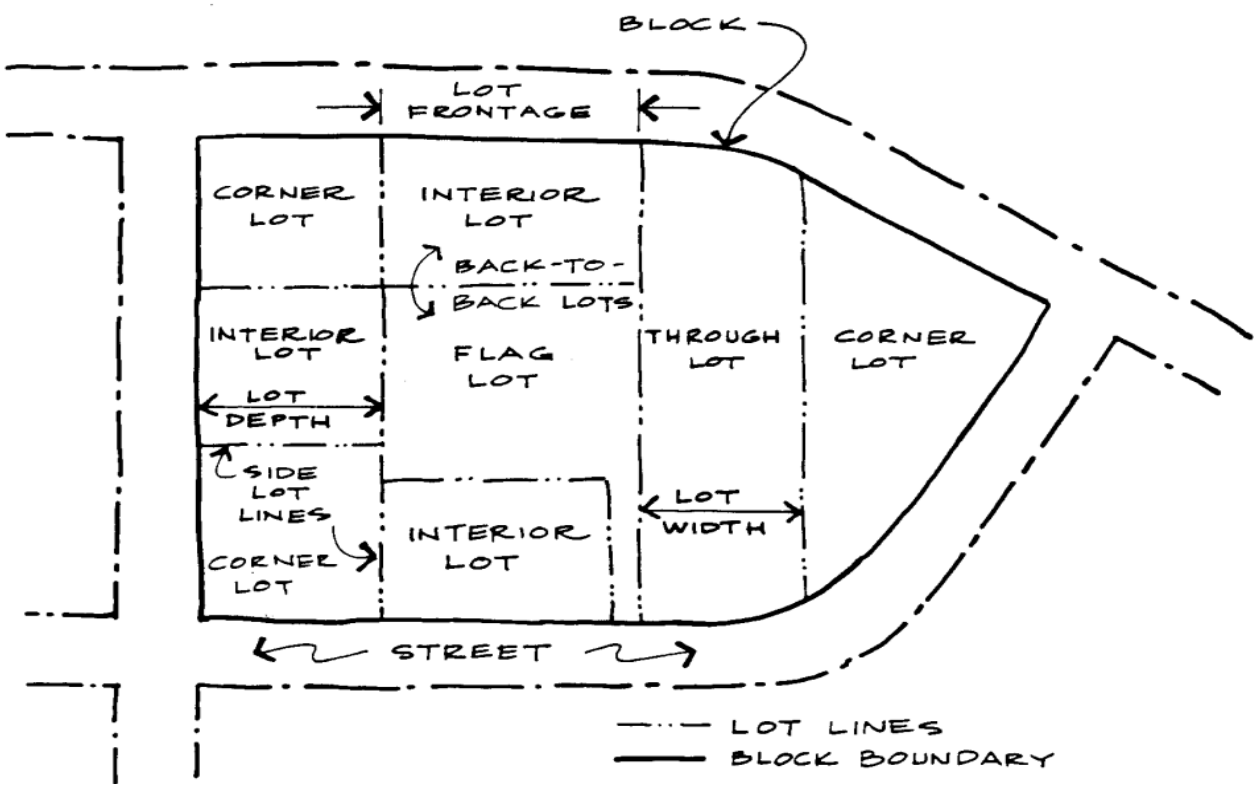
95. LOT: A parcel of land, excluding any portion in a street or road right-of-way, of at least sufficient size to meet minimum requirements for use, coverage and lot area, and to provide such setback area and other open space as required by this Ordinance. Such lot shall have frontage on a public street, and may consist of:

A. A single lot of record;

B. A portion of a lot of record;

C. Any combination of complete and/or portions of contiguous lots of record; or

D. A parcel of land described by metes and bounds, provided that in no case of division or combination shall the area of any lot or parcel created, including residuals, be less than that required to comply with the setback requirements of this ordinance.



96. LOT AREA: The area of land within the boundary of a lot excluding any part under water, and, in addition, it is the area of land bounded by any front lot lines, the right-of-way line of the highway on which it fronts, and the side lot lines intersecting the front lot line at its ends extended to the rear property (lot) line.

97. LOT, CORNER: A lot which has at least two contiguous sides abutting upon a street for their full length.

98. LOT DEPTH: The average distance from the front lot line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

99. LOT, INTERIOR: A lot other than a corner lot.

100. LOT LINE (S): Any of the lines bounding a lot as defined herein.

A. Front Lot Line: In the case of an interior lot, it is that line separating said lot from the street. In the case of a through lot, it is each line separating said lot from each street. In the case of a corner lot, both sides abutting the street are considered front yards and consequently both have front lot lines.

B. Rear Lot Line: That lot line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot. Where the lot has a discontinuous lot line, all lot lines approximately parallel to the front lot line shall be rear lot lines.

C. Side Lot Line: Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

101. LOT OF RECORD: A lot on a plat or map recorded with the County Register of Deeds as of July 20, 1994 (date original Powell Township zoning ordinance was adopted), or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgment of a notary public, prior to the effective date of this Ordinance, and which lot actually exists as shown or described.

102. LOT, THROUGH: A double frontage lot, not a corner lot, having a street for both front and rear lot lines.

103. LOT, WIDTH: The straight line horizontal distance between the side lot lines, measured at the front lot line.

104. MARQUEE: A roof-like structure of a permanent nature projecting from the wall of a building.

105. MINERAL: An organic or inorganic substance in the earth having a consistent and distinctive set of physical properties and composition that can be expressed by a chemical formula and includes, but not limited to, iron ore, copper, sand, gravel, stone, gypsum, peat, silver, gold, diamonds and other precious and semi-precious stones, and uranium.

106. MINING: The extraction of minerals including the actual removal, processing and transportation of minerals and attendant by-products.

107. MOBILE HOME: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. A mobile home does not include a recreational vehicle.

108. MOBILE HOME PARK: Any lot, parcel or tract of land under the control or management of any person, occupied or designated for occupancy by more than two (2) mobile homes and including any accessory buildings, structures or enclosures comprising facilities used by park residents.

109. MOBILE HOME SPACE: A plot of land for placement of a single mobile home within a mobile home park.

110. MODULAR (PRE-MANUFACTURED) HOME: A dwelling unit constructed solely within a factory, as a single unit, or in various sized modulars or components, which are then transported by truck or other means to site where they are assembled on a permanent foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

111. MOVEABLE STRUCTURE: A structure which the Powell Township Zoning Administrator has determined to be moveable. Such a determination shall be based on a review of the design and size of the structure, a review of the capability of the proposed structure to withstand normal moving stresses and a site review to determine whether the structure will be accessible to moving equipment.

112. NONCONFORMING BUILDING (NONCONFORMING STRUCTURE): A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of the Ordinance relative to height, bulk, area, setback, placement or yards for the zoning district in which it is located.

113. NONCONFORMING LOT: A lot which was lawfully created prior to the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the requirements of this Ordinance relative to minimum lot size, width, or width-to-depth ratio.

114. NONCONFORMING USE: A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of the Ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated.

115. NURSING HOME: An installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury, or an infirmity.

116. OPEN SPACE RATIO: The ratio between open space on the lot, whether required or not, and the total lot area.

117. OPEN SPACE, REQUIRED: The yard space of a lot which is established by and between the street, or the lot lines and required setback line and which shall be open, unoccupied and unobstructed by any structure or any part thereof, except as otherwise provided in this Ordinance.

118. OTHER ELIGIBLE LAND: Land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

119. OUTDOOR FURNACE: Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

120. PARKING LOT: A use containing one or more parking spaces located at or above grade accessible for the storage or parking of permitted vehicles, exclusive of drives and entrances giving access thereto.

121. PARKING SPACE: An accessible area, exclusive of drives, aisles or entrance giving access thereto, utilized for the parking or temporary storage of permitted vehicles.

122. PERSONAL SERVICES: A type of business providing services for personal atonement and exercise, such as health clubs, spas, chiropractic services, etc.

123. PLANNED UNIT DEVELOPMENT (PUD): Development of land that includes such terms as cluster zoning, planned development, community unit plan and planned residential development. It may encompass several development options, such as a mixture of land uses on a single parcel.

124. PLANNING COMMISSION: The Township Planning Commission of Powell Township, Michigan. Any designation in this Ordinance referring to the Powell Township Planning Commission should be interpreted to refer to the Powell Township Planning Commission.

125. POPULATION: The population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

126. POULTRY FARM: The place of confined keeping, raising, or breeding fowl on a commercial scale for the production of eggs or meat.

127. PREMISES: A lot, as otherwise used in this Ordinance.

128. PRINCIPAL STRUCTURE: The main structure or building on a lot or parcel, in which is conducted the main or principal use of the lot on which the structure is located, including but not limited to, residential, commercial, industrial, or institutional structures and mobile homes. In the high risk erosion areas described in this ordinance, principal structure also means septic systems, tile fields, any on-site waste handling facility, garages and any other structure designed and intended for permanent use.

129. PRINCIPAL USE: The main use to which the premises are devoted.

130. PRIVATE PARKING LOT: A use not open to the public containing one or more parking spaces located at or above grade accessible for the storage or parking of permitted vehicles, exclusive of drives and entrances giving access thereto.

131. PUBLIC PARKING LOT: A use open to the public containing one or more parking spaces located at or above grade accessible for the storage or parking of permitted vehicles, exclusive of drives and entrances giving access thereto.

132. PUBLIC UTILITY: Any person, firm, corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public; gas, steam, electricity, sewage disposal, refuse removal, transportation, water, or communications (including, radio, telephone, telegraph, television, cable, or fiber optics).

133. RECESSION RATES: A quantitative measure of the landward movement of the bluff line determined on the basis of the shore land erosion studies conducted under P.A. 245 of 1970, as amended, and expressed in terms of an annual average rate.

134. RECLAMATION PLAN: A plan for reconditioning or rehabilitating of a mining area or portions thereof for useful purposes, and the protection of natural resources, including, but not

limited to the control of erosion, visual blight and the prevention of land or rock slides and air and water pollution.

135. RECREATIONAL STRUCTURE: A cabin, cottage, camp, hunting camp, mobile home or other similar structure used intermittently for recreational or vacation purposes and which is not a permanent place of domicile or residency of the owner, his or her agents, lessees, heirs or assigns.

136. RECREATIONAL VEHICLE: A vehicle used for pleasure and designed for recreational use and not as a place of domicile, built upon a frame or chassis with wheels attached and not exceeding 40 feet in length.

137. RESIDUAL STAND: Those trees remaining and not cut following the completion of selective cutting operations.

138. RESTAURANT: An establishment where food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises whether or not entertainment is offered, and includes establishments commonly known as bars, grills, cafes, taverns, nightclubs, drive-ins, and any fast food establishments permitting consumption on the premises.

139. 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.

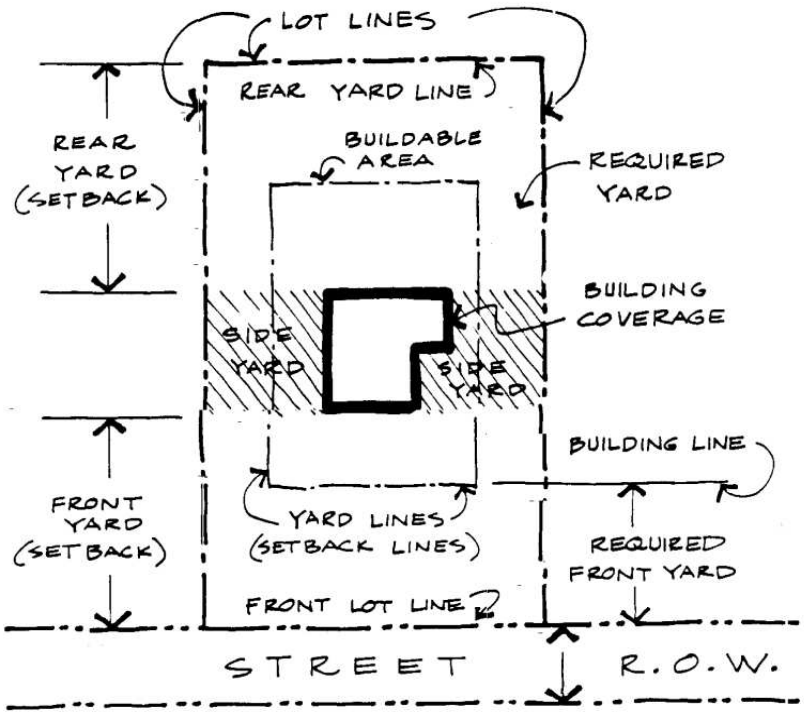
140. SANITARY LANDFILL: A method of disposing of refuse on land without creating nuisances or hazards to public health or safety.

141. SAWMILL: The machinery and appurtenant structures used for the manufacture of wood products. Included but not limited to are circular or band saws, planers, debarkers, chippers, and kilns.

142. SCREEN: A structure providing separation, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other living vegetation.

143. SELF CREATED: A term referring to a zoning problem created by action of the applicant. A self created problem is not grounds for a variance.

144. SELECTIVE CUTTING: An uneven-aged silvicultural system in which trees are removed singly and periodically throughout the stand, leading to the formation of a mixture of age and size classes by individual trees.



145. SETBACK: The minimum unoccupied distance between the lot line and the principal and accessory buildings, or bluff line and the most lake ward edge of a principal structure, as required herein.

146. SETBACK, FRONT: The minimum unoccupied distance, extending the full lot width, between any building or structure and the front lot line (same as a building line).

147. SETBACK, REAR: The minimum required unoccupied distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line.

148. SETBACK, SIDE: The minimum required unoccupied distance, extending from the front setback to the rear setback, between the principal and accessory buildings and the side lot line.

149. SHOPPING CENTER: Is a group of businesses providing a variety of merchandise and/or services located on the same lot.

150. SHORELAND: The land which borders or is adjacent to a Great Lake which may extend up to 1,000 feet landward of the ordinary high water mark.
144. SHORELINE: The area of the shore land where the land and waters of Lake Superior meet.

151. SHORELINE: The area of the shore land where the land and waters of Lake Superior meet.

152. SIGN: A name, identification, image, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, structure, facility, service, event, attraction, person, institution, organization, or business and which is visible from any street, right-of-way, sidewalk, alley, park, or other public property. Customary displays of merchandise or objects and material without lettering placed behind a store window are not signs or parts of signs.

153. SIGN AREA: The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background on which it is placed; excluding the necessary support or uprights on which the sign is placed. Where a sign consists solely of lettering or other sign elements printed or mounted on a wall of a building without any distinguishing border, panel, or background, the area of such a sign shall be computed using the dimension of the rectangle which touches the outermost points of both sides are used, only one side shall be considered in calculating the total area.

154. SIGN, BILLBOARD: An outdoor sign advertising services or products, activities, persons or events that are not made, produced, assembled, stored, distributed leased, sold or conducted upon the premises upon which the billboard is located.

155. SIGN, BULLETIN BOARD: A sign whose primary purpose is to announce events or other occurrences related to the premises.

156. SIGN, DIRECTIONAL: A sign which gives a name, location, and general nature of a specific establishment of attraction and is intended to give directions to that place.

157. SIGN, FREE STANDING: A sign having its own support mechanism placed in or upon the ground.

158. SIGN, IDENTIFICATION: A sign which pertains to the use of premises and contains any or all of the following information:

A. The occupant of the use.

B. The address of the use.

C. The kind of business and/or the principle commodity sold on the premises.

159. SIGN, OFF PREMISES: A sign which advertises goods, services, events, and facilities available at a location other than the premises on which the sign has been place.

160. SIGN, ON-PREMISES: A sign which advertises only goods, services, facilities, events, or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premises signs.

161. SILVICULTURAL SYSTEM: A process whereby trees are tended, harvested, and replaced resulting in production of a forest of distinctive form. A silvicultural system is a program of procedures or treatments for the entire rotation of the particular stand or forest.
The silvicultural system includes all of the management functions ultimately leading to the next scheduled regeneration cut. Although the regeneration cut is a harvesting operation, it

must be noted that there are other treatments, such as site preparation, planting, seeding, release, thinning, and pruning, which may also be included in the prescription for a stand.

162. SITE PLAN: The documents and drawings required by the zoning ordinance to insure a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

163. SMALL ENGINE REPAIR GARAGE: The premises where the following may be carried out in a completely enclosed building: general repair and engine rebuilding of any engine designed to power smaller transportation devices such as snowmobiles, outboard motors and ATV's; home and landscaping devices such as lawnmowers, snow blowers, leaf blowers, and chainsaws; and any other small engine powered household appliances or landscaping devices, and similar items.

164. SPECIAL USE PERMIT: A permit granting special use in any district provided specific requirements have been granted.

165. STABLE, RIDING OR BOARDING: A facility where more than three (3) horses for hire, sale or boarding are kept.

166. STATE LICENSED RESIDENTIAL FACILTY: a structure constructed for residential purpose that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer persons under 24-hour supervision or care.

167. STORY: That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the space between the floor and the ceiling next above it. A story thus defined, shall not be counted as a story when more than fifty (50) percent by cubic content, is below the height level of the adjoining ground.

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

169. STRUCTURE: Any constructed, erected, or placed material or combination of materials in or upon the ground, including, but not limited to buildings, porches, decks, mobile homes, sheds, free standing signs, storage bins, and satellite dishes, but not including sidewalks, driveways, patios, parking lots, and utility poles. Building areas separated by fire walls or bearing walls shall not be considered separate structures under this Ordinance.

170. SUBSTANDARD LOT: A lot of record or a lot described in a land contract or deed executed and delivered prior to the effective date of this ordinance which does not meet the minimum requirements of the district or zone in which it is located. In high risk erosion areas, a substandard lot also means those lots which were legally created with sufficient depth to meet the setback requirement for principal structures in that district, but which subsequently become substandard due to natural erosion processes.

171. TEMPORARY AND SPECIFIC TEMPORARY USE PERMITS: A principal use may be allowed under a temporary or specific temporary use permit as designated by application, consideration and approval by the Planning Commission.

172. TOWNSHIP BOARD: Powell Township Board of Trustees.

173. TRANSFER STATION: A tract of land, a building and any appurtenances, or a container, or any combination of land, buildings, or containers that is used or intended for use in the re-handling or storage of solid waste incidental to the transportation of the solid waste, but I s not located at the site of generation or the site of disposal of the solid waste.

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

175. UNTREATED LUMBER: Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

176. VARIANCE: A modification of the literal provisions of the Zoning Ordinance granted in specific cases when strict enforcement of the Zoning Ordinance would cause practical difficulty or unnecessary hardship owing to circumstances unique to the individual property on which the variance is granted.

177. WOOD YARD: A parcel of land where pulp wood and other logs are gathered from various locations and stored for commercial sale.

178. YARD, FRONT: An open space extending the full width of the lot and lying between the front line of the lot and the nearest line of any building or structure.

179. YARD, REAR: An open space extending the full width of the lot and lying between the rear line of the lot and the nearest line of any building or structure.

180. YARD, SIDE: An open space between the side line of the lot and the nearest line of any building or structure and extending from the front yard to the rear yard.

181. ZONING ADMINISTRATOR: The Township Boards authorized representative charged with the responsibility of administering this Ordinance.

182. ZONING BOARD: a county zoning commission created under the county zoning act, 1943 PA 185, MCL 125.201 to 125.240, or a township zoning board created under the township zoning act, 1943 PA 184, MCL 125.271 to 125.310, that existed on the effective date of this act.

183. ZONING BOARD OF APPEALS: The Zoning Board of Appeals of Powell Township.

184. ZONING COMMISSION: A Zoning Commission as described in Section 301.

185. ZONING JURSIDICTION: The area encompassed by the legal boundaries of a city or village or to the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to township zoning by a township that has adopted a zoning ordinance under this act.

SECTION 203: Zoning Ordinance Basis

The zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability, to limit the improper use of land, to conserve natural resources and energy, to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to insure that uses of the land shall be situated in appropriate locations and relationships, to avoid the overcrowding of population, to provide adequate light and air, to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. The zoning ordinance shall be made with reasonable consideration to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building, and population development.

If a local unit of government adopts or revises a plan required under subsection (1) after an airport layout plan or airport approach plan has been filed with the local unit of government, the local unit of government shall incorporate the airport layout plan or airport approach plan into the plan adopted under subsection (1).

A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either the township or the surrounding county, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is lawful.

ARTICLE III
ZONING DISTRICTS AND MAP

SECTION 301 ESTABLISHMENT OF DISTRICTS

For the purpose of this Ordinance, Powell Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

R-1:	Residential 1
R-2:	Residential 2
R:	Residential
RR-5:	Rural Residential
LS/R:	Lake Shore/River
LS/R 2:	Lake Shore/River 2
RS-10:	Recreational Structure
MH:	Mobile Home Residential District
PUD:	Planned Unit Development
AP-20:	Agriculture Production
RP-10:	Resource Production Ten
RP-20:	Resource Production Twenty
TP-40:	Timber Production
TD:	Town Development
I:	Industrial

A local unit of government may provide by zoning ordinance for the regulation of land development and the establishment of 1 or more districts within its zoning jurisdiction which regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land, to ensure that use of the land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, and to promote public health, safety, and welfare.

Except as otherwise provided under this act, the regulations shall be uniform for each class of land or buildings, dwellings, and structures within a district.

