

Chapter 3 General Provisions

Section 3.01 Essential Public Services

The erection, construction, alteration or maintenance of Essential Public Services shall be permitted in any zoning district. It is the intention thereof to exempt such erection, construction, alteration or maintenance from the application of this Ordinance.

Section 3.02 Main Building

No more than one (1) main building may be located on a parcel, except for groups of related commercial buildings, multiple family dwellings, or manufactured homes contained within a single, integrated complex, sharing parking and access.

Section 3.03 Required Area or Space

- A. No lot, adjacent lots in common ownership, required yard, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance. Lots or yards created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.
- B. Accessory buildings or structures, including, but not limited to, porches enclosed by walls, or garages, attached to a dwelling unit or other main building in a substantial manner, such as by a wall or roof, shall be deemed a part of such main building, for the purpose of determining compliance with the provisions of this Ordinance concerning required yards.

Section 3.04 Required Access

No Land Use Permit shall be issued unless the property for which the permit is requested fronts upon a designated and approved public or private road right-of-way or easement, at least the length of the minimum lot width as required for zoning district in which the lot is located. Dwellings located within an Open Space Preservation Development shall comply with the provisions of Section 3.26F.7

Section 3.05 Water and Sanitary Sewer Service

- A. No structure for human occupancy shall be erected, altered, moved, or used in whole or in part for dwelling, commercial, or recreation purposes unless provided with a safe, sanitary, and potable water supply, with a safe and effective means of collection,

treatment, and disposal of human, domestic, and commercial waste. Such facilities, if not from an approved public system, shall conform with the minimum requirements for such facilities set forth by the State of Michigan Health Department and the County Health Department, the Subdivision Regulations, Building Code, and other applicable ordinances of Markey Township and Roscommon County.

- B. No outside toilets shall hereafter be erected except as may be temporarily needed during construction on the premises, approved by the County Health Department.

Section 3.06 Illegal Dwellings

The use of any portion of a detached garage or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. Basements shall not be used for sleeping purposes, unless adequate ingress and egress is provided per the requirements of the Township building code and other applicable regulations. In no case, shall any living space located in a basement be counted toward the required floor area living space for the district in which it is located.

Section 3.07 Regulations Applicable to Single-Family Dwellings Outside Manufactured Home Parks

Any single-family dwelling on a lot, whether constructed and erected on-site, or a manufactured home, shall be permitted only if it complies with the following requirements:

- A. If the dwelling unit is a manufactured home, the manufactured home must either be new and certified by the manufacturer or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or used and certified by the manufacturer or appropriate inspection agency as meeting the standards referenced above, and found, upon inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.
- B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are, or may be adopted by the Township. However, where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by Township codes, then such federal or state standards or regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector.
- C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the minimum lot area, minimum lot width, minimum floor area living space, required yard and maximum building height requirements of the zoning district in which it is located.

- D. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation shall fully enclose the chassis, undercarriage and towing mechanism. The towing mechanism shall be removed.
- E. If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks.
- F. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed.
- G. The dwelling unit shall have a horizontal dimension across the front, side, and rear elevation of at least twenty-two (22) feet. **Exception:** Existing single section dwellings may be replaced by a single section dwelling that is five (5) or less years old, in the following areas, Higgins Lake Forest Estates #3 lots 485-513, and 663-685, Higgins-Houghton Highlands lots 1-95, and Woodland Acres lots 1-212. The single section dwelling shall be of the same square footage or greater.
- H. Storage area shall be provided within the dwelling unit of no less than one hundred twenty (120) square feet. This storage area may consist of a basement, closet area, attic, or attached garage.
- I. Permanently attached steps or porch areas at least three (3) feet in width shall be provided where there is an elevation difference greater than eight (8) inches between the first floor entry of the dwelling unit and the adjacent grade.
- J. The pitch of the main roof of the dwelling unit shall not be less than four (4) feet of rise for each twelve (12) feet of horizontal run, and shall have not less than a six (6) inch overhang. **Exception:** Single Section Dwellings as described in section 3.07, G, are allowed to have main roof as manufactured.
- K. The dwelling unit shall have no less than two (2) exterior doors, with one (1) being in either the rear or the side of the dwelling unit.
- L. The dwelling shall not contain any additions of rooms or other areas which are not constructed with similar quality workmanship and materials as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein

- M. No building which has been wholly or partially erected or assembled on any premises located within or outside the Township of Markey, shall be moved to or placed upon any other premises in the Township without full compliance with the provisions of this Ordinance in the same manner as a new building.