A local unit of government may provide under the zoning ordinance for the regulation of land development and the establishment of districts which apply only to land areas and activities involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the regulation of land development and the establishment of districts in areas subject to damage from flooding or beach erosion.

SECTION 302 ZONING DISTRICT MAP

The boundaries of the respective districts enumerated in Section 301 are defined and established as depicted on the map entitled "Powell Township Official Zoning Map," which is an integral part of this Ordinance. This map, along with all notations and explanatory matter thereon, shall become as much a part of this Ordinance as if fully described herein.

The Powell Township Official Zoning Map shall be identified by the signature of the Powell Township Supervisor and attested by the Township Clerk. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries, such changes shall be incorporated on the Powell Township Official Zoning Map and approved by the Township Board together with an entry on the Powell Township Official Zoning Map showing the date and official action taken.

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

SECTION 303 INTERPRETATION OF THE ZONING MAP

Where due to the scale, lack of detail or illegibility of the zoning map, there is any uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon; the Zoning Board of Appeals shall make an interpretation of said map upon request of any person. The Zoning Board of Appeals shall apply the following standards in interpreting the zoning map:

A. Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the center lines of alleys, streets, rights-of-way or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.

B: Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.

C. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.

D. If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of uses of property and the history of zoning ordinances and amendments in Powell Township, as well as all other relevant facts.

SECTION 304 REPLACEMENT OF OFFICIAL ZONING MAP

In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The Official Zoning map shall bear the same signatures and certification as required in Section 302. Unless the Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

SECTION 305 APPLICATION OF DISTRICT REGULATIONS

The regulations herein established within each Zoning District shall be the minimum regulations for promoting and protecting the public health, safety and general welfare, and shall be uniform for each class of land or buildings and structures throughout each district. Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have power in passing upon appeals, in accordance with Article XI herein, to vary or modify regulations and provisions of this Ordinance so that the intent and purposes of this Ordinance shall be observed, public safety secured and substantial justice done.

SECTION 306 SCOPE OF PROVISIONS

A. Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building or structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the Zoning District in which such use, building, or structure shall be located.

B. Uses are permitted by right only if specifically listed as uses permitted by right in the various Zoning Districts. Where not specifically permitted, either by right or conditionally, uses are thereby prohibited unless constructed to be similar to an expressly permitted use. The Zoning Administrator shall determine if a use is similar to an expressly permitted use. Any appeals to the Zoning Administrator's interpretation shall be to the Zoning Board of Appeals.

C. Accessory uses are permitted as indicated for the various Zoning Districts and if such uses are clearly incidental to the permitted principal uses.

D. The uses permitted subject to special conditions are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, etc.) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.

E. The Planning Commission may provide for special land uses in a zoning district. A special land use shall be subject to the review and approval of the planning commission.

F. Upon receipt of an application for a special land use which requires a discretionary decision, the Planning Commission provide notice of the request as required under section 1002 of this zoning ordinance.

G. At the initiative of the Planning Commission or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held before a discretionary decision is made on the special land use request.

H. The Planning Commission may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed. The standards shall be consistent with and promote the intent and purpose of the zoning Ordinance and zoning district and shall insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety and welfare of the local unit of government.

1. A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in the zoning ordinance, the conditions imposed under the zoning ordinance, other applicable ordinances, and state and federal statutes.

2. Reasonable conditions may be required with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

a. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

c. Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under

consideration, and be necessary to insure compliance with those standards.

3. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the Township Board, the Planning Commission and the landowner. The Planning Commission and Township Clerk shall maintain a record of conditions which are changed

SECTION 307 CONFLICTING REGULATIONS

Wherever and/or whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than those imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. No vested right shall arise to the property owner for any parcel or use created in violation of any preceding Powell Township Zoning Ordinance.

Except as otherwise provided under the Michigan Zoning Enabling Act of 2006, an ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law.

SECTION 308 EXEMPTIONS

The location of pipes, wires, poles, and generating and transmission equipment of public utilities or railroad tracks regulated by the State of Michigan or by the United States are exempt from regulation under this Ordinance.

The township shall not regulate or control the drilling, completion or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes and shall not have jurisdiction with reference to the issuance of permits for the location, drilling, completion, operation or abandonment of such wells.

This ordinance is subject to the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.

A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

SECTION 309 DISTRICT R: RESIDENTIAL

A. INTENT: The R, Residential District, is intended for the establishment and preservation of quiet neighborhoods for single-family dwellings and two-family dwellings free from other uses except those which are both compatible with and convenient to the residents in this District. The R District is designed to accommodate residential opportunities for those who are willing to assume the costs of providing their own services, requiring spacious lots, insuring a safe, potable water supply and treatment of waste water on the same lot. Minimum lot size is 22,500 sq. ft.

B. PERMITTED PRINCIPAL USES:

1. Single-family dwellings
2. Two-family dwelling
3. Adult foster care family home
4. Day care facility, family
5. Class I home occupations in accordance with the requirements of Section 404

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with residential dwellings such as a garage, shed for yard tools, playhouse, pens, boathouse, swimming pools, woodshed, or sauna. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures may be permitted in this District by application for and the issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Adult foster care small group home

2. Cemeteries

3. Churches

4. Day care center

5. Day care facility, group

6. Elevated water storage tanks, waste water treatment facilities.

7. Mobile home parks

8. Multiple-family dwellings

9. Parks

10. Schools

11. Township halls, community centers, and fire halls.

12. Parking Space and/or Parking Lot

13. Recreational Structure

SECTION 310 DISTRICT R-1 RESIDENTIAL

A. INTENT: The R-1 Residential District is intended for the establishment and preservation of quiet neighborhoods for single-family and two-family dwellings free from other uses except those which are both compatible with and convenient to the residents in this district. The R-1 District is designed to accommodate residential opportunities for those who are willing to assume the costs of providing their own services, requiring spacious lots, insuring a sage, potable water supply and treatment of waste water on the lot. Minimum lot size is 1 acre.

B. PERMITTED PRINCIPAL USES:

1. Single-family dwellings
2. Two-family dwellings
3. Adult foster care family home
4. Day care facility, family
5. Class I home occupations in accordance with the requirements of Section 404.

C. PERMITTED ACCESSORY USES:

1. Accessory structures normally associated with residential dwellings such as a garage, shed for yard tools, playhouse, pens, boathouse, swimming pools, woodshed or sauna. Boathouses and other shoreline usage may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following usages of land and structures may be permitted in this District by application for and the issuance of a Conditional Use Permit as provided for in Article IX, reference Section 904:

1. Adult foster care small group home
2. Cemeteries
3. Churches
4. Day care center
5. Elevated water storage tanks, waste water treatment facilities
6. Multiple-family dwellings
7. Day care facility, group
8. Parks
9. Schools
10. Township halls, community centers, and fire halls
11. Parking Space and/or Parking Lot
12. Recreation Structure
13. Alternative Energy

SECTION 311 DISTRICT R-2 RESIDENTIAL

A. INTENT: The R-2 Residential District is intended for the establishment and preservation of quiet neighborhoods for single-family and two-family dwellings free from other uses except those which are both compatible with and convenient to the residents in this district. The R-2 District is designed to accommodate residential opportunities for those who are willing to assume the costs of providing their own services, requiring spacious lots, insuring a safe, potable water supply and treatment of waste water on the same lot. Minimum lot size is 2 acres.

B. PERMITTED PRINCIPAL USES:

1. Single-family dwellings
2. Two-family dwellings
3. Adult foster care family home
4. Day care facility, family
5. Class I home occupations in accordance with the requirements of section 404.

C. PERMITTED ACCESSORY USES:

1. Accessory structures normally associated with residential dwellings such as a garage, shed for yard tools, playhouse, pens, boathouses, swimming pools, woodshed, and sauna. Boathouses and other shoreline usages may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following usages of land and structures may be permitted in this District by application for and the issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Adult foster care small group home
2. Cemeteries
3. Churches
4. Day care center
5. Elevated water storage tanks, waste water treatment facilities
6. Multiple family dwellings
7. Day care facility, group
8. Parks
9. Schools
10. Township halls, community centers and fire halls
11. Parking Space and/or Parking Lot
12. Recreation Structure
13, Alternative Energy

SECTION 312 DISTRICT RR-5 RURAL RESIDENTIAL

A. INTENT: The RR-5, Rural Residential, District is established to provide for a transition zone between more densely settled residential areas and the more sparsely developed rural, agricultural, or forested areas of the Township. Such areas are accessible and provide for a mix of moderately intensive, compatible uses from surrounding zones. Minimum lot size is 5 acres.

B. PERMITTED PRINCIPAL USES:

1. Single-family dwellings

2. Traditional agriculture, (farms) on tracts of 20 acres or more.

3. Adult foster care family home

4. Day care facility, family

5. Class I home occupations in accordance with the requirements of Section 404

6. Two-family dwellings

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, pens, boathouses, swimming pools, woodshed, or sauna. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.
2. Light agricultural activity on 5 acres or more.
3. Accessory structures clearly incidental to the permitted intensity of agricultural activity on the site, to include roadside sales.
4. Agricultural produce stands.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures may be permitted in this District by application for and the issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Agricultural equipment sales, service or repair.
2. Auction sale barns
3. Bed & Breakfast
4. Churches.
5. Cemeteries.
6. Class II home occupations, subject to the conditions of Section 404.
7. Day care center
8. Day care facility, group
9. Facilities for bulk feed, seed or fertilizer sales, storage or mixing.
10. Kennels on parcels at least 20 acres in size.
11. Public and private recreational facilities including parks, playgrounds, camps, campgrounds, and similar recreation facilities.
12. Schools.
13. Self-storage warehouse
14. Storage yards, transformer stations, substations, microwave relay towers, freestanding towers, cellular towers and similar facilities associated with utilities.
15. Transfer stations.
16. Veterinarian offices and animal clinics.
17. Condominiums/multiple family dwellings
18. Contractors Storage Yard
19. Commercial Parking Lot
20. Private Parking Lot
21. Public Parking Lot
22. Agricultural Entertainment
23. Carnival, Swap Meets, Fairgrounds, Flea Markets and Auction House
24. Alternative Energy

SECTION 313 DISTRICT LS/R: LAKE SHORE AND RIVER

A. INTENT: The LS/R, Lake Shore and River, district is established to preserve for residential and recreational uses those areas with frontage on lakes and rivers which, because of existing development, natural characteristics and accessibility, are suitable for development. Minimum lot size is 22,500 sq. ft.

B. PERMITTED PRINCIPAL USES:

1. Single-family dwellings.
2. Adult foster care family home
3. Day care facility, family
4. Class I home occupations in accordance with the requirements of Section 404

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with residential dwellings, mobile homes, and seasonal dwellings, such as a private garage, shed for yard tools, playhouse, pens, boathouse, swimming pool, woodshed, or sauna. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures any be permitted in this District by application for and the issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Two-family and condominiums/multiple-family dwellings.
2. Bed & Breakfast
3. Day care facility, group
4. Marinas, boat liveries, swimming facilities and fishing piers.
5. Resorts, lodges and associated facilities.
6. Alternative Energy

SECTION 314 DISTRICT LS/R-2: LAKE SHORE AND RIVER

A. INTENT: The LS/R-2, Lake Shore and River, district is established to preserve for residential and recreational uses those areas with frontage on lakes and rivers which, because of existing development, natural characteristics and accessibility, are suitable for development. Minimum lot size is 2 Acres.

B. PERMITTED PRINCIPAL USES:

1. Single-family dwellings.

2. Adult foster care family home

3. Day care facility, family

4. Class I home occupations in accordance with the requirements of Section 404

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with residential dwellings, mobile homes, and seasonal dwellings, such as a private garage, shed for yard tools, playhouse, pens, boathouse, swimming pool, woodshed, or sauna. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures any be permitted in this District by application for and the issuance of a Conditional Use permit as provided for in Article IX, reference to Section 904:

1. Two- family condominiums /multiple-dwellings.

2. Bed & Breakfast

3. Day care facility, group

4. Marinas, boat liveries, swimming facilities and fishing piers.

5. Resorts, lodges and associated facilities.

6. Alternative Energy

SECTION 315 DISTRICT RS-10: RECREATIONAL STRUCTURES

A. INTENT: The RS-10, Recreational Structures, District is established and maintained for recreational and residential uses. The District is designed for areas with frontage on lakes and rivers, which because of their natural characteristics, accessibility, and high cost of providing public services, are suited for less intensive development than the LS/R District and intended for recreational or seasonal development. Governmental services may not be provided on a year-round basis or may not be provided at all. Minimum lot size is 10 acres.

B. PERMITTED PRINCIPAL USES:

1. Recreational structures.

2. Single-family dwellings

3. Adult foster care family home

4. Day care facility, family

5. Class I home occupations subject to the conditions of Section 404.

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with recreational structures and residential dwellings, such as a private garage, shed for yard tools, playhouse, pen, boathouse, swimming pool, recreational dock, sauna, or woodshed. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following seasonal uses of land and structures may be permitted in this District by application for and the issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Marinas, boat liveries, swimming facilities and fishing piers.

2. Resorts, lodges and associated facilities.

3. Day care facility, group.

4. Campgrounds

5. Alternative Energy

SECTION 316: DISTRICT MH: MOBILE HOME RESIDENTIAL DISTRICT

A. INTENT: The MH Residential District is designed and intended to accomplish the objectives of the zoning ordinance through planned development for a mobile home park. Site planning and careful land use will allow appropriate development that is in keeping with rural nature of the township. Must meet requirements of Section 418.

B. PERMITTED PRINCIPAL USES:

1. Single-family dwellings

2. Community centers

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with recreational structures and residential dwellings, such as a private garage, shed for yard tools, playhouse, pen, sauna, or woodshed.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures may be permitted in this District by application for and the issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Churches

2. Public and private parks

3. Schools

4. Alternative Energy

5. Contractors Storage Yard

6. Public Parking Lot

7. Commercial Parking Lot

8. Private Parking Lot

SECTION 317: DISTRICT PUD: PLANNED UNIT DEVELOPMENT

A. INTENT: The PUD, Planned Unit Development District is designed and intended to accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area. A planned unit development may be located anywhere in the Township upon its approval by the Powell Township Planning Commission following an extensive site plan review. Any development that fails to meet qualifying conditions, at a minimum, shall not be considered for the PUD District. See Article VIII for specific requirements for application.

B. PERMITTED PRINCIPAL USES:

1. Single-family dwellings.

2. Two-family dwellings.

3. Multi-family dwellings

4. Churches

5. Public and private parks

6. Schools

7. Community centers

8. Bed and breakfast establishments

9. General retail sales to the consumer, production may occur on the premises provided all goods produced on the premises must be sold on the premises.

10. Offices.

11. Personal services.

12. Post offices.

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, pen, sauna, swimming pools or woodshed.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures may be permitted in this District by application for and the issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Adult foster care family home
2. Day care facility, family
3. Class I home occupations in accordance with the requirements of Section 404

SECTION 318 DISTRICT AP-20: AGRICULTURAL PRODUCTION

A. INTENT: The AP-20, Agricultural Production, District is intended to preserve for productivity and protect from other incompatible uses the lands which have suitable soil characteristics for the growing of crops and animals beneficial to man and to allow forestry and mineral extraction where such resources exist and their removal will not interfere with the overall operation and productivity of adjoining agricultural land uses. Minimum lot size is 20 acres.

B. PERMITTED PRINCIPAL USES:

1. Light agricultural and traditional agricultural activity.
2. Single-family dwellings.
3. Adult foster care family home
4. Day care facility, family
5. Class I home occupations in accordance with the requirements of Section 404
6. The growing and harvesting of timber subject to Sections 402 and 415.
7. Mineral extraction subject to Sections 414 through 416.

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Agricultural accessory uses and structures.
2. Agricultural produce stands.
3. Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, pen, boathouse, swimming pool, woodshed, or sauna. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.
4. Accessory uses and structures normally associated with the operation of a mineral extraction process.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures may be permitted in this District, by the application for and the issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Intensive agricultural activity.

2. Agricultural equipment sales, service or repair.

3. Auction sale barns.

4. Bulk food processing facilities and operations.

5. Class II home occupations, subject to the conditions of Section 404.

6. Commercial free standing towers.

7. Commercial riding or boarding stables.

8. Day care facility, group

9. Extraction of sand or gravel from pits not exceeding 20 acres in size.

10. Facilities for bulk feed, seed or fertilizer sales, storage or mixing.

11. Gun clubs, rifle, trap and pistol ranges.

12. Kennels on parcels at least 20 acres in size.

13. Private airport or landing fields.

14. Single-family dwellings will be permitted on lots of one acre or more if the Planning Commission determines that they meet all of the following standards:
    a. Are not located on lands identified as Agriculture on the Current Use Inventory Maps of Marquette County pursuant to Act 204 of 1979;
    b. Are located on a parcel of land that is not prime or unique farmland as determined by the Marquette County Soil Conservation District;
    c. Have soils suitable and capable of supporting year-round residential occupancy; and
    d. The proposed lot is located on a public road serviced year-round.

15. Storage yards, transformer stations, substations, microwave relay towers and similar facilities associated with public utilities.

16. Veterinarian offices, commercial kennels and animal clinics.

17. Campgrounds

18. Alternative Energy

19. Private Parking Lot

20. Public Parking Lot

21. Commercial Parking Lot

22. Contractor Storage Yard

SECTION 319 DISTRICT RP-10: RESOURCE PRODUCTION TEN

A. INTENT: The RP-10, Resource Production Ten, District is established to maintain low density rural areas which because of their rural character and location, potential mineral content, accessibility, natural characteristics and the potentially high cost of providing public services for intensive uses are more suitable for a wide range of forestry, agriculture, natural resource and recreational uses. The Resource Production Ten District is similar in many ways to the Resource Production Twenty District. Minimum lot size is one of the major differences. The purpose of establishing this RP-10 District is to allow greater opportunity for low density development in certain areas. Some of the characteristics necessary for the RP-10 District are having electrical service, and being located on a county road serviced year-round. Minimum lot size is 10 acres.

B. PERMITTED PRINCIPAL USES:
1. Growing and harvesting of timber subject to Sections 402 and 415.
2. Single-family dwellings

3. Adult foster care family home
4. Day care facility, family
5. Campgrounds, day camps.
6. Class I home occupations in accordance with the requirements of Section 404
7. Light agricultural and traditional agricultural activity.
8. Mineral extraction, subject to Sections 414 through 416.
9. Parks, winter sports facilities, and trails.
10. Stables.

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with residential dwellings such as a private garage, shed for yard tools, playhouse, pen, boathouse, swimming pool, woodshed, or sauna. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.
2. Agricultural accessory uses and structures.
3. Agricultural produce stands.
4. Accessory uses and structures normally associated with the operation of a mineral extraction process.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures may be permitted in this District, by application for and issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Auction sale barns.
2. Class II home occupations, subject to the conditions of Section 404.
3. Commercial free standing towers.
4. Commercial recreational facilities including golf courses, race tracks, motorcycle hill-climbing sites, go-cart tracks and similar facilities.
5. Day care facility, group
6. Extraction of sand or gravel from pits not exceeding 20 acres in size.
7. Gun clubs, rifle, trap and pistol ranges.
8. Kennels on parcels at least 20 acres in size.
9. Private airport or landing fields.
10. Resorts and lodges.
11. Sawmills.
12. Storage yards, transformer stations, substations, microwave relay towers and similar facilities associated with public utilities.
13. Transfer stations.
14. Wood yards.
15. Alternative Energy
16. Private Parking Lot
17. Public Parking Lot
18. Commercial Parking Lot
19. Contractors Storage Yard

SECTION 320 DISTRICT RP-20: RESOURCE PRODUCTION TWENTY

A. INTENT: The RP-20, Resource Production Twenty District, is established to maintain very low density rural areas which because of their location, potential mineral content, accessibility, natural characteristics and high cost of providing public services are not suitable for year-round development but rather for a wide range of forestry, agriculture, mineral extraction,

natural resource and recreational uses. Governmental services may not be provided on a year-round basis or may not be provided at all. Minimum lot size is 20 acres.

B. PERMITTED PRINCIPAL USES:

1. Growing and harvesting of timber subject to Sections 402 and 415
2. Light agricultural and traditional agricultural activities.
3. Campgrounds, day camps.
4. Kennels and Stables.
5. Mineral extraction subject to Sections 414 through 416.
6. Parks, winter sports facilities, and trails.
7. Recreational Structures.
8. Single family dwellings when the structure is located within 1320 feet of permanent all season road as designated by the Marquette County Road Commission.
9. Adult foster care family home
10. Day care facility, family
11. Class I home occupations in accordance with the requirements of Section 404

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with recreational structures such as a private garage, shed for yard tools, playhouse, pen, boathouse, swimming pool, woodshed, or sauna. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.
2. Agricultural accessory uses and structures.
3. Agricultural produce stands.
4. Accessory uses and structures normally associated with the operation of a mineral extraction process.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures may be permitted in this District, by application for and issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Auction sale barns
2. Class II home occupations, subject to the conditions of Section 404.
3. Commercial free standing towers.
4. Commercial recreational facilities including golf courses, race tracks, motorcycle hill-climbing sites, go-cart tracks, and similar facilities.
5. Day care facility, group
6. Extraction of sand or gravel from pits not exceeding 20 acres in size.
7. Gun clubs, rifle, trap and pistol ranges.
8. Intensive agricultural activity.
9. Private airport or landing fields.
10. Resorts and lodges.
11. Sawmills.
12. Storage yards, transformer stations, substations, microwave relay towers and similar facilities associated with public service uses or facilities.
13. Wood yards.
14. Alternative Energy
15. Private Parking Lot
16. Public Parking Lot
17. Commercial Parking Lot
18. Contractors Storage Yard

SECTION 321 DISTRICT TP-40: TIMBER PRODUCTION

A. INTENT: The TP-40, Timber Production, district is established to preserve and maintain for timber production purposes those lands which because of their soil, drainage, large tract ownership, potential mineral content, and other characteristics, are especially suited for timber productions and mining. Minimum lot size is 40 acres.

B. PERMITTED PRINCIPAL USES:

1. Growing and harvesting of timber subject to Section 402 and 415.

2. Sawmills.

3. Wood yards.

4. Mineral extraction subject to Sections 414 through 416.

5. Recreational Structures.

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Any structural or mechanical use customarily incidental to the operation of sawmills or wood yards.

2. Accessory structures normally with recreational structures, such as a private garage, shed for yard tools, playhouse, pen, boathouse, recreational dock, swimming pool, sauna or woodshed. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.

3. Accessory uses and structures normally associated with the operation of a mineral extraction process.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures may be permitted in this District, by application for and issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Extraction of sand and gravel from pits not exceeding 20 acres in size.

2. Public utility substations.

3. Alternative Energy

SECTION 322 DISTRICT TD: TOWN DEVELOPMENT

A. INTENT: The TD, Town Development, District is established to preserve a district for residential, retail and service establishments, and certain governmental uses that are compatible with a small town setting serving residents and tourists. This district is designed for small unincorporated town areas where a mix of residential and retail is in accord with established patterns of land use and the needs of nearby residents. Minimum lot size is 3800 square feet (See Section 401, Item J.)

B. PERMITTED PRINCIPAL USES:

1. Single-family dwellings.
2. Two-family dwellings.
3. Adult foster care family home
4. Day care facility, family
5. Class I home occupations in accordance with the requirements of Section 404
6. Cemeteries.
7. Community centers
8. Elevated water storage tanks.
9. Fire halls.
10. General retail sales to the consumer, production may occur on the premises provided all goods produced on the premises must be sold on the premises.
11. Offices.
12. Personal services.
13. Post offices.
14. Township halls.

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Accessory structures normally associated with residential dwellings, such as a private garage, shed for yard tools, playhouse, pen, boathouse, swimming pool, woodshed, or sauna. Boathouses and other shoreline uses may be regulated or prohibited by other agencies, including but not limited to, the Michigan Department of Environmental Quality.
2. Any structural or mechanical building or use customarily incidental to the permitted principal use.
3. Signs, as required and subject to the regulations established in Article V.

D. CONDITIONAL USES AUTHORIZED BY PERMIT: The following uses of land and structures may be permitted in this District, by application for and issuance of a Conditional Use Permit as provided for in Article IX, reference to Section 904:

1. Adult foster care small group home
2. Adult foster care large group home
3. Automotive and /or small engine repair garage.
4. Bed & Breakfast
5. Churches.
6. Construction and farm equipment sales and service.
7. Convenience store
8. Day care center
9. Day care facility, group
10. Gas stations.
11. Hotels and motels.
12. Laundromats.
13. Mobile home, camper, recreational vehicle and boat sales and service.
14. Motor vehicles sales and service.
15. Multiple-family dwellings.
16. Nursing homes.
17. Private and public parks and similar recreational facilities.
18. Road commission and public works buildings, maintenance/storage facilities, and contractor yards.
19. Schools.
20. Self-storage warehouse.

21. Transfer stations.
22. Waste water treatment facilities.

SECTION 323 DISTRICT I: INDUSTRIAL

A. INTENT: The I, Industrial, District is designed and intended for manufacturing, assembling, fabricating, and processing businesses, storage, mineral extraction, and other commercial activities which may require larger sites and isolation from many kinds of other land uses and to make provisions for commercial uses necessary to service the immediate needs of an industrial area. Minimum lot size is 1 acre.

B. PERMITTED PRINCIPAL USES:

1. Automobile and/or small engine repair garage.

2. Concrete and asphalt plants.

3. Contractor yards and shops.

4. Junkyards and salvage yards.

5. Lumber yards.

6. Manufacturing.

7. Mineral Extraction, subject to Section 414 through 416

8. Processing, assembling and fabrication operations.

9. Research laboratories.

10. Sawmills.

11. Transfer stations.

12. Warehousing.

C. PERMITTED ACCESSORY USES: The following are permitted accessory uses:

1. Any structural or mechanical building or use customarily incidental to the permitted principal use.

2. Signs, as required and subject to the regulations established in Article V.

D. CONDITIONAL USES AUTHORIZED PERMIT: The following uses of land and structures may be permitted in this District by application for and issuance of a Conditional Use Permit as required in Article IX, reference to Section 904:

1. Other industrial or heavy commercial uses not specifically mentioned in Section 318(B).

ARTICLE IV
GENERAL REGULATIONS

SECTION 401 HEIGHT, BULK, AND PLACEMENT REGULATIONS

Except as otherwise specifically provided in this Ordinance, no lot or parcel shall be created and no structure shall be erected or maintained except in compliance with the Schedule of Regulations specified below.

SCHEDULE OF REGULATIONS

DISTRICT	MINIMUM LOT SIZE	MINIMUM LOT WIDTH IN FEET (A)	SETBACK (B/L)			MAXIMUM HEIGHT IN FEET
			FRONT	SIDE	REAR	
R-1	1 ACRE (M) (43,560 SQ FT)	150	30	10	25 (C)	35(D)
R-2	2 ACRES (M)	150	30	10	25 (C)	35(D)
R	22,500 SQ FT	150	25	10	25 (C)	35(D)
RR-5	5 ACRES (M)	235	30	10	30	35(D)
LS/R	22,500 SQ FT (K, L, M)	100	50	10	25	35(D)
LS/R-2	2 ACRES (K, L, M)	200	50	10	25	35(D)
RS-10	10 ACRES (M)	330	50	10	30	35(D)
MH	TBD	TBD	TBD	TBD	TBD	TBD
PUD	(L)	(L)	(L)	(L)	(L)	(L)
AP-20	20 ACRES (G, M)	470	3	10	30 (I)	(F)
RP-10	10 ACRES (G, M)	330	30	10	30 (I)	35
RP-20	20 ACRES (G, M)	470	30	30	30 (I)	35
TP-40	40 ACRES (M)	660	30	30	30 (I)	35
TD	22,500 SQ FT (H)	100	25	10	20	35 (D)
BAYVIEW PI.	3,800 SQ FT (J)	38	10	6	5	35 (D)
I	1 ACRE (M)	150	40	(E/F)	20	(E/F)

(A). Lot width shall be measured at front setback line and shall not include any encumbrances, such as easements or other such restrictions. Regardless of actual lot size, the maximum depth to width ratio shall be 4 to 1.

(B). No part of any structure, including but not limited to, eaves, bay windows, awnings, etc., shall extend into the required minimum setbacks in any district.

(C). An accessory building or structure in the R-residential district may be located twenty (20) feet from a rear lot line.

(D). An accessory building or structure shall not exceed sixteen (16) feet in height in the R, LS/R, TD and Bayview Plat districts, or twenty (20) feet in height in the RR-5 and RS-10 districts.

(E). All structures within the Industrial District shall be provided with access to their rear yard, with a minimum of thirty (30) feet clear and unobstructed access way or easement. Setbacks from the existing residential parcels shall be: 50 feet for all buildings; 25 feet for driveways, entrances, or exists; and 10 feet for parking areas.

(F). Height at any point on a structure shall not exceed the horizontal distance to any lot line.

(G). The determination of lot size when adjoining a road shall be made as if the road was a part of the lot in question. For example, a 20 acre parcel fronting on a road will lose approximately one-half acre in the road right-of-way. This will then make the parcel size 19.5 acres, however, it will still conform to the 20 acre minimum lot size requirement.

(H). The minimum landscaped open space ratio shall be twenty-five (25) percent in the Town Development District.

(I). Customary accessory buildings or structures shall be located thirty (30) feet from the rear lot line. Rear setback for parcels not abutting water courses shall be thirty (30) feet for all structures.

(J). Bay View Plat was platted having lots 38 to 110 feet wide by 100 feet deep, and having a central water and sewage system.

(K). All structures on lots abutting any body of water, as defined in Act No. 346 of the public acts of 1972, including, but not limited to, lakes, rivers, streams, and impoundments, shall maintain a minimum setback of 50 feet as measured from the high water mark or lot line. All uses shall be subject to this set back except private bathing facilities, saunas, storage sheds, and associated facilities which shall maintain a minimum setback of 30 feet as measured from the high water mark or lot line.

(L). The PUD must be have an approved site plan defining areas and must maintain a minimum of 35% open space, natural landscaping and public areas exclusive of residential lots and commercial development. See Article VIII for specifications.

(M) One acre is equal to 43,560 square feet.

(N) Trees and shrubs in a space 50 feet wide may be trimmed or pruned for a view of the fronting waters and for access thereto. No change shall be made in its natural grade. A lot shall be regarded in its natural condition when there is at least one tree or shrub having a height of at least 15 feet for each 75 square feet of area thereof in wooded areas or sufficient natural ground cover in open areas.

(O). LIMITATION OF "FUNNEL DEVELOPMENT": Any development in any zoning district which shares a common lakefront or stream area may not permit more than one (1) single family home, recreational structure, condominium or apartment unit to the use of each one hundred (100) feet of lake or stream frontage in such common lake-front or stream area as measured along the water's edge of normal high water mark. This restriction is intended to limit the number of users of the lake or stream frontage to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational use of all waters and recreational lands. This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership or lease. This restriction shall not apply to an official public access site.

(P). Wellhead Protection Zone and Wellhead Protection Area: All zoning districts within a one-thousand (1,000) foot radius of the township municipal water supply and within the township’s delineated - Wellhead Protection Area are restricted to Residential, Rural Residential, and Timber Production Districts in order to provide maximum protection against groundwater contamination. All liquid above-ground petroleum and chemical storage tanks within this zone shall be placed above ground level with a concrete catch basin with a minimum three (3) inch lip around its base to collect any leakage from the storage tank. This is to include home heating oil tanks, gasoline storage tanks, and any other tanks containing possible pollutants to the groundwater system.

SECTION 402 ENVIRONMENTAL PROTECTION STRIPS

A. A one hundred (100') foot wide environmental protection strip, measured from the high water mark, shall exist along each side of the following rivers: Yellow Dog, Big Garlic, Little Garlic, Alder, Wilson, Salmon Trout (Main Branch), Salmon Trout (East Branch), Salmon Trout will be maintained.

B. A fifty (50') foot wide environmental protection strip, measured from the water's edge, shall exist along each side of all other non-intermittent streams and permanent bodies of water, exceeding five (5) acres in size, found in the districts established by this Ordinance.

C. Selective cutting will be permitted within the environmental protection strip (Section 402, A and B) utilizing the following practices, and as a guide, The Water Quality Management Practices on Forest Land, May 1993, Michigan Department of Natural Resources, Forest Management Division, as amended.

1. Minimize disturbance of the forest floor.

2. Harvesting specifications will be modified to retain a sufficient number of trees to maintain shading of the stream and to leave a stable, undisturbed forest floor.

3. Locate haul roads outside of environmental protection strip whenever possible. Where a road must cross a stream, it should do so at right angles using culvert or bridges.

4. Locate equipment storage and maintenance sites and landings outside the environmental protection strip.

5. Remove all limbs and tops from harvested trees from streams and nonforested wetlands, and there shall be no destruction of banks of shorelines.

6. Equipment should not be operated within the environmental protection strip when soils are saturated. To avoid negative impact on forest growth within the environmental protection strip, care must be taken not to interrupt the natural drainage of the soils.

7. Stabilize as soon as appropriate all roads, cuts, and fills in the environmental protection strip by using appropriate seeding and mulching mixtures.

8. Drainage structures such as ditches, culverts, retention areas, water bars, and broad-based dips should be used on truck and skid roads prior to their entrance to an environmental protection strip to intercept and properly discharge runoff.

D. No mines, quarries, or gravel extraction, or removal of soil, sand, gravel, stone, or other earth materials shall be allowed within the environmental protection strips unless a Mineral Extraction Permit has been approved by the Planning Commission.

SECTION 403 MINIMUM BUILDING FLOOR AREA

Every single/two-family dwelling, excluding recreational structures, shall have a floor area of not less than 720 square feet, exclusive of unfinished basements, garages, porches, and breezeways. Recreational Structures will not have less than 150 square feet. Every unit in a multiple family dwelling shall have a minimum floor area of at least 350 square feet. The maximum ground cover ratio for all structures in a multiple family development shall be 40 percent.

SECTION 404 ACCESSORY BUILDINGS USES AND HOME OCCUPATIONS

Where a lot is devoted to a permitted principal use, customary accessory uses and buildings are authorized except as prohibited specifically or by necessary implication in this or any other ordinance. The following special rules are applicable:

A. An accessory building, including carports, attached to the principal building shall be made structurally a part thereof, and shall comply in all respects with the requirements of this Ordinance applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered livable floor space.

B. An accessory building, unless attached and made structurally a part of the principal building, shall not be closer than ten (10) feet to any other structure on the lot. All accessory buildings greater than 200 sq. ft. require zoning compliance permits. All accessory buildings less than 200 sq. ft. must conform to all setbacks (section 401) and height requirements (section 2-A, #24) and require zoning compliance permits.

C. There shall be two classes of home occupations. Home occupation Class I shall be permitted in all districts allowing single family dwellings. Class I home occupations are authorized by application for and issuance of a Zoning Compliance Permit by the Zoning Administrator. Class II home occupations shall be allowed in the RR-5, RP-10, RP-20, and AP-20 zones. Class II home occupations shall be authorized upon application for and issuance of a Conditional Use Permit pursuant to Article IX and upon issuance of a Zoning Compliance Permit by the Zoning Administrator. Class I and II home occupation approvals may be revoked following procedures outlined in Section 905(E). Class I home occupations shall comply with the following conditions:

1. Home occupations shall employ only those members of the family residing on the premises and not more than one outside employee;

2. There shall be no outdoor storage and there shall be no exterior evidence of the conduct of home occupations, other than an approved sign;

3. Specifically excluded are the storage, display and sale of merchandise not produced by such home occupations.

4. If the home occupation is conducted in an accessory building, it shall not exceed fourteen (14) feet in height, and shall occupy not more than three hundred (300) square feet of said accessory building;

5. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in that residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the requirements of Section 410; The home occupation may utilized only stock vehicles such as passenger cars, and light utility vehicles such as pick-ups and vans. These vehicles may be parked outside.

6. The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and if such home occupation is conducted in the principal dwelling, not more than twenty-

five (25) percent of the usable floor area of the dwelling shall be used in the conduct of home occupation;

7. No equipment or processes shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations of line voltage off the premises; and

8. A sign advertising the home occupation shall not exceed six (6) square feet and shall not be illuminated or have working parts.

Class II home occupations shall meet the criteria for Class I home occupations except that the Class II home occupation may:

1. Employ not more than two non-occupant employees

2. May utilize larger vehicles and heavy equipment.

3. To assure that the home occupation remains subordinate to the principal residential use of the property, structures used to store commercial vehicles shall not exceed the floor area of the principal structure.

4. The Planning Commission may place additional conditions upon Class II home occupations to assure compliance with Section 904 and the intent of the zoning district.

SECTION 405 ONE PRINCIPAL STRUCTURE OR USE PER LOT

No more than one principal structure or use may be permitted on a lot, unless specifically provided for elsewhere in this Ordinance. In the Town Development District there can be both a residential dwelling and a separate building used for commercial purposes on the same lot.

SECTION 406 VARIANCE OF REQUIREMENTS FOR LOTS OF RECORD

Minimum lot size and lot width regulations do not apply to any nonconforming parcel of land shown as a lot in a map recorded with the County Register of Deeds as of July 20, 1994, or described in a deed or land contract or lease agreement which has been perpetual, executed together with an affidavit or acknowledgment of a notary public, prior to the effective date of this Ordinance, and which lot actually exists as shown or described. No vested right shall arise to the property owner for any parcel created in violation of any preceding Powell Township Zoning Ordinance. When a nonconforming lot is held in common ownership with abutting parcel(s) of land, the two or more parcels shall be considered combined as necessary to reduce or eliminate the non-conformity.

SECTION 407 ALLOCATION AND REDUCTION OF LOT AREA

No portion of a lot shall be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings. No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.

SECTION 408 HEIGHT REQUIREMENT EXCEPTIONS

The following are exempt from height limit requirements, provided that no portion of the excepted structure may be used for human occupancy:

1. Those purely ornamental in purpose such as church spires, belfries, domes, ornamental towers, flagpoles and monuments;

2. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, radio towers, television antennas and satellite dishes, wire transmission structures, and cooling towers. Any commercial communication tower shall be so located that the distance from the base of the tower to the nearest property line shall be either equal to the height of the structure or the radius of the collapse/failure zone as certified by a structural engineer plus 15 additional feet or setback whichever is greater;

3. Public utility structures; and

4. Agriculture related structures such as barns, silos, elevators and the like.

SECTION 409 USE OF YARD OR OPEN SPACE

In a residential district it is prohibited to use the open space surrounding a dwelling for the open air parking, disposition, storage, wrecking, dismantling, accumulation, or abandonment, either temporary or otherwise, of disused, discarded, worn-out, wrecked, or dismantled vehicles, machinery, implements, apparatus, furniture, appliances, junk, or any other personal property. A maximum of two unlicensed and temporarily disabled vehicles may be stored on the premises provided they are completely screened from all off-premises vantage points.

SECTION 410 OFF-STREET PARKING REQUIREMENTS

There shall be provided off-street parking for motor vehicles and the minimum number of parking spaces to be provided is shown in the following list:

USE	**SPACE REQUIRED**
Single and two-family dwellings, recreational structures, mobile home parks	2 per dwelling unit
Rooming houses, fraternities, sororities, dormitories, convalescent homes, and of occupants. housing for the elderly.	.4 times maximum lawful number
Hotels and motels, bed and breakfasts	1.2 per room in addition to spaces required for restaurant facilities
Apartments, townhouses and mobile homes	2 per dwelling unit
Churches,	.10 times the seating capacity
Golf courses	7 per hole

USE	SPACE REQUIRED
Barber shops and beauty parlors	2 plus 1.5 per chair
Bowling alleys	5 per lane in addition to spaces required for restaurant facilities
Child-care facilities	2 per dwelling unit plus .3 per child
Fast food take-out establishments and drive-in restaurants	.01 times floor area in square feet.
Restaurants(except drive-ins)	1.2 per 100 sq. ft. of bars, and taverns floor space
Furniture and appliance stores	.3 per 100 sq. ft. of floor space
Household equipment, carpet and hardware stores, repair shops including shoe repair, contractor's showrooms and others, museums and galleries	1.2 per 100 sq. ft. of floor space
Funeral parlor	1 per 50 sq. ft. of floor space
Gas stations	1 per pump plus 2 per lift (in addition to stopping places adjacent to pumps)
Automotive service center	1 per employee plus 2 per service bay
Laundromats	.5 per washing machine
Doctor/dentist offices	1 per 100 sq. ft. of waiting room area and 1 per doctor/dentist
Banks	1 per 150 sq. ft. of floor space
Warehouses	1 per 500 sq. ft. of floor space
Retail stores and service establishments	1 per 150 sq. ft. of floor space and outdoor sales space
Offices	1 per 300 sq. ft. of floor space
Other business and industrial uses	.75 times maximum number of employees on premises at any one time

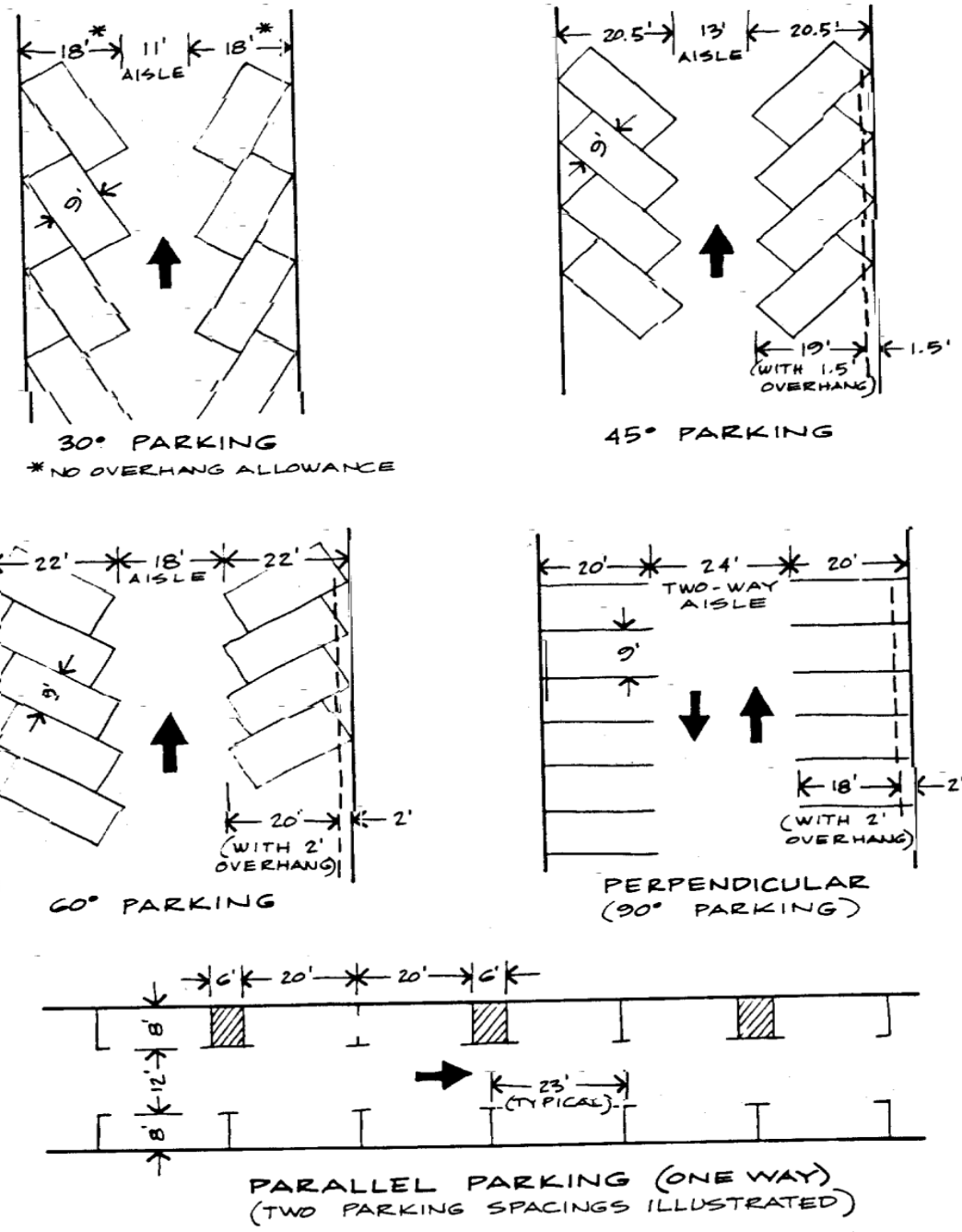
Where calculation in accordance with the foregoing lists results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space. Required off-street parking shall be provided on the lot to which it pertains.