Section 3.08 Condominium Conversions

Notwithstanding the provisions of section 3.03A, any resort existing at the time of adoption of this ordinance, may be converted to site condominiums, allowing individual ownership of units and property, provided the following requirements are met:

- A. Only the land area and units existing at the time of adoption of this ordinance shall qualify for any reduction in size or setbacks, otherwise required for new development. Any additional site condominiums or dwellings proposed shall comply with all requirements of the zoning district in which the property is located.
- B. An application shall be submitted in compliance with section 3.22 of this ordinance and all requirements of such section shall be met.
- C. The following minimums shall be required of all conversions:
 - 1. Condominium dwelling: 400 sq.ft.
 - 2. separation between buildings: 10 feet
- D. Each condominium dwelling shall contain bathroom, cooking, and sleeping facilities.
- E. All dwellings shall be connected to public water and/or sanitary sewer systems, if available within 300 feet of the subject property. If such public utility service is not available, written evidence shall be provided of County Health Department approval of each individual on-site water and/or wastewater system.
- F. The Planning Commission and/or Township Board may attach such other conditions deemed necessary to meet the intent and spirit of this ordinance and to protect the health, safety, and general welfare of the community. Such conditions may include, but are not limited to: improving vehicular access, upgrading interior roads, providing screening or landscaping, and removing existing unsightly structures or features.

Section 3.09 Boat Houses

Allowed on the Channel Court canal front lots 16-28, 34-41, 49-67, and properties 72-008-028-008-0080, 008-0160, 008-0120, and 008-0180, Winding River Estates lots 1-24.

The boat house must not exceed the following requirements: Maximum sq. ft. 760 sq. feet, 10 foot side walls, Roof pitch maximum 4/12.

The needed permits from the D.N.R. or D.E.Q. for a boat well are required before review.

Boat houses may be serviced with electric service for the purpose of but not limited to general lighting, and electric boat hoists contained within the boat house, no well water, sewer or permanent heat allowed.

Existing boat houses in the above described areas can be replaced on the same foot print or smaller foot print, with a Land Use Permit, without a site plan review as long as the proper permits, D.N.R or D.E.Q... can be obtained, all new boat houses or increases in the foot print of a existing boat house will be subject to a site plan review by the Planning Commission.

Existing boat wells are exempt from current side set backs.

Section 3.10 Required Buffer Strips

In order to provide protective screening for residential areas adjacent to, or near non-residential areas, a landscaped buffer strip shall be provided along the district boundary line by the non-residential property owners.

- A. Such buffer shall be a strip of at least twenty (20) feet in width which is planted and maintained with evergreen trees at least four (4) feet in height at the time of planting, and fifteen (15) feet on-center; or a compact hedge of evergreen shrubs at least four (4) feet in height, situated so as to provide an effective sound and visual buffer.
- B. For each three (3) evergreen trees, or each forty-five (45) feet of linear frontage, one (1) deciduous tree shall be planted in the buffer strip. Such trees may be planted in a row, or clustered in a single location. Further, such deciduous trees shall have at least a two (2) inch caliper measured six (6) inches from ground level at the time of planting. All trees shall be properly maintained.
- C. The portion of the buffer strip not covered by trees or hedges shall be planted with grass or other living material and kept in a healthy growing condition, neat and orderly in appearance. Further, any dead plant material shall be replaced by the property owner, within four (4) months of written notice by the Ordinance Administrator.
- D. Any shrubs, bushes, or other plants which project into or across adjacent land may be trimmed back to the property line by the adjacent property owner.
- E. The buffer shall not in any way cause a vision hazard at a road intersection, or driveway.
- F. Where it is determined by the Ordinance Administrator that insufficient area is available to provide the required buffer strip, or that such vegetation screen would be ineffectual, a solid wall or fence at least four (4) feet in height, but not higher than eight (8) feet may be substituted.

Section 3.11 General Lighting and Screening Requirements

All lighting upon any premises, regardless of the zoning district, shall be so arranged that such lighting does not produce any glare which is nuisance or annoyance to residents or occupants of adjoining premises or to the traveling public on public highways.