A. ACCESS THROUGH YARDS: Access drives may be placed in the required front, side or rear yards so as to provide access to accessory, attached structures, or warehouse facilities. Access lane widths shall not exceed eighteen (18) feet. Further, any walk or other pavement serving a like function shall not be considered a structure and shall be permitted in any required yard.

The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the parking of motor vehicles is prohibited.

The following minimum design standards shall be observed in laying out off-street spaces and providing access lanes to each space. Layouts requiring vehicles to back out onto roads or streets are prohibited.

PARKING ANGLE	STALL WIDTH	AISLE WIDTH	PARKING STALL LENGTH	CURB TO CURB
0-15º	8 ft	12 ft	18 ft	38 ft
16-37º	9 ft	11 ft	20 ft	47 ft
38-57º	9 ft	13 ft	21 ft	54 ft
58-74º	9 ft	18 ft	22 ft	62 ft
75-90º	9 ft	24 ft	20 ft	64 ft



PARKING AREA DIMENSIONS
(FOR STANDARD-SIZE VEHICLES)

SECTION 411 REQUIRED PLANTING SCREENS

In the Town Development (TD), Planned Unit Development (PUD) and Mobile Home (MH) and Industrial(I) districts, wherever any parking lot, trash collection, outdoor storage, merchandising, or service area lies within 50 feet of any Single-Family Residential (R), Residential One Acre (R-1),

Residential Two Acre (R-2) or Rural Residential (RR-5) District, or adjoins a residential dwelling within the TD or I District, a planting screen of sufficient length to interfere with the view thereof from the adjoining property shall be required except where the view is blocked by a change in grade or other natural or man-made features. Where, because of intense shade or soil conditions, the planting screen cannot be expected to thrive, a six (6) foot high fence, whether it be an opaque wooden fence, a chain link fence with interwoven slats, or a masonry wall may be substituted.

A. PLANTING SCREEN SPECIFICATIONS: All planting screens required by this Ordinance shall consist of plants, at least 30 inches high when planted, maintained in a healthy condition and so pruned as to provide maximum opacity from the ground to a height of five feet. One of the plant materials in the following list shall be used and plants shall be located no farther apart than the distance indicated in each case.

PLANT	**DISTANCE APART**
Lilac	3 feet
Privet	1 ½ feet
Arbor Vitae	4 feet
Pfizer	4 feet
Scotch Pine	5 feet
Jack Pine	5 feet
Spruce	5 feet

Substitution of other plant materials shall be permitted only upon certification to the Zoning Administrator that the proposed plantings can be expected to thrive and provide equivalent screening and will create no nuisance or hazard.

B. PARKING LOT PLANTING: Where the provision of off-street parking for 50 or more vehicles is required, there shall be landscaped open space within the perimeter of the parking area, or areas, in the minimum amount of 18 sq. feet for each parking space, which shall be so located that no parking space is more than 120 feet from a portion of the landscaped open space required by this Section. Landscaped open space required by this Section shall be kept continuously planted with living vegetation. The required landscaped open space need not be contiguous, but there shall be at least one tree in each separate area. Required trees shall be maintained in a healthy condition, and shall not be pruned, except to remove dead wood, in such a manner as to prevent growth to a height of at least 15 feet or to reduce existing height below 15 feet. The following varieties of trees are prohibited in meeting the requirements of this Ordinance: poplars, willows, American Elm, seed bearing locusts, and box elders. All plant materials shall be kept pruned to maximize visibility through them between the heights of three and eight feet where located so as to create a hazard to drivers or pedestrians.

C. TIME OF COMPLETION OF PLANTINGS: All plantings required by this Ordinance shall be installed prior to occupancy or commencement of use. Where compliance is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay. Any Zoning Compliance Permit may be revoked, after 30 days written notice to the person assessed for taxes on the affected lot and to the occupant, whenever plantings are not maintained as required in this Ordinance.

SECTION 412 FENCES

All fence construction of a permanent nature shall require a Zoning Compliance Permit for the determination of whether the erection of such fence would be contrary to the provisions of this ordinance or the laws of the State of Michigan, except that replacement of an existing fence with a new fence which is in compliance with the requirements of this section shall not require a zoning compliance permit. The following requirements shall be observed:

A. Fences located within the Bayview Plat shall not exceed six (6) feet in height in any part rear from the extreme front line of the dwelling and not more than forty-eight (48) inches in height from the front of the dwelling to a point two (2) feet from the front lot line. The use of barbed wire is prohibited.

B. Fences shall be constructed with the smooth, or good, side facing outwards. (Towards the adjoining property.)

C. Privacy screening should be accomplished by use of appropriately planted shrubs, bushes or trees.

SECTION 413 STAIRWAYS

Residential waterfront uses in the LS/R and RS-10 districts shall be permitted one stairway leading to the water's edge. Such stairway shall not exceed 48 inches in width. A Zoning Compliance Permit shall be required for the determination of whether the construction of such stairway is in compliance with the provisions of this ordinance or the laws of the State of Michigan.

SECTION 414 MINERAL EXTRACTIONS

Mineral extraction is the extraction and/or processing of iron ore, copper, gravel, sand, stone, gypsum, peat, topsoil, silver, gold, uranium, and other minerals. It is the intent of these regulations to:

A. Provide for proper environmental management during the site planning, operational and reclamation stages of the mineral extraction process;

B. Provide the Township with information important to overall planning and orderly economic growth; and

C. Provide for the right to extract mineral deposits where located.

The following shall not require an application for a mineral extraction permit:

1. Any active mining operation at the date of enactment of this Ordinance to continue mineral extraction from existing holes or shafts, which may be enlarged on the land constituting the site on the effective date of this ordinance. This exemption does not apply to new holes or shafts.

2. Extraction of sand or gravel from pits not exceeding 20 acres in size.

3. Site preparation authorized by Zoning Compliance Permit.

No mineral extraction shall be undertaken without first obtaining a mineral extraction permit from the Powell Township Planning Commission and upon payment of a reasonable fee established by

the Township Board. A zoning compliance permit shall also be obtained. The Zoning Administrator, upon receipt of the completed application for mineral extraction permit, shall provide a copy of the same within thirty (30) days to the Planning Commission for their review and action. The Planning Commission shall review the application for mineral extraction permit at a public hearing to be scheduled and in accordance with the provisions of Sections 416 and 1002 and approve, approve with conditions, or reject the mineral extraction permit with explanation. If any of the application information is available in the form of an Environmental Impact Assessment or other appropriate documents which are required to be submitted to various Township, County, State and/or Federal agencies, a copy of that information may be submitted in place of the following appropriate sections.

SECTION 415 APPLICATION FOR MINERAL EXTRACTION PERMIT

An application for a mineral extraction permit must contain a Site Plan, Operation Plan, and Reclamation Plan as described herein (see Appendix B for application).

The applicant shall submit the following documents, including a cover letter with the signature of the applicant or the applicant's authorized agent to the Zoning Administrator.

A. SITE PLAN REQUIREMENTS: A site plan consisting of eleven identical copies on one or more sheets at a scale adequate to illustrate the proposed operation, including but not limited to, the following.

1. A legal description of the lot; the name, address and telephone number of the owner, developer and designer.

2. Date, north point, and scale.

3. The actual dimensions of the proposed developed area (as shown by a surveyor or engineer, with the survey stakes visible) showing the relationship of the subject property to abutting properties.

4. The location of all existing and proposed structures on the subject property and all existing structures on land immediately adjacent to the site within 100 feet of the sites parcel lines.

5. The location of all existing and proposed drives and parking areas.

6. The location of right-of-way widths of all abutting streets, alleys, and private easements.

7. The location of proposed planting and screening, fencing, signs and advertising features.

8. The height and floor area of all proposed structures.

9. The size and location of all existing and proposed public and private utilities and required landscaping.

10. Proposed location, area extent, estimated depth of excavation.

11. Proposed location of waste dumps, tailing ponds, sediment basins, stockpiles, and other permanent or temporary facilities used in mining.
12. Describe the general groundwater conditions and the possible impact of mining operations upon adjacent groundwater levels and quality. The operator must identify plans to alleviate possible problems in the groundwater supply to adjacent land owners.
13. Any other information necessary to establish compliance with this Ordinance.

B. OPERATION PLAN REQUIREMENTS: An operation plan shall include, but not necessarily be limited to, the following

1. A narrative description outlining the estimated time span which the operation will cover; the type of material to be extracted; the type of mining operation and processing equipment to be used; measures to control noise, vibration, and pollution from the operation; effect on groundwater condition; proposed travel routes to be used to transport the mined material to processing plant or markets, and the proposed steps to be taken to relieve adverse effects.

2. A narrative description of the social and economic impact on Powell Township including an estimate of the number of potential employees, proposed transportation routes for employees and any changes in the present road system that might be made necessary by the proposed operation.

3. Sight buffers as reasonable and practical along all boundaries of the mining operation which abut R, RR-5, LS/R, RS-10, or TD Zoning Districts. These buffers shall be so constructed as to screen the mining operation from view and protect individuals from injury. The following techniques may be used, but not limited to the following screening methods:
    a. Buffer zone: An area of sufficient depth as to screen the operation from view.

    b. Earth berms: Earth berms, constructed to a height of at least six feet above the mean elevation of the center line of the public highway adjacent to the mining property, or six feet above the general level of terrain along property lines. These berms shall have slopes not in excess of one foot vertical to four feet horizontal, and shall be planted with trees and shrubs.

    c. Plantations: Plantations of coniferous or other suitable species in rows parallel to the boundaries of the property with the spacing of rows and the spacing of trees on the rows sufficient to provide effective screening.

    d. Fencing: Solid fences or masonry walls constructed to a height of six feet and inconspicuous as compared to color.

4. A description of the measures to be taken to assure that any dangerous excavations, pits, pond areas, banks, or slopes be adequately guarded or fenced and posted with signs to prevent injury to individuals.

5. Identify plans for utilities, access roads, drainage, traffic plans, and other site improvements showing appropriate measures that have been, are, or will be provided.

C. RECLAMATION PLAN REQUIREMENTS: A reclamation plan shall include a map and description showing:

1. Final grading, anticipated final slope angles, wall reduction, benching and terracing of slopes, slope stabilization and re-vegetation, and erosion control, and alternative future land uses.

2. Description of topsoil stripping and conservation during storage and replacement.

3. Plan and description of anticipated final topography, water impoundments, and artificial lakes of property.

4. Plans for disposition of surface structures, roads, and related facilities after cessation of mining.

5. A plan for disposal or treatment of any harmful or toxic materials found in any formation penetrated by the mining operations or produced during the processing of minerals, and of chemicals or materials used during the mining or processing operations.

6. A timetable for completion of reclamation requirements.

SECTION 416 GENERAL STANDARDS FOR MINERAL EXTRACTION PERMITS

The Planning Commission shall review the particular facts and circumstances of each Application for a Mineral Extraction Permit in terms of the following standards and shall find adequate evidence showing that the proposed use:

1. Will be harmonious with and in accordance with the general policies or with any specific objectives of the Comprehensive Development Plan;

2. Will provide adequate site drainage so that surface runoff will not adversely affect neighboring properties;

3. Will not be hazardous or cause serious consequences to existing neighboring uses, including, but not limited to, its affect from noise, traffic, smoke, fumes, glare, or odors;

4. Will be served adequately by essential public facilities and services;

5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the Township; and

6. Will protect the public health, safety and welfare of the Township.

SECTION 417 TIMBER HARVEST OPERATIONS

All timber harvest operations in any district established by this ordinance shall be done in accordance with good forestry practices as outlined in “Voluntary Forest Management Guidelines for Michigan," prepared in 1987 by the Michigan Society of American Foresters in cooperation with the Michigan Chapter of The Wildlife Society. The "Guidelines" recognize wildlife habitat,

recreation, and aesthetics as values that exist in the forest in addition to timber production and that timber harvesting has an impact on each of the aforementioned non-market values.

SECTION 418 MOBILE HOMES

Any single family mobile home placed on a lot or parcel of land shall satisfy the following minimum requirements:

A. The dwelling shall comply with the minimum floor area requirements for the district in which it is located.

B. The dwelling shall be connected to a sewer system and water supply system as are approved by the Marquette County Health Department or by other agencies having jurisdiction.

C. All construction and all plumbing, electrical apparatus and insulation in and about the dwelling shall be of a type and quality complying with the Marquette County Building Code or the Mobile Home Construction and Safety Standards as promulgated by the U.S. Department of Housing and Urban Development. The dwelling shall satisfy all applicable roof, snow load and strength requirements.

D. Additions to the mobile home shall comply with the Marquette County Building Code. The exterior of any addition shall be compatible with the exterior appearance of the mobile home.

E. Skirting will be placed around and attached to the base of the mobile home.

ARTICLE V
SIGNS

SECTION 501 INTENT

Under Public Act 153 of 1990, the Highway Advertising Act of 1972, it is hereby determined that regulation of the location, size, placement, and certain features of signs and billboards is necessary to enable the public to locate goods, services, and facilities without difficulty and confusion, to prevent wasteful use of natural resources in competition among businesses for attention, to prevent hazards of life and property, and to assure the continued attractiveness of the community and protect property values. It is further determined that signs and billboards which may lawfully be erected and maintained under the provisions of this Ordinance are consistent with customary usage, and that signs and billboards which may not lawfully be erected or maintained under the provisions hereof are not consistent with customary usage, are an abuse thereof, and are unwarranted invasions of the right of legitimate business interests and of the public.

SECTION 502 RESIDENTIAL DISTRICT REGULATIONS FOR SIGNS
Within the R and RR-5 Districts, signs shall be permitted as follows:

A. One sign to announce the sale or rent of property whose area shall not exceed six (6) square feet.

B. Churches shall be permitted a total sign area of 20 square feet. The total sign area may be divided into two signs: one identification sign and one bulletin board.

C. One sign per vehicle entrance which identifies a platted subdivision development or mobile home park not exceeding 32 square feet and eight feet in height.

D. Multiple dwellings and nursing homes shall be permitted one identification sign not to exceed 12 square feet and eight feet in height.

E. One sign shall be permitted to advertise a home occupation not to exceed six (6) square feet and shall not be illuminated or have working parts. It may be attached flush to the building or placed to the front of the lot or parcel and shall not detract from the visual appearance of the neighborhood.

F. Signs permitted by this Section are exempt from the setback requirements of Section 401. Signs, however, shall not be located on the right-of-way and shall not interfere with traffic visibility.

SECTION 503 TOWN DEVELOPMENT DISTRICT SIGN REGULATIONS

Signs are permitted in the Town Development (TD) District on parcels that are already developed. Free-standing (ground) signs are permitted having an area not exceeding six (6) square feet for each ten (10) feet or fraction of frontage, or sixty (60) square feet for each acre or fraction of acre of the developed premises, whichever is larger. There shall be a maximum of one hundred (100) square feet of sign area for each developed parcel. Where a premises has more than one occupant, the permitted sign shall be divided among them in the same proportion as floor space and outdoor sales as occupied by them. Where a premises has more than two occupants and has a name distinct from that of the occupants, as in a shopping center, an additional two (2) square feet of sign area for each ten (10) feet or fraction of street frontage, with a maximum to two hundred (200) square feet, is permitted only for signs identifying the developed premises.

With the exception of area provided for shopping center identification, sign area not utilized by occupants of the premises may be made available for off-premises directional signs.

Signs shall be subject to the following setback requirements: minimum of five (5) feet setback when the right-of-way width from the centerline of the road to the property line is less than fifty (50) feet; and may be located at the lot line when the right-of-way width from the centerline of the road to the property line is greater than fifty (50) feet. Setback measurement shall be from the right-of-way to the closest part of the sign, whether it be at or above grade. The maximum height for signs in the Town Development District shall be thirty (30) feet.

SECTION 504 INDUSTRIAL DISTRICT SIGN REGULATIONS

In the Industrial District, on-premises signs are permitted having a sign area not exceeding one hundred (100) square feet. Off-premises signs are permitted and shall have a maximum sign area of three hundred (300) square feet per sign. Back-to-back signs shall have a maximum of three hundred (300) square feet for each side and shall not be further apart than four (4) feet. Individual signs shall be at least three hundred (300) feet apart and shall maintain a forty (40) foot setback. The maximum height for signs in the Industrial District shall be thirty (30) feet.

SECTION 505 CONDITIONAL USE SIGN REGULATIONS

On-premises signs are permitted to identify or advertise an approved conditional use or activity and shall not advertise a specific product not produced on the premises. Signs shall have a maximum sign area of sixteen (16) square feet and not exceed eight (8) feet in height. Signs shall be subject to the following setback requirements: minimum of five (5) feet setback when the right-of-way width from the centerline of the road to the property line is less than fifty (50) feet; and may be located at the lot line when the right-of-way width from the centerline of the road to the property line is greater than fifty (50) feet. Setback measurement shall be from the right-of-way to the closest part of the sign, whether it be at or above grade. Sign regulations in this Section shall not apply to any conditional use located in the TD or I Districts, or to churches, multiple family dwellings, nursing homes or home occupations.

SECTION 506 TEMPORARY SIGNS

Signs which are intended to identify or advertise a non-profit annual or one-time event or occurrence, such as a fair or other event of general public interest, shall be authorized by the Zoning Administrator for a period of not more than two months by written permit upon finding that the proposed sign is not contrary to the spirit and purpose of this Ordinance and shall conform to all size limitations set forth by this Ordinance. The applicant is responsible for both the erection and removal of all signs. All signs must be removed no later than 10 days after the end of the event.

SECTION 507 CONSTRUCTION SIGNS

One construction sign is permitted per project not exceeding sixteen (16) feet in sign area for residential districts and thirty-two (32) square feet for Town Development or Industrial Districts. Signs shall be erected no more than five (5) days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed prior to occupancy.

SECTION 508 EXEMPT SIGNS

The following signs shall not exceed nine (9) square feet and are otherwise exempt from this Ordinance:

PUBLIC SIGNS - Signs of a noncommercial nature and in the public interest, erected by, or on the order of a public officer in the performance of official duty.

POLITICAL SIGNS - those signs which are intended to advertise a public election, individual actively participating in such an election, or other public ballot issue, are permitted on private property with the owner's permission. All political signs must be removed within 10 days after the election date and shall not be located on the public right-of-way.

Signs which announce no hunting or no trespassing.

Signs which identify the name of a farm or farming operation.

Residential Identification Signs - Those signs which have an occupant's name and/or house number.

SECTION 509 LIGHTING OF SIGNS

No lighted signs or billboards shall be permitted within the R or RR-5 District. In no event shall any sign or billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate. No sign shall be lighted so as to create a traffic hazard or to adversely affect neighboring land uses. No sign may be lighted to such intensity or in such a manner that it creates a public nuisance or adversely affects the public health, safety, and general welfare.

SECTION 510 MAINTENANCE OF SIGNS

Dilapidated sign structures which are likely to cause injury or degrade the surrounding area, and signs which advertise a closed business, past event or political election, are no longer legible, or are otherwise untimely or unsafe, are a nuisance or danger to the public.

The Zoning Administrator is authorized to remove, or to have removed, all dangerous or nuisance signs, the cost of which is to be borne by the sign owner and/or property owner.

No sign shall be on top of, cantilevered or otherwise suspended above the roof of any building

A sign must be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity. A sign or billboard must be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of message.

SECTION 511 NONCONFORMING SIGNS

A. It is the intent and purpose of this Section to eliminate nonconforming signs except as otherwise specifically set forth n this Section as rapidly as the police power of the Township permits. No sign shall be designated as Class A Nonconforming.

B. No nonconforming sign:

1. Shall be structurally altered so as to prolong the life of the sign, nor shall the shape, size, type, or design of the sign structure be altered.

2. Shall be continued after the activity, business, or usage to which it relates has been discontinued for 30 days or longer; or

3. Shall be reestablished after damage or destruction if the estimated expense of reconstruction exceeds 50% of the sign's value.

C. No conforming sign may be changed to another nonconforming use.

D. Nonconforming signs may have their face or message updated but not structurally altered.

SECTION 512 BILLBOARD PERMITS

No person, firm, or corporation shall erect a billboard within Powell Township according to state law.

ARTICLE VI
HIGH RISK EROSION OVERLAY ZONE

SECTION 601 INTENT

The purpose of this overlay zone is to prevent the placement of structures in areas of high risk erosion consistent with the Shore Lands Protection and Management Act, P.A. 245 of 1970, as amended. Furthermore, the purpose of this zone to:

A. Establish a minimum recommended setback line for principal structures from an eroding bluff which is based on the erosion studies prepared by the Department of Environmental Quality pursuant to the Shore Lands Protection and Management Act, P.A. 245 of 1970, as amended.

B. Minimize the economic hardships which individuals and Powell Township may face in the case of unanticipated property loss due to severe erosion.

The standards and requirements contained in this Article, and on the zoning map, are intended to further the purposes of the Shore Lands Protection and Management Act, P.A. 245 of 1970, as amended.

SECTION 602 AREA AFFECTED

The boundaries of those stretches of shore land affected by the high risk erosion overlay zone shall be consistent with the affected properties described in Section 603 of this ordinance. This area is shown on the official Powell Township Zoning Map which is part of this ordinance. A copy of the Zoning Map and text shall be filed in the office of the Township clerk. This area extends landward from the ordinary high water mark to the minimum recommended setback line for principal structures. For the purpose of the high risk erosion overlay zone, the minimum recommended setback requirement shall be measured landward from the bluff line and shall be construed as running parallel to the bluff line. In the event the bluff line recedes (moves landward), the setback line of the high risk erosion area shall also be construed as to have moved landward a distance equal to the bluff line recession.

SECTION 603 BOUNDARIES OF HIGH RISK EROSION AREAS

The end points of the high risk erosion areas provided below coincide with descriptions provided in the shore land erosion studies of the Department of Environmental Quality, and are as follows:

HIGH RISK EROSION AREA 1 & 2- The northwest boundary of the high risk erosion area in Section 28, T51N, R26W, lies 1,315 feet northwest of the intersection of the Section 27-28 line and the shoreline. The southeast boundary of the high risk erosion area in Section 27, T51N, R26W, lies 30 feet southeast of the intersection of the Section 27-28 line and the shoreline.

HIGH RISK EROSION AREA 3 & 4- The west boundary of the high risk erosion area in Section 24, T52N, R28W, lies 840 feet northwest of the intersection of the trail, running from the northeast corner of Conway Lake to Lake Superior, and the shoreline. The east boundary of the high risk erosion area in Section 24, T52N, R28W, lies 856 feet southeast of the intersection of the trail and the shoreline. The trail runs from the northeast corner of Conway Lake to Lake Superior.

HIGH RISK EROSION AREA 5 & 6- The west boundary of the high risk erosion area in Section 22, T52N, R28W, lies 496 feet east of the intersection of the northeast corner extended from the last house along the shoreline of the Huron Mountain Club, and the shoreline.

The east boundary of the high risk erosion area in Section 22, T52N, R28W, lies 2,920 feet east of the intersection of the northeast corner extended from the last house along the shoreline of the Huron Mountain Club, and the shoreline.

HIGH RISK EROSION AREA 7 & 8- The west boundary of the high risk erosion area in Section 16, T52N, R29W, lies 1,980 feet east of the intersection of the mouth of the Little Huron River and the shoreline. The east boundary of the high risk erosion area in Section 16, lies 3,410 feet east of the intersection of the Little Huron River mouth and the shoreline.

HIGH RISK EROSION AREA 9 & 10- The west boundary of the high risk erosion area is at the intersection of the Marquette County line and the shoreline (Baraga County, Arvon Township, Section 12, T52N, T30W), and lies 3,935 feet west of the intersection of the east bank of the Huron River and the shoreline. The east boundary of the high risk erosion area in Section 7, T52N, R29W, lies 697 feet west of the intersection of the east bank of the Huron River and the shoreline.

SECTION 604 PRINCIPAL STRUCTURES

Within the boundaries of the high risk erosion areas established by this Article, no principal structure shall be located between the ordinary high water mark and the line defining the minimum recommended setback distance indicated on the table that follows. The setback requirement provided for in this section shall be measured in a landward direction as a distance horizontal from and perpendicular to the bluff line. For each high risk erosion area described in Section 603, the minimum recommended setback for any principal structure shall be based on recommended setbacks, and as follows:

DESIGNATED HIGH RISK EROSION AREA	MINIMUM RECOMMENDED SETBACK REQUIREMENT FROM THE BLUFFLINE
Area 1 & 2	70 Feet
Area 3 & 4	50 Feet

Area 5 & 6	45 Feet
Area 7 & 8	55 Feet
Area 9 & 10	60 Feet

SECTION 605 ACCESSORY STRUCTURES:

Accessory structures which can be easily and economically removed prior to erosion damage are exempted from the setback requirements for principal structures of the high risk erosion overlay zone, except that no accessory structures which are permanent in either construction or location may be placed in the high risk erosion overlay zone. To the fullest extent practical, permitted accessory structures which are placed in high risk erosion areas shall be removed prior to erosion damage.

ARTICLE VII
SITE PLAN REVIEW

SECTION 701 INTENT

It is the purpose of this Article to require site plan review approval for all buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the Township; safe and convenient traffic movement, both within a site and in relation to access streets; the stability of land values and investments by preventing the impairment or depreciation of land values and development, by the erection of structures or additions or alterations thereto, without proper attention to setting or to unsightly or undesirable appearances; harmonious relationship to buildings, other structures and uses, both within a site and/or adjacent sites; and the conservation of natural amenities and resources.

A. The Planning Commission may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance. The zoning administrator shall be responsible for reviewing site plans and granting approval.

B. If a zoning ordinance requires site plan approval, the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance receives the mutual agreement of the landowner, the zoning administrator and the Planning Commission.

C. Site plan submission, review, and approval shall be required for special land uses and planned unit developments. Decisions rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance, other local unit of government planning documents, other applicable ordinances, and state and federal statutes.

D. A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the conditions imposed under the zoning ordinance, other local unit of government planning documents, other applicable ordinances, and state and federal statutes.

SECTION 702 SITE PLAN REQUIRED

A site plan is required for and shall accompany the applications for:

A. Zoning Compliance Permits for:

1. Any proposed construction

2. Any commencement of a new use

3. Any proposed change in use

B. Conditional Use Permit

C. Variances

D. Class A Non-Conforming use designations

E. Any other request for zoning status where the Zoning Administrator determines a site plan is necessary for accurate review or documentation of the existing development.

The site plan may be drawn on the application form or on a separate sheet of paper as appropriate to the scale and amount of information shown.

SECTION 703 SITE PLANS FOR SINGLE AND TWO-FAMILY DWELLINGS, AND RESIDENTIAL ACCESSORY USES AND STRUCTURES AND FOR RECREATIONAL STRUCTURES

The site plan for single and two-family dwellings, residential accessory uses and structures and recreational structures shall show the following information:

A. A legal description of the site.

B. All lot lines and dimensions of the lot.

C. All roads and easements.

D. All existing and proposed buildings shall be shown and labeled.

E. Proposed use of each building.

F. Distances between buildings and all lot lines.

G. Building dimensions including building height.

H. Natural features affecting development (rock, water, etc.)

I. Well and septic locations.

J. A north arrow.

SECTION 704 SITE PLAN FOR COMMERCIAL, INDUSTRIAL, MULTIPLE FAMILY DEVELOPMENT, PLANNED UNIT DEVELOPMENT AND ALL OTHER DEVELOPMENT

Site plans meeting the following standards shall be required for the following: all commercial uses and developments in the Town Development and Industrial Districts; all non-residential Conditional Use Permits; and uses utilizing more than one(1) acre of land (except for timber and agricultural uses). This information shall be provided on eleven (11) identical copies on one or more sheets.

A. A scale adequate to illustrate the proposed activity and all information required by this section.

B. A legal description and street address of the property; the name, address and telephone number of the owner, developer and/or designer.

C. North arrow and date the site plan was prepared.

D. The actual dimensions of the proposed developed area (as shown by a licensed surveyor, engineer, architect, or registered landscape architect, with the survey stakes visible) showing the relationship of the subject property to abutting properties.

E. The location of all existing and proposed structures, including signs, on the subject property and all existing structures on land immediately adjacent to the site within 100 feet of the site's parcel lines.

F. The complete dimensions of all existing and proposed structures, including height.

G. Distances between all existing and proposed structures and all lot lines.

H. Detailed descriptions of proposed use(s) of all existing or proposed structures on the property.

I. The location and dimensions of all existing and proposed ingress/egress points, sidewalks, driveways and parking areas on the subject property.

J. The location and all right-of-way widths of all abutting streets, alleys, and private easements located within or abutting the property. Named streets and roads should be labeled.

K. The location of existing ingress/egress points, driveways, streets, roads and/or alleys within 500 feet of the boundary of the property.

L. The location and detailed description of the proposed planting and screening, fencing, signs and advertising features.

M. The size and location of all existing and proposed public and private utilities and required landscaping.

N. The location of natural features affecting development, such as rock outcrops, water, wetland, etc.

O. Location of all existing and proposed surface water impoundments and surface water drainage pattern.

P. The location and extent of any planned earth movement. Indicate status of any necessary permits, such as soil erosion and sedimentation permits, wetlands permit, etc.

Q. Detailed provisions for the maintenance and responsibility of common areas.

R. Requisites for future maintenance, repair and snow removal on streets, roads, parking areas and sidewalks.

S. Any other information necessary, in the opinion of the Zoning Administrator, to establish compliance with this Ordinance or any other applicable ordinance.

SECTION 705 REVIEW PROCEDURES

Upon receipt of any site plan, the Zoning Administrator shall review it to determine whether it is in proper form, contains all of the required information, shows compliance with this Ordinance and all other Ordinances of Powell Township, and demonstrates the adequacy of utility service. The Zoning Administrator shall direct the propose of the site plan to provide a copy of the site plan to the Marquette County Drain Commissioner, Soil Conservation District, and Health Department. Upon demand by the proposer of the site plan, the Zoning Administrator shall, within ten (10) working days, approve or deny in writing, setting forth in detail the reasons which shall be limited to any defect in form or required information, any violation of any provision of this or any other Ordinance, and any changes which would make the plan acceptable. The proposer may appeal any denial to the Township Zoning Board of Appeals. The Zoning Administrator and Zoning Board of Appeals shall use the following standards in their review.

SECTION 706 STANDARDS FOR SITE PLAN APPROVAL

A. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site will be so developed as not to impede the normal and orderly development or improvement or surrounding property for uses permitted in this Ordinance.

B. The landscaping shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

C. Special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

D. The site plan shall provide reasonable visual and auditory privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

E. All buildings or group of buildings shall be so arranged as to permit emergency vehicle access to all sides.

F. Every structure or dwelling shall have access to a public street, walkway or other area dedicated to common use.

G. All loading or unloading and outside storage areas, including areas for storage of trash, which face or are visible from residential properties, abut a residential zone or public thoroughfares, shall be screened by a vertical fence consisting of structural (fence) or plant materials no less than six (6) feet in height.

H. Exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

Article VIII
PLANNED UNIT DEVELOPMENT (PUD) APPLICATION AND REVIEW

SECTION 801 INTENT

Planned Unit Development (PUD) regulations are intended to provide for various types of land uses planned in a manner which shall encourage the use of land in accordance with its character and adaptability; encourage innovation in land use planning; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; protect natural features and sensitive environmental areas; provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the township; and bring about a greater compatibility of design and use; provide enhanced site and building architectural features. The Zoning Administrator is responsible for administering the application and review process and forwarding all documents and reviews to the Planning Commission. The Zoning Administrator may designate other individuals or consultant(s) to assist with this administration, and providing PUD reviews and recommendations for the Planning Commission,

SECTION 802 QUALIFYING CONDITIONS

A PUD may be located anywhere in the Township upon its approval by the Powell Township Planning Commission and the Marquette County Planning Commission and its subsequent Zoning Compliance Permit. Any development that fails to meet the following qualifying conditions, at a minimum shall not be considered for the PUD District.

A. Grant of the PUD will result in one of the following:
   1. A recognizable ad material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved with application of the PUD regulations; or

   2. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality.

   3. An existing non-conforming use shall, to a material extent, be rendered conforming or less offensive, to the zoning district in which it is situated.

B. Acreage Requirement: The PUD site shall not be less than five (5) acres of fully contiguous property not separated by a public road, railroad, or other such associated feature or barrier.

C. The proposed type and density of the use shall not result in unreasonable increase in the need for or burden upon public services, facilities, roads and utilities, such as a substantial expansion of the public water and sewer system and facilities or an increase of the level of service on the roads. The maximum gross density for residential dwelling units of the PUD shall not exceed that which is required in the zoning district the PUD is located.

D. The proposed development shall be consistent with the public health, safety and welfare of the Township.

E. The proposed development shall not result in a negative environmental impact on the subject site of the surrounding land.

F. The proposed development shall not result in a negative economic impact on surrounding properties.

G. The proposed development shall be under single ownership and/or control such that there is a single person or entity having responsibility for completing the project in conformity with this ordinance.

H. The proposed development must be consistent with the goals, objectives and policies of the Powell Township Comprehensive Plan.

I. The PUD must provide for integrated, safe and abundant pedestrian or other non-motorized access and movement within the PUD and to adjacent properties.

J. The PUD should provide for coordinated and visually appealing architectural styles, building forms and building relationships.

K. The PUD must provide for safe and efficient vehicular movements within, into and off of the PUD site. In addition, the PUD should integrate traffic calming techniques, along with suitable parking lot landscape islands and other similar techniques to improve parking lot aesthetics, storm water management, traffic flow and vehicular/pedestrian safety.

L. Open Space Requirements:

1. The PUD shall contain open space in an amount equal to at least 35% of the PUD site. The Planning Commission may consider a PUD with a lesser amount of open space if it is clear the proposed PUD substantially provides the intent of a PUD. It is noted that OPEN SPACE IS A VERY IMPORTANT ELEMENT OF A PUD, and reductions to the open space provision should be granted only as a result of specific, clearly documented reasons. However, in all circumstances, the open space for the PUD shall equal at least 20%.

2. All open space shall be permanently set aside for the sole benefit, use, and enjoyment of present and future occupants of the PUD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to review and approval of the Township: or, if agreed to by a governmental agency, the open space may be conveyed to a governmental agency for the use of the general public. Access to open space areas may be limited to PUD residents, especially in areas of sensitive natural areas, and is subject to the Planning Commission review and approval.

3. All accessory and incidental structures are subject to review and approval by the Planning Commission and must be depicted on the PUD site plan at the time of preliminary and final PUD review.

SECTION 803 PERMITTED USES

Any land use permitted by right or by special land use in any zoning district may be requested to be included in the PUD, subject to adequate public health, safety, and welfare protection

mechanisms being designed into the development to ensure compatibility of varied land uses both within and outside the development.

SECTION 804 PREAPPLICATION CONFERENCE FOR PUD

A. Prior to the submission of an application for a PUD, a pre-application conference must be held with the zoning administrator and two members of the Planning Commission for the purpose of exchanging information and providing guidance to the applicant and determining the eligibility of the request to be considered as a PUD.

B. As part of the pre-application conference, the applicant shall submit five (5) copies of a conceptual plan at least ten (10) days in advance of the pre-application conference. The conceptual plan must clearly state property location, total number of acres, the number of dwelling units, boundaries, significant natural features and resources, the location and number of acres to be preserved as open or recreational space, vehicular and pedestrian circulation, all existing and proposed land uses and buildings for the entire site and any known deviations from the zoning ordinance that will be requested.

C. The Township may advise the applicant of the known conformance of the PUD concept with the intent and objectives of a PUD in the Township, whether it appears to qualify under the minimum requirements of Section 802. No formal action will be taken at a pre-application conference, nor will statements made at the pre-application conference be considered legally binding commitments.

SECTION 805 PRELIMINARY PUD PLAN APPLICATION

A. Requirements:

1. Following the pre-application conference and a subsequent meeting with the Planning Commission, applicants seeking approval of a PUD District shall submit a complete application, two (2) copies of a the preliminary PUD site plan and supporting documents and the required fee to the Zoning Administrator. The Zoning Administrator will inform the applicant within seven (7) days, if the application, site plan and fees are complete or incomplete. If the process is incomplete, the applicant must complete the process before any action will be taken. If all material is complete, the applicant shall submit one (1) additional copy of the completed application and the PUD site plan and supporting documents for each of the following agencies the Zoning Administrator determines is necessary for their review and comment:
    a. Marquette County Road Commission

    b. Marquette County Health Department

    c. Marquette County Drain Commissioner

    d. Marquette County Soil Conservation Official

    e. Michigan Department of Transportation

    f. Powell Township School District – Superintendent of Schools

    g. Michigan Department of Environmental Quality

    h. Powell Township Fire Chief

i. Chief of local law enforcement agency

j. Affect utility companies

k. Nearby operating railroads which may be affected by the proposed plan

l. Other federal, state, county or local agencies which may be impacted by the proposed development

The applicant shall submit the copies to the applicable agencies. After all of the comments from the above agencies have been received by the Zoning Administrator or 15 business days, whichever is sooner, the Zoning Administrator shall forward all of the comments as well as his or her own, to the applicant. The applicant shall revise the plan and documents per these comments and submit ten (10) complete sets of the revised plan at least 15 days before the next regularly scheduled Planning Commission meeting. These copies will be distributed to the Planning Commission members prior to the meeting. All other documentation will be available to the Planning Commission at the regular meeting.

2. Such application shall include the following:

a. A completed application form and the appropriate number of copies of a preliminary PUD plan including the site plan. The preliminary PUD plan shall contain the following site plan information:

1) The original and revision dates, north arrow, and scale. The scale used shall be sufficient to enable the site plan to clearly show all necessary detail for an accurate review of the site plan.

2) The name, address and phone number of the firm responsible for preparing the site plan. Each page of the site plan must be sealed by a licensed engineer, architect, landscape architect, surveyor or planner who prepared that page.

3) The name, address(es) and phone number(s) of the property owners(s) and petitioner(s).

4) Legal description of the PUD site.

5) The size (in acres) of the PUD site.

6) All property lines and proposed setbacks, shown and dimensioned.

7) A location or vicinity sketch.

8) The location of all existing structures and vehicle use areas, within 100’ of the PUD site’s boundaries.

9) The location and dimensions of all existing structures and vehicle use areas on the PUD site.

10) The location of all proposed structures on the PUD site. Realizing that this is preliminary, dimensions are desired but not necessary until final approval.

11) The location and dimension of proposed lots or ownership divisions

12) The location, pavement width and right-of-way width of all abutting roads, streets, alley, easements, and clear vision areas, and emergency vehicle access locations.

13) The existing zoning and use of all properties abutting and including the PUD site.

14) The location of all existing vegetation and the general location of all proposed landscape areas, berms, landscape islands and buffers, including any fence or wall areas.

15) The size and location of existing utilities, including a short narrative on the site plan pertaining to the PUD's proposed storm water management and other utility needs and concepts.

16) The proposed location and estimated size(s) of all surface and subsurface water drainage facilities and feature, natural or manmade.

17) Existing topographic contours at a maximum of two (2) foot intervals, and all available soil conditions. Conceptual topographic patterns for the PUD site shall also be provided, noting major earth moving and/or removal areas (realizing each plan receiving final PUD approval will be required to show actual topographic contours, both existing and proposed).

18) Location, type and size of areas to be dedicated for the common open space, and natural, environmental or cultural features to be preserved.

19) Anticipated trash receptacle locations and method of screening and impact on trash volume to the township.

20) Proposed streets, alleys, curb cuts, acceleration/deceleration lanes, curbed areas, service drives and parking lot locations, loading and truck dock locations, including traffic calming concepts, driving surface widths as required by the Department of Transportation standards or the Marquette County Road Commission's standards.

21) Proposed pedestrian sidewalk and non-motorized movements both within and off the PUD site.

22) Proposed sign locations and sizes, and lighting concepts/styles and general location areas.

23) Proposed architectural style/design concepts that will be incorporated into final approval plans, including both buildings and structures (i.e. gateways, fence/wall concepts, artwork, etc.)

24) Proposed setbacks, lot widths, lot areas and building/structure heights.

25) Proposed uses to be included in the PUD.

26) Any traffic impact studies, environmental impact analysis, economic impact studies, etc. shall be performed by certified individuals or consultants on behalf of Township and selected independently of any influences from the applicant or party having interest in the development.

27) A table shall be provided on the final site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions or Township regulations which would otherwise be applicable to the uses and developments proposed in the absence of this PUD article and rezoning.

b. Fee: Payment of a PUD fee, as established by the Township Board.

c. Narrative Statement describing:

1) The objectives of the PUD and how it relates to the Intent of the PUD.

2) The relationship of the PUD to the qualifying conditions in Section 802.

3) Phases of development and approximate time frames for each phase, including anticipated start and completion dates of construction.

4) Proposed deed restrictions, covenants or similar legal instruments to be used within the PUD.

B. Planning Commission Public Hearing and Review of Preliminary PUD

1. The Secretary of the Planning Commission shall publish and send out public hearing notices in the same manner as prescribed in Section 1102 of this Ordinance based on the date of the Public Hearing. Following public notices, the Planning Commission shall hold a public hearing on the preliminary PUD plan for the purpose of receiving public comment on the PUD.

2. Following the public hearing, the Planning Commission shall review the preliminary PUD plan for conformance with the standards of Section 713 and make its findings according to those standards and shall approve, approve with conditions, or deny the preliminary PUD plan.

3. An approval with conditions shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the preliminary PUD plan to the Planning Commission.

SECTION 806 FINAL PUD PLAN

A. Final PUD Application

1. Final Development Plan Approval Time Period – Single Phase: Within twelve (12) months of the Planning Commission's approval of the preliminary PUD plan, the applicant shall submit an application to the Zoning Administrator for final PUD approval. If the applicant fails to submit such within the twelve (12) months, then the preliminary PUD plan shall be determined to be invalid.

2. Final Development Plan Approval Time Period – Dual or Multi-Phased: If the project includes phases, then the applicant must submit a request within twelve (12) months of the Planning Commission's approval of the preliminary PUD plan for the final development plan approval of a phase. Following the final approval of the first PUD phase, the applicant must submit each subsequent phase within twenty-four (24) months of the approval date for the previous phase. If the applicant fails to submit the first phase within the twelve (12) months or each subsequent phase within the twenty-four (24) month time period then the preliminary PUD plan incorporating all phases not already approved for the final site plan shall be determined to be invalid.

3. Approval Time Extension: Upon request to the Planning Commission and in accordance with this section, the time frames may be extended for a reasonable period of time. The extension shall be applied for prior to the expiration of the above timeframes.

4. Final PUD Plan Application Requirements: A final PUD plan application shall be processed in the same manner as for the preliminary PUD plan and consist of the following:

    a. A completed application form supplied by the Zoning Administrator.

    b. Payment of a fee, as established by the Township Board

    c. A written response to the findings, review comments, and conditions, if any from the Planning Commission's review and approval of the preliminary PUD plan and a narrative explanation of the changes made to the plan in response to those items.

    d. A site plan containing all of the information required in the Section 805 and the following information: (If the plan consists of phases, then the above-mentioned information is only required for the specific phase(s) being presented for final approval. Each subsequent phase shall be reviewed in the same manner).

        1) The location and dimensions of all proposed structures and buildings on the PUD site.

        2) The location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks/pathways/bike paths, curbing, parking areas (including dimensions of a typical parking space and the total number of parking spaces to be provided), and unloading areas. Street names must also be included.

3) The location of all proposed signs and lighting, including sizes and types.

4) The location, type and size of all utilities and storm water drainage facilities, including fire protection, sanitary sewers, water services, etc.

5) The location, type and size of all proposed landscaping and site amenities (artwork, fences, gateway features, etc.).

6) Existing and proposed topographic contours at a maximum of two (2) feet intervals.

7) Elevation views of all proposed structures and floor plans with dimensions, and square footages.

8) Proposed open space areas, including recreational amenities (playgrounds, etc.).

e. The Planning Commission may request any additional graphics or written materials prepared by a certified individual or consultant selected to assist in determining the appropriateness of the PUD site plan. Such material may include, but need not be limited to, aerial photography, photographs, traffic impact studies, impact on significant natural features and drainage, soil tests and other pertinent information.

B. Planning Commission Review of Final PUD Plan

1. The Planning Commission shall review the final PUD plan in relation to its conformance with the preliminary development plan and its conditions of approval, if any. If it is determined the final plan is not in substantial compliance with the preliminary PUD plan, the review process shall be conducted as a preliminary PUD plan review.

2. PUDs, whether established as single or multi-phase development, shall comply with the intent of the PUD in each phase. If a portion of the PUD intent is to provide for a variety of uses (i.e. apartments and single family homes), then the proposed phasing schedule shall show how the development of these uses will be balanced in the phased development schedule.

3. If the final PUD plan is consistent with the approved preliminary PUD plan, the Planning Commission shall review the final plan in accordance with the standards for approval in Section 807 and shall prepare a record of its findings in accordance with Section 807 and shall approve, approve with conditions, or deny the final PUD plan.

4. Any regulatory modifications from the traditional district requirements shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of this PUD process of the approved site plans may be appealed to the Zoning Board of Appeals. This provision shall not preclude an individual residential lot owner from seeking a variance following final approval of the PUD, provided such variance does not involve alterations to open space areas shown on the approved PUD site plan.

SECTION 807 STANDARDS FOR APPROVAL (BOTH PRELIMINARY AND FINAL)

A PUD shall be approved only if it complies with each of the following standards:
A. The proposed PUD complies with all qualifying conditions of Section 706.

B. The proposed PUD is compatible with the surround uses of land, the natural environment, and the capacities of public services and facilities affected by the development.

C. The proposed uses within the PUD will not possess conditions or effects that would injurious to the public health, safety and welfare of the community.

D. The proposed project is consistent with purpose and intent of the PUD, as described in Section 316 and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning.

E. The proposed PUD meets all the site plan requirements of this Article,

SECTION 808 PUD AGREEMENT

A. Prior to the issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Township in recordable form, setting forth the applicant's obligations with respect to the PUD.

B. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final PUD plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the Planning Commission.

C. A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.

D. The agreement shall also establish the remedies of the Township in the event of default by the applicant carrying the PUD, and shall be binding on all successors in interest to the applicant.

E. The PUD agreement shall be executed and recorded in the Office of the Marquette County Register of Deeds. Any type of homeowners association or condominium association must be established and recorded prior to the issuance of a zoning compliance permit.

F. The PUD agreement shall be reviewed annually by the signing date to amend any of the above requirements not met.

SECTION 809 CHANGES TO AN APPROVED PUD

Changes to an approved PUD shall be permitted only under the following circumstances:
A. Notify Zoning Administrator: The holder of an approved PUD final PUD plan shall notify the Zoning Administrator of any desired change to the approved PUD.

B. Minor Change Determination: Minor changes may be approved by the Zoning Administrator upon determining the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

1. Reduction of the size of any building and/or sign.
2. Movement of buildings and/or signs by no more than ten (10) feet.
3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
4. Changes in floor plan, of up to 5% of the total floor area, which do not alter the character of the se or increase the amount of required parking.
5. Internal rearrangement of a parking lot that does not affect the number of parking spaces, landscaping, access locations, design or management.
6. Changes required or requested by Marquette County and other State or Federal regulatory agencies in order to conform to other laws or regulations.

C. Major Change Determination: A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application for the final PUD plan.

SECTION 810 TIME LIMIT FOR APPROVED PUD

Each development shall be under construction within twelve (12) months after the date of approval of the PUD final development plan, except as noted in this Section. Such construction shall continue until completion of the PUD development.

A. The Planning Commission may grant one (1) extension of up to an additional twelve (12) month period if the applicant applies for such extension prior to the date of the expiration of the PUD or PUD phase and provided that:

1. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
2. The PUD requirements and standards, including those of the Zoning Ordinance and Comprehensive Development Plan that are reasonably related to said development have not changed.

B. Should neither of the provisions of Section 810 be fulfilled, or an extension has expired without construction underway, the preliminary PUD plan approval(s) shall be null and void. In order to use the property as a PUD, an applicant would have to resubmit plans for preliminary and final PUD site approvals as stated in this Article as if it were a new submission.

ARTICLE IX
CONDITIONAL USE PERMITS

SECTION 901 INTENT

Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with some of the older, more familiar kinds of uses call for more flexibility and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the Township's inhabitants.
In order to accomplish such a dual objective, provision is made in this Ordinance not only for flexibility in individual district regulations, but also for a more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as CONDITIONAL USES and may be authorized by the issuance of a CONDITIONAL USE PERMIT with such conditional and safeguards attached as may be deemed necessary for the protection of the public welfare.

The following sections (802 through 805), together with previous references in other sections (309 through 320), designate what uses require a Conditional Use Permit. With any exception noted, the procedures for obtaining such a permit apply to all conditional uses indicated.

SECTION 902 APPLICATION PROCEDURE

A. Any person having an interest in a property may file an application for a Conditional Use Permit for the zoning district in which the land is situated.

B. Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be signed by the property owner and accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.

C. DATA REQUIRED IN APPLICATION: Every application shall be accompanied by one copy of the following information and data:

1. Conditional permit use form supplied by the Zoning Administrator filled out by the applicant.

2. Site plan drawn to a readable scale and containing all information specified in Section 704.

3. A statement with supporting evidence regarding the required findings specified in Section 904.

D. Upon receipt of a completed application as described in Sections B and C above, a public hearing by the Planning Commission will be scheduled in accordance with Section 1102. The Planning Commission shall transmit one copy each of the application materials to the Marquette County Road Commission, Marquette County Drain Commissioner, Marquette County Health Department, and Powell Township School District for their review and comment. Each agency shall be asked to review the document and forward any comments to the Zoning Administrator. The Zoning Administrator shall transmit a copy of the comments and site plan to the Planning Commission for their review. The Planning Commission will review the application, hear and consider public comment, consider any comments received from other agencies, and approve, approve with conditions, or deny the Conditional Use Permit.

E. Approval of a Conditional Use Permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by all subsequent owners.

F. In instances where development authorized by a Conditional Use Permit has essentially changed in nature, extent or character, the Planning Commission shall review the permit in relation to the applicable standards and requirements of the Ordinance. Upon finding that there has been a violation in the conditions of the Conditional Use Permit granted under the provisions of this Ordinance, the Planning Commission may declare the permit null and void.

G. If development authorized by a Conditional Use Permit has not commenced within one year from the date of issuance, said permit shall expire automatically. The Planning Commission can approve an extension for one additional year upon request by the applicant.

SECTION 903 REVIEW AND FINDINGS

The Planning Commission shall approve, approve with conditions, or reject the application within sixty (60) days of the hearing based upon materials received and testimony recorded at the public hearing. The Planning Commission shall set forth the reasons for approval, denial, or modification of the Conditional Use Permit application. All conditions shall be clearly specified in writing and the petitioner has one year from date of hearing to comply with all specified conditions. Compliance shall occur prior to the issuance of a Zoning Compliance Permit by the Zoning Administrator, the commencement of the use, unless a specified time is set in the motion granting the Conditional Use Permit.

SECTION 904 GENERAL STANDARDS

The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

A. Will be harmonious with and in accordance with the general policies or with any specific objectives of the Comprehensive Development Plan;

B. Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the 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 not diminish the value of land, buildings, or structures in the District;

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, and 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 person, property, or the general welfare by reason of excessive production of noise, traffic, smoke, fumes, glare, or odors;

H. Will protect the public health, safety and general welfare of the community; and

I. Will be consistent with the intent and purpose of the specific zoning district in which it is located.

J. The following standards shall be used by the Planning Commission when considering conditional use permits for group day care facilities:

1. Is located not closer than 1,500 feet to any of the following:
    a. Another licensed group day care home.

    b. Another adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Act No. 218 of the Public Acts of 1979, as amended.

    c. A facility offering substance abuse treatment and rehabilitation service to seven or more people licensed under Article 6 of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended.

    d. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.

2. Has appropriate fencing for the safety of the children in the group day care home as determined by the Township Planning Commission.

3. Maintains the property consistent with the visible characteristics of the neighborhood.

4. Does not exceed 16 hours of operation during a 24-hour period. The Township may limit but not prohibit the operation of a group day care home between the hours of 10 pm and 6 am.

5. Meets regulations, if any, governing signs used by a group day care home to identify itself.

6. Meets regulations, if any, requiring a group day care home operator to provide off-street parking accommodations for his or her employees.

SECTION 905 CONDITIONS AND SAFEGUARDS

A. Prior to granting any Conditional Use Permit, the Planning Commission may impose conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the Conditional Use Permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will utilize the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole; and be consistent with the general standards listed in Section 804 of this Ordinance and therefore be necessary to meet the intent and purpose of the regulations contained therein.

B. Conditions and requirements stated as part of Conditional Use Permit authorization shall be a continuing obligation of land holders. The Zoning Administrator shall make periodic investigations of developments authorized by Conditional Use Permit to determine compliance with all requirements.

C. Conditional Use Permits may be issued for time periods as determined by the Planning Commission. Conditional Use Permits may be renewed in the same manner as originally applied for.

D. In authorizing a Conditional Use Permit, the Planning Commission may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the Township Treasurer at the time of issuance of the permit authorizing the use or activity. As work progresses, the Planning Commission may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

E. Revocation of a Conditional Use Permit by the Planning Commission shall be made at a public hearing following the same procedures as original approval to the effect that:

1. Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period; or

2. Violations of conditions pertaining to the granting of the permit continue to exist more than thirty (30) days after an order to correct has been issued. Violations of any conditions set by the Planning Commission are violations of this Zoning Ordinance.

F. All plans, specifications and statements submitted with the application for a Conditional Use Permit shall become, along with any changes ordered by the Planning Commission, a part of the conditions of any Conditional Use Permit issued thereto.

G. Any person aggrieved by the Planning Commission's granting or failure to grant a Conditional Use Permit must appeal that decision to the Township Board within 30 days. The Township Board shall notify all affected parties and hold a public hearing on the appeal as specified in Section 1102.

H. The standards Section 904 are basic to all conditional uses. The specific requirements accompanying the following sections relating to particular uses are in addition to the Standards in Section 904 and shall be required in all applicable situations.

ARTICLE X
NONCONFORMING USES AND STRUCTURES

SECTION 1001 INTENT

Nonconforming uses and structures are those which do not conform to a provision or requirement of this Ordinance but were lawfully established prior to the time of its applicability. Any previous Class A designation authorized by formal action shall remain in effect. It is recognized that those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without restriction.

The zoning regulations established by this ordinance are designed to guide the future use of land in Powell Township by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established. The Planning Commission may provide for the completion, resumption, restoration, reconstruction, extension or substitution of nonconforming uses or structures upon terms and conditions provided within the zoning ordinance. In establishing terms for the completion, resumption, restoration, reconstruction, extension or substitution of nonconforming uses or structures, different classes of nonconforming uses may be established in the zoning ordinance with different requirements applicable in each class.
This Ordinance distinguishes by class the various nonconforming uses and structures. In general, Class A nonconforming uses and structures have been found by the Planning Commission not to be contrary to the public health, safety, and general welfare, or the spirit of this Ordinance, or the Township Comprehensive Plan or other standard in this Ordinance and as such should either be encouraged or at a minimum not be discouraged to continue. In contrast, the Class B nonconforming uses and structures are not consistent with the aforementioned, and as such, should be not encouraged to exist by the Township. Different regulations are established for each class. The degree of restriction over each class is a function of the degree to which that class of nonconformity is a nuisance or is incompatible with the purposes and regulations of this Ordinance.

Any use or structure created in violation of any preceding adopted township zoning ordinance remains a violation.

SECTION 1002 CLASS A NONCONFORMING USES AND STRUCTURES

Class A nonconforming uses and structures are those which have been so designated by the Planning Commission, after application by any interested person or the Zoning Administrator. The Planning Commission shall find that the continuance thereof would not be contrary to the public health, safety, and general welfare, or to the spirit of this Ordinance; that the use or structure does not and is not likely to significantly depress the value of nearby properties; that the use or structure was lawful at the time of its inception; that it meets the standards set out in Section 904 of this Ordinance; and that no useful purpose would be served by strict application of the provisions or requirements of this Ordinance with which the use or structure does not conform.

SECTION 1003 PROCEDURE FOR OBTAINING CLASS A DESIGNATION

A written application shall be filed with the Planning Commission utilizing forms obtained from the Zoning Administrator, which shall include:

1. Name and address of property owner and applicant if not same;

2. A legal description of the property or lot;

3. A site plan pursuant to Section 703 or 704.

4. An explanation describing the present nonconforming use or structure.

5. An explanation of any proposed addition or alteration to the uses or structures.

The Planning Commission shall, upon receipt of said application, schedule a public hearing in accordance with the procedures set out in Section 1102 of this Ordinance. If a request for Class A designation is accompanied by a request for a conditional use permit, one public hearing may be held for both these requests. If a request is accompanied by a request for a variance, the Zoning Board of Appeals may hold a public hearing immediately after the Planning Commission hearing, on the same day. Requests from more than one applicant may also be considered at a single public hearing. The public notice for the hearing(s) shall clearly state all of the requests to be discussed at the hearing(s) and the written record of the hearing shall reflect the outcome of all requests discussed. Upon hearing the facts and information, the Planning Commission shall make its decision in writing and set forth the findings and reasons on which it is based, pursuant to the standards identified in Section 904. Conditions may be attached, including any time limit, where necessary to assure that the use or structure does not become contrary to the public health, safety, or welfare, or the spirit and purpose of this Ordinance.

SECTION 1004 PROVISIONS FOR CLASS A NONCONFORMING USES AND STRUCTURES

A designated Class A Nonconforming Use or Structure may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No Class A Nonconforming Use or Structure shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance, without specific approval of the Planning Commission, except that the following structural alterations may be permitted without prior approval of the Planning Commission:

1. Structural alterations or additions increasing the bulk of a structure are permitted provided all regulations, including dimensional requirements, contained in this Ordinance are met.

2. Structural alterations which do not add to the bulk of the structure or increase the intensity of use of the structure.

B. No Class A Nonconforming Use or Structure shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance, except with specific approval of the Planning Commission.

C. No Class A Nonconforming Use or Structure shall be extended to displace a permitted (conforming) use.

D. No Class A Nonconforming Use or Structure shall be changed to another nonconforming use, except with specific approval of the Planning Commission. Before granting such approval, the Planning Commission shall determine that such change in use will have a less harmful effect on neighboring properties than the existing nonconforming use.

E. No Class A Nonconforming Use shall be expanded to add another nonconforming use, except with specific approval by the Planning Commission. The proposed nonconforming use shall satisfy the standards as set out in Section 804.

F. In addition to the above requirements, any alteration, addition, or expansion of a nonconforming use which is inconsistent with the dimensional or other requirements of this ordinance must be granted a variance of such requirements by the Zoning Board of Appeals in accordance with Section 1205 of this ordinance.

G. Any nonconforming lot or legal conforming lot described in a deed or land contract which becomes substandard as a result of the high risk erosion overlay zone shall not be used for establishing a principal structure except if a variance is granted under Section 1005 of this Ordinance.

SECTION 1005 REGULATIONS PERTAINING TO CLASS A NONCONFORMING USES AND STRUCTURES

No Class A Nonconforming Use shall be resumed if it has been discontinued for a continuous period of at least eighteen (18) months or if it has been changed to a conforming use for any period. No Class A Structure shall be used, altered, or enlarged in violation of any condition imposed in its designation.

SECTION 1006 CLASS B NONCONFORMING USES AND STRUCTURES

All nonconforming uses and structures not designated as Class A are considered as Class B. It is the purpose of this Ordinance to eliminate Class B Nonconforming Uses and Structures as rapidly as is permitted by law without payment of compensation. No Class B Nonconforming Use shall be resumed if it has been discontinued for a continuous period of at least eighteen (18) months or if it has been changed to a conforming use for any period, or if the structure in which such use is conducted is damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds fifty (50) percent of the reproduction cost of such structure.

No Class B Nonconforming Structure shall be enlarged or structurally altered. No Class B Nonconforming Use shall be changed to a substantially different nonconforming use, nor enlarged so as to make use of more land area than was used at the time of becoming nonconforming.

The Planning Commission shall, at its earliest possible time, arrange to have a comprehensive inventory of all nonconforming uses and structures located in Powell Township.

SECTION 1007 GENERAL STANDARDS

The Planning Commission shall review the particular facts and circumstances of each Class A proposal in terms of the intent of this Article and the general standards as set out in Section 904 of this Ordinance. Each individual proposal shall follow the procedure identified in Section 1102 of this Ordinance.

SECTION 1008 REVOCATION OF CLASS A NONCONFORMING USES AND STRUCTURES

Any Class A Nonconforming Use or Structure maintained or used in violation of this Ordinance is a nuisance per se. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a notice of violation. Such notice shall be directed to each property owner of or a party in interest in whose name the property appears on the last local tax assessment records. All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.

All violations of Class A nonconforming uses and structures shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period shall be reported to the Planning Commission. The Planning Commission shall, upon receipt of said violation, schedule a public hearing in accordance with the procedures set out in Section 1102 of this Ordinance. Upon hearing the facts and information, the Planning Commission shall make its decision to consider revocation of the Class A designation in writing and set forth the findings and reasons on which it is based.

SECTION 1009 APPEAL OF GRANTING, DENYING, OR REVOCATION OF CLASS A STATUS

Any person aggrieved by the Planning Commission's granting or failure to grant a Class A status must appeal that decision to the Zoning Board of Appeals within 30 days. The Zoning Board of Appeals shall notify all affected parties and hold a public hearing on the appeal as specified in Section 1002.

ARTICLE XI
ADMINISTRATION AND ENFORCEMENT

SECTION 1101 ADMINISTRATION

The administration and enforcement of the Ordinance shall be the responsibility of the Powell Township Board. The Township Supervisor and 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(s).

SECTION 1102 ADMINISTRATIVE STANDARDS AND PROCEDURES

A. Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.

B. Where a public hearing is required in the administration of this Ordinance, the Zoning Board of Appeals and the Planning Commission:

1. Shall base their decision upon facts presented at a public hearing. Applications which require hearings before the Powell Township Planning Commission or the Zoning Board of Appeals shall be submitted thirty days prior to the regular meeting date of that body. Late applications may be scheduled for hearings upon authorization by the Chairperson after review of the upcoming agenda, and the work load and ability of the staff to meet legal notice deadlines and to prepare reports and recommendations. Under no circumstances may a late application be accepted less than ten days prior to a legal notice deadline;

2. For Class A Nonconforming Uses or Structures, Conditional Use Permits, Mineral Extraction Permits, and Zoning Board of Appeals hearings, shall publish notice of the public hearing in a newspaper of general distribution, such notice to be given not less than fifteen (15) days prior to the public hearing. Notice shall also be given by mail or personal service all property owners to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to all occupants of structures within three hundred (300) feet. The current year's assessment role shall be used as prima facie evidence of record ownership. If a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other district spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

3. For amendments, the Planning Commission shall publish one notice (see Appendix 3) in a newspaper of general circulation in the Township, at least fifteen (15) days before the hearing. Said notice shall also go to utilities registered to receive the notice, to railroads within the zone affected, to the County Health Department and if the amendment is a rezoning, also notify by mail or personal service all property owners to whom real property is assessed within three hundred (300) feet. The current year's assessment role shall be used as prima facia evidence of record ownership.

4. All hearing notices (See Appendix B for example of notice) shall

   a. Describe the nature of the request.

   b. Indicate the property that is the subject of the request. The notice shall include a listing of all street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

   c. State when and where the request will be considered.

   d. Indicate when and where written comments will be received concerning the request.

   Note: 1) If an individual property or 10 or fewer adjacent properties are proposed for rezoning, the zoning commission shall give notice

of the proposed rezoning in the same manner as required in 3 above.

2) If 11 or more adjacent properties are proposed for rezoning, the zoning commission shall give a notice of the proposed rezoning in the same manner as required in 3. above, except for the requirement of section 4b. above that no individual addresses of the properties are required to be listed.

e. The notices shall include the places and times which the proposed text and any maps of the zoning ordinance action may be examined.

5. Shall permit interested parties at the hearing to present and rebut information either supporting or opposing the zoning action under consideration;

6. Shall prepare a comprehensive summary record of the hearing, including an exact record of motions, votes and other official action;

7. Following the hearing by the Planning Commission, the decision shall be submitted for review and recommendation of the proposed zoning ordinance, including any zoning maps, to the Planning/Zoning Commission of the county.;

8. Shall set forth in writing and in detail any denial, approval, conditional approval, or order and the facts supporting such decision shall be included in meeting minutes;

9. Shall file the record, written testimony, or documents submitted with regard to the hearing, and the decision with the Township Clerk, and maintain an affidavit of mailing (See Appendix B for an example of affidavit) for each mailing made under this section;

10. Shall comply with all other requirements under the law; and

11. Shall have all administrative actions recorded in the Official Zoning Orders Book and Map by the Township Clerk.

C. Wherever a discretionary decision is authorized in this Ordinance, such as, but not limited to, the issuance of conditional use permits, conditions (including, but not limited to greater setbacks, parking, screening, drainage, access control and other similar requirements) may be imposed provided they are:

1. Designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed use or activity, and the community as a whole.

2. Related to the valid exercise of the police power, and the purposes which are affected by the proposed use or activity;

3. Necessary to meet with intent and purpose of the Zoning Ordinance, are related to standards established in the Ordinance for the land use or activity under

consideration, and are necessary to insure compliance with those standards; and

4. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the approving Township Board and the landowner. A record of changed condition shall also be maintained.

D. All administrative guides or rules developed to assist the Zoning Board of Appeals or the Planning Commission in the administration of this Ordinance shall be filed with the Township Clerk and be open to public inspection.

E. CHECKLIST OF STEPS FOR REZONING OF PROPERTY or Amendments to the Powell Township Ordinances

1. RECEIVE APPLICATION (See Appendix B for application) with fee established by Township Board and information required pursuant to Zoning Ordinance or policy, such as:

A. Name and address of applicant and owner of land proposed to be rezoned.

B. Street number or other common description of land proposed to be rezoned.

C. Legal description of land proposed to be rezoned.

D. Present zoning classification and requested zoning classification of land proposed to be rezoned.

2. SCHEDULE PUBLIC HEARING on rezoning request at regular meeting or proper special meeting if public hearing not scheduled on regular meeting date. NOTE: If proposed rezoning is inconsistent with Township land use plan, consideration of amendment of land use plan and the Township Comprehensive Plan is advisable before or contemporaneous with approval of requested rezoning, and any such proposed amendment of land use plan must be referenced in Notice of requirements. Consultation with the township attorney may be appropriate.

3. PREPARE NOTICE of public hearing/meeting (See Appendix B for example of Notice) of Planning Commission on requested rezoning, for publication, mailing and posting. Notice is required to:

a. Describe the nature of the request.

b. Indicate the property that is the subject of the request. The notice shall include a listing of all street addresses within the property. Street addresses do no need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

c. State when and where the request will be considered.

d. Indicate when and where written comments will be received concerning the request.

Note: 1) If an individual property or 10 or fewer adjacent properties are proposed for rezoning, the zoning commission shall give notice of the proposed rezoning in the same manner as required in 3. above.

2) If 11 or more adjacent properties are proposed for rezoning, the zoning commission shall give a notice of the proposed rezoning in the same manner as required in 3. above, except for the requirement of section 4b. above that no individual addresses of the properties are required to be listed.

e. The notices shall include the places and times which the proposed text and any maps of the zoning ordinance action may be examined. The notice will include name of public body, with address and telephone number as well as Township Office hours.

4. PUBLISH NOTICE of public hearing/meeting in newspaper of general circulation in Township. Notice must be published one time at least fifteen (15) days prior to the hearing. The notice is placed in the legal section of the classifieds.

5. FILE AFFIDAVIT OF PUBLICATIONS from newspaper in Township ordinance records. (See Appendix B for example of affidavit of publication.)

6. MAIL NOTICE of public hearing/meeting by regular first class mail.. Notices must be mailed at least 15 days before date of public hearing/meeting to:

A. Applicant

B. Owner(s) of property proposed to be rezoned.

C. All persons to whom real property is assessed within 300 feet of boundaries of property proposed to be rezoned.

D. Occupants of all single and two family dwelling structures within 300 feet of property proposed to be rezoned. Note: if name of an occupant is not known, address to “occupant”.

E. Each electric, gas, pipeline and telephone public utility company and railroad operating within Township and registered with Township for purpose of receiving Zoning Notices. Notices should also be sent to the Road Commission, affected schools and the County Sherriff’s Department.

7. POST NOTICE (See example of posted notice in Appendix B.) of public hearing/meeting at Township Hall at least 18 hours before scheduled time of public hearing/meeting, if not on regular meeting date.

8. FILE AFFIDAVITS OF MAILING AND POSTING of notice of public hearing/meeting in Township ordinance records in appropriate files in Planning Commission file cabinet.

9. OPEN PUBLIC HEARING on requested zoning:

A. Receive comments of applicant/owner(s) on proposed rezoning.

B. Acknowledge written comments received on proposed rezoning.

C. Receive comments on proposed rezoning by persons attending hearing.

10. CLOSE PUBLIC HEARING and DISCUSS proposed rezoning:
    A. Determine whether proposed rezoning is consistent with Township land use plan; conforms with Sections 903 and 904.

    B. Review permitted uses and special exception uses which property could be used for if rezoning is approved.

    C. Evaluate whether property is appropriate for permitted use in requested zoning district.

11. APPROVE MOTION recommending approval or disapproval of proposed rezoning.

12. SUBMIT RECOMMENDATION TO COUNTY PLANNING COMMISSION for advisory review and recommendation. (Statutory exceptions may apply; consult township attorney).

13. SUBMIT TO TOWNSHIP BOARD summary of comments received at Planning Commission public hearing/meeting and recommendations of Planning Commission and County Planning Commission on proposed rezoning. Note: matter is referred to Township Board regardless of whether Planning Commission and County recommend approval or disapproval of proposed rezoning.

F. STEPS TO BE TAKEN BY TOWNSHIP BOARD

1. The Township Board may, but is not required to, hold additional hearings on proposed rezoning. Notice of any such public hearing before Township Board must be published one time in a newspaper which circulates in Township at least 15 days before the date of public hearing.

2. TOWNSHIP BOARD CONSIDERS THE PLANNING COMMISSION'S RECOMMENDATION at any regular meeting or at proper special meeting, and either agrees or disagrees with Planning Commission's recommendation, or sends the matter back to the Planning Commission for further consideration.

    A. If the Planning Commission recommends approval of proposed rezoning, and the Township Board agrees with the recommendation, skip to Step 3.
    If Planning Commission recommends approval of proposed rezoning, and Township Board disagrees with that recommendation, Township Board must resubmit matter to Planning Commission for further consideration (see Step 2C.)

    B. If Planning Commission recommends disapproval of proposed rezoning, and Township Board agrees with that recommendation, the property is not rezoned and the matter is concluded.

If Planning Commission recommends disapproval of proposed rezoning, and Township board disagrees with that recommendation, Township Board must send the matter to Planning Commission for further consideration. (See Step 2C).

C. IF RESUBMITTED to Planning Commission for further consideration, Township Board must request report back to Township Board within specified time; then repeat Step 2 after further Planning Commission proceedings and recommendation.

Note: On further consideration of matter by Planning Commission, if proposed rezoning then under consideration differs substantively from original proposal, it may be necessary for Planning Commission to hold another public hearing and repeat steps in part I. Consult township attorney.

After Township Board reviews report from Planning Commission on resubmission, a public hearing before Township Board is not required unless a property owner requests such a hearing by certified mail addressed to Township Clerk. If such a request for public hearing is received, notice of public hearing must be published one time at least 15 days before date of public hearing. Township Board is required to request Planning Commission to attend such a public hearing before Township Board.

PROCEED TO STEP 3 ONLY IF PROPOSED REZONING IS TO BE CONSIDERED FOR ADOPTION BY TOWNSHIP BOARD.

3. ADOPT ORDINANCE (amending zoning map/zoning ordinance) by motion approved by majority of township board members, on roll call vote.

4. FILE ORDINANCE with Township Clerk within 15 days after adoption.

5. The Township Clerk will PUBLISH NOTICE in a newspaper of general circulation in the Township of ordinance adoption or map change in required form, with either ordinance or map change in its entirety or a legally proper summary of ordinance, one time within 15 days after adoption or ordinance.

6. FILE AFFIDAVIT OF PUBLICATION from newspaper in township ordinance records.

7. The Township Clerk shall FILE ATTESTED COPY OF ORDINANCE with County Clerk (not required if township office open regular hours on each business day).

8. The Township Clerk shall RECORD ORDINANCE in Township ordinance book within one week after publication of ordinance, with Certificate of Township Clerk recording date of adoption or ordinance, names of members voting thereon, how each member voted, date of publication and name of newspaper in which ordinance was published, and (where applicable) date of filing of ordinance with County Clerk.

9. The Township Clerk shall make approved CHANGES to the ZONING MAP and distribute copies of revised Zoning Ordinance pages (if any) to members of Township Board, Planning Commission, Planning Commission of Appeals, and other appropriate Township officials.

SECTION 1103 ZONING ADMINISTRATOR

The provisions of this Ordinance shall be administered by the Township Supervisor or by a Zoning Administrator appointed by the Township Board who shall receive such compensation as the Township Board may, from time to time, determine. The Zoning Administrator may also serve in some other capacity as an employee or appointed officer of this Township. The Zoning Administrator, or their designated employee, shall administer the provisions of this Ordinance and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body. They shall have no power to vary or waive Ordinance requirements.

SECTION 1104 DUTIES OF ZONING ADMINISTRATOR

A. The Zoning Administrator shall interpret the provisions of this ordinance, both text, and the map, in such a way as to carry out the intent and purpose of this ordinance. The Zoning Administrator shall have the power to issue Certificates of Zoning Compliance and to review site plans to determine whether they are in proper form, contains all of the required information and is in accordance with the provisions of this Ordinance. The Zoning Administrator shall make inspections of premises and collect such investigative data deemed necessary to carry out his/her duties in the enforcement of this Ordinance.

B. With regard to the Shore Lands Protection and Management Act, and the regulation of development within the high risk erosion area zone as prescribed in this ordinance, the duties of the zoning administrator shall include, but are not limited to:

1. Maintaining all records, property descriptions and maps pertaining to designated high risk erosion areas.

2. Determining the location of the bluff line and enforcing the minimum setback requirements for principal structures from the bluff line.

3. In the case of denying a zoning compliance permit for failure to comply with the minimum setback requirement, the Zoning Administrator shall inform the property owner of the right to appeal, the conditions under which an appeal will be granted, and he shall further inform the Zoning Board of Appeals and Department of Environmental Quality at the time an appeals action is initiated. Written notice of the appeal from the minimum setback requirement shall be given to the Department of Environmental Quality at least 14 days prior to the hearing before the Zoning Board of Appeals.

C. If the Zoning Administrator shall find that any provision of this Ordinance is being violated, the Administrator shall order discontinuance of any illegal work being done; or shall take such action as authorized to insure or prevent violation of the provisions of this Ordinance.

D. The Zoning Administrator shall not vary, change or grant exceptions to any terms of this Ordinance, or to any person making application under the requirements of this Ordinance.

E. It shall be unlawful for the Zoning Administrator to issue a Zoning Compliance Permit or other such permits, for any construction or use until they have inspected such plans and found them to conform with this Ordinance.

SECTION 1105 ZONING COMPLIANCE PERMIT

A. 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 Zoning Compliance Permit shall have been issued by the Zoning Administrator. The permit shall state that the building, structure, and lot, and use thereof, conform to the requirements of this Ordinance.

B. The Zoning Administrator shall maintain a record of all Zoning Compliance Permits and said record shall be open for public inspection. Failure to obtain a Zoning Compliance Permit shall be a violation of this Ordinance.

C. The Certificate Of Occupancy is a permit which is required before a structure is occupied or used, prior to using land in a manner different from the previous use, and prior to occupying an existing structure with a change of use other than what presently exists there. The Certificate Of Occupancy is combined with the Zoning Compliance Permit and allows the County Building Codes Inspector to inspect for compliance and adherence with the zoning ordinance. A Certificate Of Occupancy Permit may not be denied after inspection, if there has been compliance with all ordinance requirements. Failure to obtain an approved Certificate Of Occupancy prior to occupying or using a structure, using the land in a manner different from the previous use, shall be a violation of this ordinance.

D. A Zoning Compliance Permit granted under this ordinance shall become null and void and fees forfeited unless construction and/or use is completed within five hundred forty-five (545) days of the date of issuance. A Zoning Compliance Permit & Certificate of Occupancy shall be renewable upon reapplication and payment of the fee, subject however, to the provisions of all Ordinances in effect at the time of renewal.

SECTION 1106 ENFORCEMENT AND VIOLATION

Notice of Violation:

A. Whenever the Zoning Administrator determines that a violation of this Ordinance exists, said Zoning Administrator shall issue a notice of violation.

B. Such notice shall be directed to each owner of or a party in interest in whose name the property appears on the last local tax assessment records.

C. All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the tax records. An affidavit of mailing shall be maintained.

D. All violations shall be corrected within a period of time as specified on the notice of violation. A violation not corrected within this period shall be reported to the Marquette County Prosecuting Attorney who shall initiate prosecution procedures.

SECTION 1107 SPECIAL ZONING ORDERS BOOK AND MAP

The Zoning Administrator shall keep a Special Zoning Orders Book, which shall list, with a brief description, all variances, conditional use permits, rezoning, designations of Class A nonconformance, and any terminations of any of them. Each item shall be assigned a number when entered. The Zoning Administrator shall also keep a map, to be known as the Special Zoning

Orders Map, on which shall be recorded the numbers in the Special Zoning Orders Book to indicate the locations affected by the items in the book. The Special Zoning Orders Book and Map shall be open to public inspection. These findings are property of the township and must remain with the position, not the person hired into the position.

SECTION 1108 FEES

The Township Board shall require the payment of reasonable fees for zoning permits, as a condition to the granting of authority to use, erect, alter or locate dwellings, buildings and structures, including tents and recreational vehicles within a zoning district established under this act. The Township Board shall periodically review and establish by resolution a schedule of fees for administering this Ordinance. The schedule of fees shall be made available in the office of the Zoning Administrator and may be changed only by the Township Board. No permit or certificate shall be issued unless such fees have been paid in full. (See Appendix C for current fee schedule.)

To ensure compliance with the zoning ordinance and any conditions imposed under the zoning ordinance, a Planning Commission and/or the Township Board may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the Township Board covering the estimated cost of improvements be deposited with the Township Treasurer at the time a permit is issued by the Zoning Administrator to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Township Board may not require the deposit of the performance guarantee until it is prepared to issue the permit. The Township Board shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.

ARTICLE XII
ZONING BOARD OF APPEALS

SECTION 1201 CREATION AND MEMBERSHIP

In each local unit of government in which the Township Board exercises the authority conferred by this act, the Township Board shall appoint a zoning board of appeals. A zoning board of appeals in existence on the effective date of this act may continue to act as the zoning board of appeals subject to this act. In appointing a zoning board of appeals, membership of that board shall be composed of not fewer than 5 members if the local unit of government has a population of 5,000 or more and not fewer than 3 members if the local unit of government has a population of less than 5,000. The number of members of the zoning board of appeals shall be specified in the zoning ordinance. One of the regular members of the zoning board of appeals shall be a member of the zoning commission or of the planning commission if the duties and responsibilities of the zoning commission have been transferred to the planning commission. The remaining regular members, and any alternate members, shall be selected from the electors of the local unit of government residing within the zoning jurisdiction of that local unit of government. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government. One regular member may be a member of the Township Board, but shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the legislative body may not serve as a member of the zoning board of appeals.

The Township Board may appoint not more than 2 alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be

called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of 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 of the zoning board of appeals. A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties.

A member of the zoning board of appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. The terms of office for members appointed to the zoning board of appeals shall be for 3 years, except for members serving because of their membership on the zoning commission or legislative body, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term. A zoning board of appeals shall not conduct business unless a majority of the regular members of the zoning board of appeals are present.

SECTION 1202 PROCEDURES

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

B. Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as 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 any question or if absent or failing to vote indicating such fact, and all of its official actions. All meetings and records shall be open to the public. All minutes shall be filed in the office of the Township Clerk.

C. The Zoning Board of Appeals shall fix a reasonable time and date for a hearing. The Board shall give due notice of the hearing by regular mail to the parties of interest and to owners of adjacent property in accordance with the provisions of Section 1102.

SECTION 1203 DUTIES AND POWERS

A. The Zoning 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 objectives of this Ordinance shall be attained, the public health, safety, and welfare secured, and substantial justice done

1) The zoning board of appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedures sitting as a zoning board of appeals. The zoning board of appeals shall also hear and decide on matters referred to the zoning board of appeals or upon which the zoning board of appeals is required to pass under a zoning ordinance

adopted under this act. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the zoning board of appeals only if provided for in the zoning ordinance.

2) The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant a variance in the zoning ordinance.

B. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have power to act on those matters specifically provided for in this Ordinance.

SECTION 1204 ADMINISTRATIVE REVIEW

The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirements, decision or determination of the Zoning Administrator, with the exception of site plan appeals. An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board, or bureau of the state or local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act. The zoning board of appeals shall state the grounds of any determination made by the board.

An appeal under this section shall be taken within such time as shall be prescribed by the zoning board of appeals by general rule, by the filing with the officer from whom the appeal is taken and with the zoning board of appeals of a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.

An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, in which case proceedings may be stayed by a restraining order issued by the zoning board of appeals or a circuit court.

Following receipt of a written request concerning a request for a variance, the zoning board of appeals shall fix a reasonable time for the hearing of the request and give notice as provided in section 1102.

Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in

question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

At the hearing, a party may appear in person or by agent or attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

If there are practical difficulties for nonuse variances as provided in subsection (9) or unnecessary hardship for use variances as provided in subsection (10) in the way of carrying out the strict letter of the zoning ordinance, the zoning board of appeals may grant a variance in accordance with this section, so that the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done. The ordinance shall establish procedures for the review and standards for approval of all types of variances. The zoning board of appeals may impose conditions as is otherwise allowed under this act.

The zoning board of appeals of all local units of government shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance.

The authority to grant variances from uses of land is limited to the following:

1. Cities and villages.

2. Townships and counties that as of February 15, 2006 had an ordinance that uses the phrase "use variance" or "variances from uses of land" to expressly authorize the granting of use variances by the zoning board of appeals.

3. Townships and counties that granted a use variance before February 15, 2006.

The authority granted under is subject to the zoning ordinance of the local unit of government otherwise being in compliance with the Township Zoning Ordinance and having an provision that requires a vote of 2/3 of the members of the zoning board of appeals to approve a use variance.

The authority to grant use variances is permissive, and this shall not be construed to require a local unit of government to adopt ordinance provisions to allow for the granting of use variances.

The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the county in which the property is located as provided:

1. Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:
    (a) Complies with the constitution and laws of the state.

    (b) Is based upon proper procedure.

    (c) Is supported by competent, material, and substantial evidence on the record.

    (d) Represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

2. If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

3. An appeal under this section shall be filed within 30 days after the zoning board of appeals certifies its decision in writing or approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals.

Any party aggrieved by any order, determination, or decision of any officer, agency, board, commission, zoning board of appeals, or legislative body of any local unit of government may obtain a review in the circuit court for the county in which the property is located. The review shall be in accordance with the above paragraph.

SECTION 1205 VARIANCES

A. The Zoning Board of Appeals shall have the power and duty to authorize upon appeal in specific cases such variance from the provisions of this Ordinance as will not be contrary to the public interest where, owning to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship or practical difficulty.

B. Any nonconforming use of neighboring lands, structures, or buildings shall not be considered grounds for the issuance of a variance.

C. The Zoning Board of Appeals shall make findings that the requirements of this Section have been met by the applicant.

D. The Zoning Board of Appeals shall further find that the reasons set forth in the application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building, or structure.

E. The Zoning Board of Appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.

F. In granting any variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards consistent with Section 1102 of 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.

G. Under no circumstances shall the Zoning Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

H. VARIANCES FROM THE HIGH RISK EROSION ZONE REQUIREMENTS

A variance from the minimum recommended setback for principal structures may be granted by the Zoning Board of Appeals under the exceptional circumstances described in Subsection (1) but then only if the conditions described in Subsection (2) are complied with:

1. A variance for substandard lots of record or lots described in a deed or land contract may be allowed where the lots were:
    a. Established prior to the effective date of this overlay zone, but which have inadequate depth to comply with the minimum recommended setback for principal structures.

    b. Created in full compliance with this ordinance, but which at the time of application to establish a principal structure lack sufficient depth because of natural erosion processes.

2. Substandard lots as described in this section may be granted a variance for establishing a principal structure only if they comply with conditions (a) and (b), and either (c) or (d):
    a. Septic tanks, tile fields or any other on-site waste handling facility shall be placed landward of the principal structure.

    b. The proposed structure shall be located as far landward of the bluffline as is possible while still complying with all other setback and yard requirements in this or other ordinances.

    c. The proposed structure shall be designed and constructed to be moveable in accordance with accepted architectural or engineering standards. To the fullest extent practical, a structure shall be moved landward to a safe location prior to erosion damage.

    d. The proposed structure shall be effectively protected by an erosion control device which has been approved by the Department of Environmental Quality. The erosion control device shall meet Department of Environmental Quality design, construction and maintenance standards, and shall be built prior to or concurrently with the construction of the principal structure.

3. A person who can document with acceptable engineering studies an annual recession rate which differs from the Department of Environmental Quality recession rate data may be granted a modification of the minimum recommended setback requirement by the Zoning Board of Appeals. Prior to any modification of the minimum recommended setback requirement, the applicant's engineering studies shall be sent to the Department of Environmental Quality, who shall report to the Zoning Board of Appeals on the accuracy of the applicant's studies. The Zoning Board of Appeals shall only act upon request for modification of the setback requirement after a determination has been made on the validity of the applicant's data and only after the Zoning Board of Appeals has determined that such modification would not violate the spirit and intent of this ordinance.

SECTION 1206 APPEALS

A. Within seven (7) days after publication of a zoning ordinance or map change, a registered elector residing in the zoning jurisdiction of the township may file with the Township Clerk, a notice of intent to file a petition of appeal. The petitioner shall have 30 days following the publication of the zoning ordinance or map change to file a petition signed by a number of registered electors residing in the zoning jurisdiction not less than 15% of the total vote case within the zoning jurisdiction for all candidates for governor at the last preceding general election, at which a governor was elected, with the Township Clerk requesting a review by the Township Board. The Zoning Administrator shall transmit to the Board copies of all papers constituting the record upon which the action appealed was taken from.

(1) An amendment to a zoning ordinance by a city or village is subject to a protest petition as required by this subsection. If a protest petition is filed, approval of the amendment to the zoning ordinance shall require a 2/3 vote of the Township Board, unless a larger vote, not to exceed a ¾ vote, is required by ordinance or charter. The protest petition shall be presented to the Township Board before final legislative action on the amendment and shall be signed by1 or more of the following:

(a) The owners of at least 20% of the area of land included in the proposed change.

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

(c) Publicly owned land shall be excluded in calculating the 20% land area requirements under subsection (1).

B. A fee shall be paid to the Township at the time of filing the notice of appeal. 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 Zoning Board of Appeals shall decide upon all matters within a reasonable time. The decision of the Board shall be in the form of a resolution containing a full record of its findings and determinations in each case.

E. An appeal shall stay all proceedings in furtherance of the action appealed, unless the Zoning Administrator certifies to the Board that a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property, in which case the proceedings should not be stayed, other than by a restraining order granted by the courts.

SECTION 1207 DUTIES ON MATTERS OF APPEAL

All questions concerning application of the provisions of this Ordinance shall first be presented to the Zoning Administrator. Such questions shall be presented to the Zoning Board of Appeals only on appeal from the decisions of the Zoning Administrator. Recourse from decisions of the Zoning Board of Appeals shall be to the Circuit Court of Marquette County, as provided by law.

ARTICLE XIII
TOWNSHIP PLANNING COMMISSION: PLANNING AND ZONING AUTHORITY

SECTION 1301 DESIGNATION

The Powell Township Planning Commission is hereby designated the Commission as specified in Act 168 of the Public Acts of 1959, as amended. Under said act, it shall be the duty of the Commission to advise the Township Board on matters of planning. Further, the Commission shall assume the duties of the Zoning Commission prescribed in Act 184 of the Public Acts of 1943, as amended.

All meetings subject to this act shall be conducted in compliance with the open meetings act, Any written documentation prepared, owned, used, in the possession of, or retained as required by this act shall be made available to the public in compliance with the freedom of information act.

The Powell Township Planning Commission shall be governed by the by-laws of 1995 (see Appendix A).

SECTION 1302 CHANGES AND AMENDMENTS

Only the Township Board may amend this Ordinance. Proposals for amendments or changes may be initiated by 1) the Township Board on its own motion, 2) by the Planning Commission, or 3) by an individual.

A. Each petition shall be submitted to the Zoning Administrator, accompanied by the proper fee, and then referred to the Planning Commission for their review at a public hearing, which is held in conformance with Section 1002 of this Ordinance.

B. An owner of land may voluntarily offer in writing, and the Planning Commission and/or Township Board may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(1) In approving the conditions under (B.) the Planning Commission or Township Board may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(2) The local government shall not add to or alter the conditions approved under (B.) during the time period specified under subsection (1) of this section.

(3) The time period specified under subsection (1) may be extended upon the application of the landowner and approval of the granting unit of the local government.

(4) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under (B.) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.

C. Following the public hearing, the Planning Commission shall transmit their recommendation and a summary of the comments received at the public hearing to the Marquette County Planning Commission and the Powell Township Board.

D. The Township Board may hold additional public hearings if it considers it necessary. Notice of public hearing held by the Township Board shall be published in a newspaper which circulates in the Township. The notice shall be given not more than 15 days nor less than 5 days before the hearing. After receiving the recommended change or amendment, the Township Board, at a regular meeting or at a special meeting called for the purpose, shall consider the recommendations and vote upon the adoption of a zoning ordinance for the Township. Any changes or amendments shall be approved by a majority vote of the members of the Township Board. The Township Board shall not make a change or departure from the plans, text, or maps as certified by the Planning Commission unless the proposed change or departure is first submitted to the Planning Commission for its advice or suggestions. The Planning Commission shall have 30 days from and after receipt of the proposed change or departure to send its report to the Township Board.

E. No petition for amendment, which has been disapproved by the Township Board, shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the Township Board after learning of new and significant facts or conditions which might result in favorable action upon resubmittal. Resubmittal shall follow the same procedure as outlined in this Section.

F. If the amendment is to change the text of the ordinance, the petitioner shall transmit proposed language for consideration by the Planning Commission. When the petition involves a change in the Zoning Map, the petitioner shall submit the following information (form can be found in Appendix B):

1. A legal description of the property.

2. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.

3. The name and address of the petitioner;

4. The petitioner's interest in the property;

5. Date of filing with the Zoning Administrator;

6. Signatures of petitioner(s) and owner(s) certifying the accuracy of the required information; and

7. The desired change and reasons for such change.

G. In viewing 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 public hearing date of the petition. All findings of fact shall be made a part of the public records of the meetings of the Planning Commission and the Township Board.

H. The general standards to be considered by the Planning Commission shall include, but not be limited to, the following:

1. 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;

2. Is the requested zoning change consistent with the Goals and Policies, and other elements of the Powell Township Comprehensive Plan.

3. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition;

4. The ability of the Township or other government agencies to provide any services, facilities, and/or programs that might be required if the petition is approved;

5. Are there any significant and negative environmental impacts which would potentially occur if the petitioned zoning change and resulting permitted structures were built including but not limited to, surface water drainage problems, waste water disposal problems, or the loss of locally valuable natural resources;

6. Effect of approval of the petition of adopted development policies of the Township and other governmental units.

ARTICLE XIV
INTERPRETATION, SEVERABILITY, VESTED RIGHT, PENALTIES AND EFFECTIVE DATE

SECTION 1401 INTERPRETATION AND CONFLICT

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations, or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or land or upon the courtyards or other open spaces that are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

SECTION 1402 SEVERABILITY

This Ordinance and the various parts, sections, subsections, and clauses, thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional, or invalid as applied to a particular property; building, or structure, it is hereby provided that the application of such portion of the Ordinance to other property, buildings, or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing any conditional use permit, variance, zoning compliance permit, site plan approval, or designation of Class A nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision thereof, and to protect the public health, safety, and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful. If, after adoption of this Ordinance by the Township Board, a valid petition is filed with the Township Clerk placing this Ordinance before the voters for their approval or rejection, should this ordinance be rejected upon election, then the Township would automatically

revert back to the preceding Powell Township Zoning Ordinance, adopted July 20, 1994, as previously amended.

SECTION 1403 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 to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

SECTION 1404 PENALTIES AND REMEDIES

A. CIVIL LAW: Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of a zoning ordinance or regulation adopted under this act is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se. The Township Board shall designate the proper official or officials who shall administer and enforce the zoning ordinance and do either of the following for each violation of the zoning ordinance:

1. Impose a penalty for the violation.

2. Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

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B. Civil Infraction: 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 violations 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 conviction thereof, be fined not more than five hundred ($500) dollars and in addition, shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

C. REMEDIES: The Township Board may also institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate or remove any violations of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence of both shall not exempt the violator from compliance with the provisions of this Ordinance.

SECTION 1405 REPEALING CLAUSE

The Powell Township Zoning Ordinance adopted by the Powell Township Board on November 20, 2001, as amended, is hereby repealed.

A. The following acts and parts of acts are repealed:

1. The city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600.

2. The county zoning act, 1943 PA 183, MCL 125.201 to 125.240.
   The township zoning act, 1943 PA 184, MCL 125.271 to 125.310.

B. This section shall not be construed to alter, limit, void, affect, or abate any pending litigation, administrative proceeding, or appeal that existed on the effective date of this act or any

ordinance, order, permit, or decision that was based on the acts repealed by this section. History: 2006, Act 110, Eff. July 1, 2006. Enacting section 1. This act takes effect July 1, 2006. This act is ordered to take immediate effect. Clerk of the House of Representatives Governor signed: April 7, 2006 Approved by the Governor: April 7, 2006 Filed with the Secretary of State: April 10, 2006 EFFECTIVE DATE: July 1, 2006

SECTION 1406 EFFECTIVE DATE

Amendments become effective October 18, 2002. Amendments were advertised in the Mining Journal on August__28__,2002.

Amendments become effective December 31, 2003. Amendments were advertised in the Mining Journal on December 16, 2003.

Amendments become effective January 26, 2005. Amendments were advertised in the Mining Journal on December 27, 2004.

Revised Ordinance becomes effective August 1, 2007. Ordinance was advertised in the Mining Journal on July 24, 2007.

Revised Ordinance becomes effective January 15, 2013 Ordinance was advertised in the Mining Journal on December 31 2012.

Appendix A: POWELL TOWNSHIP PLANNING AND ZONING COMMISSION BYLAWS

SECTION 1: MATTERS TO BE CONSIDERED BY THE POWELL TOWNSHIP PLANNING AND ZONING COMMISSION.

A. The following matters shall be presented for consideration at a meeting of the Commission.

1. Petitions and staff proposals for changes in the zoning ordinance.

2. All preliminary plans and reports for the physical development of the township, including the general location, character, and extent of the roads, viaducts, bridges, parks and open spaces; the general location of public buildings and other public property; the general location and extent of public utilities and terminals.

3. The removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any public way, grounds, open spaces, buildings, or properties.

4. The general character, extent, and layout of the replanning and redevelopment of blighted districts and slum areas.

5. Land subdivision plats.

6. All planning reports and plans before publication.

7. Capital improvement program for the township.

8. Planning department's budget requirements for the fiscal year and request for appropriation.

9. Selection of consultants and determination of basis for compensation and selection of planning director.

10. Such other matters as the Powell Township Planning Commission shall find it advisable or essential to receive consideration by the Powell Township Planning Commission.

SECTION 2: MEMBERSHIP

A. Appointment. Members of the Commission shall be appointed by the Township Supervisor, with the approval of the Township Board on an alternating 3 (three) year term.

B. Attendance. Any member that has not shown an active interest to the Commission or has missed 3 (three) meetings in 12 (twelve) months should be contacted by the chair to determine their intent, and if necessary, to recommend to the Township Board, that appointment be cancelled, and that their remaining term be filled.

C. Unexpired Terms. The commission will make recommendations to the Township Board for any appointment to fill any unexpired term.

SECTION 3: OFFICERS

A. Selection: At the regular meeting in April of each year, the commission shall select from its membership a chair, vice-chair, secretary, and a member to the Zoning Board of Appeals. Terms of office shall run from April to the following April. All officers shall be eligible for re-election.

B. Duties of The Chair: The chair shall preside at all meetings, appoint committees, and perform such other duties as may be ordered by the Commission.

C. Duties of The Vice-Chair: The Vice-chair shall act in the capacity of the chair in their absence; and in the event the office of the chair becomes vacant, the Vice chair shall succeed to this office for the unexpired term, and the commission shall select a successor to the office of Vice-chair for the unexpired term.

D. Duties of The Secretary: The Secretary shall execute documents in the name of the Commission, be responsible for the minutes of each meeting, and shall record them in suitable volumes, be responsible for all communications, petitions, and reports, which shall be addressed to the Powell Township Planning Commission, P.O. Box 39, Big Bay, MI., 49808, be responsible for notifying the Township Treasurer in writing, of each member in attendance for Commission meetings, and shall perform such other duties as the Commission may determine.

E. Duties of The Zoning Board Member to The Zoning Board of Appeals: The first member of the Board of Appeals shall be a member of the Township Planning and Zoning Commission and shall perform their duties as a member of the Powell Township Zoning Board of Appeals in accordance with the Township Rural Zoning Act, Act 184 of 1943, Sec. 20, MCL 125.290.

SECTION 4: MEETINGS

A. Regular Meetings. Meetings of the Commission will be held the third Tuesday of the month at 7:00 p.m. local time, at the Powell Township Hall. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternate date in the same month.

B. Special Meetings. Special meetings shall be called at the request of the chair, or at the written request (to the secretary) of any two (2) members of the Commission. Notice of special meetings shall be given by the secretary to the members of the Commission at least 18 hours prior to such meetings and shall state the purpose and time of the meeting.

C. Public Meetings: All regular special meetings, hearings, records, and accounts shall be open to the public. At least 18 hours in advance of any special meeting, notice will be posted by the secretary in 3 (three) conspicuous locations in the Township.

D. Quorum: A majority of the total number of members shall constitute a quorum for the transaction of business and the taking of official action for all matters except for the adoption of a comprehensive plan or any part of a comprehensive plan. All members have the right to vote. The affirmative vote of a majority of all members shall be necessary for the adoption of the comprehensive plan or any part of it. Whenever a quorum is not present at a regular or special meeting, those present may adjourn the meeting to another day, or hold the meeting for the agenda. No action taken at such a meeting shall be final or official unless and until ratified and confirmed at a subsequent meeting at which a quorum is present, by the approval of the minutes of that meeting at which a quorum was not present.

E. Order of Business: The secretary shall prepare an agenda for each meeting and the order of business therein shall be:

1. Roll Call

2. Matters pertaining to the general citizenry: Citizens present will be heard in the following order.

a. Advertised Public Hearings. The Chair shall declare such a public hearing open and state its purpose. The petitioner, or proponent of the action advertised will be heard first.

b. Requested Speakers. Citizens requested by the commission to attend the meeting for discussion of a local problem, or presentation of further information on an issue previously considered.

c. Communications. The writers or their representatives who are present may give additional information or explanation to the written statements.

d. Citizens. Citizens seeking information or desiring to present matters for the next meeting's agenda.

e. Business session

1) Approval of minutes

2) Unfinished business

3) Consideration of matters under (b)

4) Other communications

5) Reports

6) New business

7) Call to the Public: time for citizens to be heard.

8) Adjournment

F. Special meetings: The chair may designate special meetings for the exclusive purpose of discussing long range portions of the comprehensive plan.

G. Motions: A motion shall be restated by the Chair before a vote is taken.

H. Voting: Voting shall be by voice and shall be recorded only upon request by a member of the Commission.

I. Commission action: Action by the Commission on any matter on which a hearing is held shall not be taken until the hearing has been concluded.

J. Parliamentary procedure: Parliamentary procedure in Commission meetings shall be governed by Robert's Rules of Order (newly revised), except where state statute or local ordinance direct otherwise.

SECTION 5: HEARINGS

A. Comprehensive Plan and Zoning hearings: Before adopting any part of or any amendment to the comprehensive plan, or recommending approval of an amendment to the zoning ordinance to the governing body, the Commission shall hold a public hearing on the matter. Notice of the time and place of the hearing shall be given, not less than 15 days prior to the hearing by one publication in a newspaper of general circulation and by mail to each public utility company and each railroad company in or operating any public utility or railroad within the geographical sections or divisions of the municipality affected. Special notice shall be given by mail to interested parties including owners, if fewer than eleven (11) property owners, of property within 300 feet of the boundaries of the premises under consideration for rezoning.

B. Special Hearings: Notice of special hearings for the purposes of presenting preliminary master plans, obtaining public opinion on a problem, or discussion of a particular problem with interested parties will be given in the most practical manner and to persons or group representatives most interested.

C. Notice of Decision: A written notice containing the decision of the Commission will be sent to the petitioners and originators of a request for the Commission to study special problems.

SECTION 6: POWELL TOWNSHIP PLANNING AND ZONING COMMISSION STAFF

A. Authorization: The Commission staff may consist of a planning director and other personnel as may be authorized by the legislative body.

B. Responsibility: The Commission staff has the duty to prepare and administer such plans as are appropriate for the Township and its environs and are within the scope of the Michigan state planning enabling act (s), review plans requiring submission to the commission in accordance with the provisions of the zoning ordinance.

The chair shall take action or make recommendations in the name of the Commission, in accordance with such plans, policies, and procedures as are approved or established by the commission from time to time, where there is a serious conflict of interest, public controversy, uncertainty, or doubt, as to the plans, policies, or procedures approved or made at a Powell Township Planning and Zoning Commission meeting.

C. Planning Director's Duties: The planning director shall be responsible for the professional and administrative work in directing and coordinating the program of the Commission. The director's work shall be carried on with the widest degree of professional responsibility, subject to the policy determinations of the Commission, and administrative policies of the Township.

D. Administrative Duties: The Planning Director shall:

1. Supervise and review the work of professional, technical, and non-technical employees of the Commission staff.

2. Advise and assist the Commission in the establishment of the general planning policy.

3. Be responsible for formulation of staff policy.

E. Effectuation of Plans. The planning director shall recommend to the Commission whatever action is necessary to effectuate plans with respect to both public and private endeavors through such control techniques as:

1. Zoning and subdivision control.

2. Programs for capital expenditures.

3. Long-range comprehensive plans for the guidance of the Township's growth.

F. Policy Formulation: The planning director shall:

1. Officially present the Commission's recommendations to the Township Board.

2. Officially represent the Commission and its staff at planning conferences, interdepartmental meetings of the Township Government, and serve generally as a liaison between the Commission and the public.

3. Encourage private development or investment in accord with comprehensive plans.

4. Cooperate with public and private agencies and with individuals for the development, acceptance, and implementation of plans.

5. Supply information for and encourage interested public agencies and citizen organizations in programs to promote public understanding and approval of planning.

6. Accept other responsibilities as may be directed by the Commission, the legislative body or the chief executive.

SECTION 7: AMENDMENTS.

A. The bylaws may be amended at any regular or special meeting by a two-thirds vote of the members present.