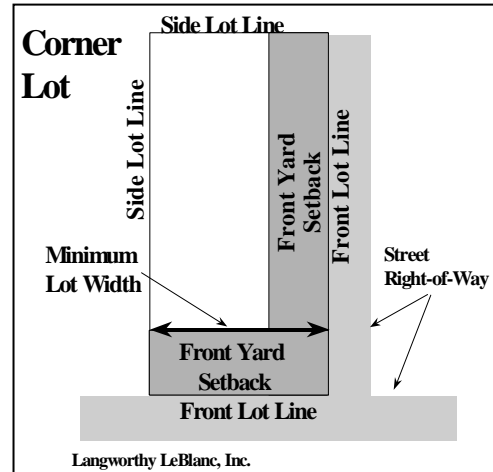
Section 3.12 Corner Lots

A. A corner lot shall have two (2) front lot lines: a principal front lot line, and a secondary front lot line. The principal front lot line shall be the shorter of the two (2) lot lines. Where the lot lines are of equal length, or the principal front lot line is not evident, then the Ordinance Administrator shall determine the principal front lot line.

B. General Provisions

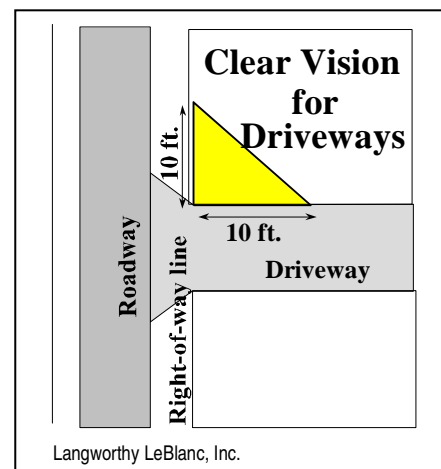
1. The required front setback shall be measured from both the principal and secondary front lot lines. For a corner lot with three (3) front setbacks, the remaining setback shall be a rear setback.
2. The remaining setbacks shall be a rear and a side setback. The rear setback shall be measured from the rear lot line, which in the case of a corner lot, shall be the lot line opposite the principal front lot line.
3. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line

C. Commercial and Airport Zoning Districts. For a corner lot which is completely within a C-1 or AS district, the setback along the secondary lot line(s) shall not be less than twenty-five (25) feet. All other setbacks shall comply with the minimum setback requirements of the zoning district within which the lot is located.



Section 3.13 Clear Vision

A. No plantings shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. Such unobstructed corner shall mean a triangular area formed by the street right-of-way lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the right-of-way lines extended. This shall prohibit the planting of shrubbery which will achieve a height at maturity of more than thirty (30) inches.



- B. No plantings shall be established in any required front yard which, in the opinion of the Ordinance Administrator, will obstruct the view from driveways or adjacent roadways of vehicles entering or leaving the site.
- C. No plantings, landscaping, fences, or other structures or obstacles, except mail boxes and resident identification signs no greater than two (2) square feet in area, shall be placed in any road right-of-way.

Section 3.14 Accessory Buildings, Structures, and Uses

A. Accessory Buildings - General

- 1. Where an accessory building is attached to a main building, it shall conform to all setback requirements of this Ordinance applicable to the main building.
- 2. Accessory buildings shall not be located in any front yard, unless otherwise permitted by this Ordinance.
- 3. Accessory buildings shall not be permitted on a parcel without a principal building.
- 4. Accessory building, structures, and uses supplemental to the main building, which is permitted in any District, shall also be permitted when located on the same building lot, provided that such accessory buildings and uses conform to the provisions prescribed in this ordinance for the respective district.

Storage shed(s) up to a maximum of 200 square feet in area are permitted on any size building lot or parcel with a residence, only as an accessory use, provided such structure(s) meet all other zoning regulations and a land use permit is obtained as required from the Zoning Administrator.

The relationship between lot sizes and accessory building sizes in residential districts must adhere to any and all sections of this ordinance governing accessory buildings and lot coverage and must also meet the following restrictions:

a. Lots or parcels totaling 25,000 square feet or less, Total area of accessory buildings must not exceed the ground floor area of the principal building; but not to exceed 2000 square feet.

b. Lots or parcels totaling between 25,000 square feet and one (1) acre, the total area of accessory buildings must not exceed 2000 square feet.

c. Lots or parcels totaling between one (1) acre and two and one-half (2 ½) acres, the total area of accessory buildings must not exceed 2, 5000 square feet.

d. Lots or parcels totaling more than two and one-half (2 ½) acres, the total area of accessory buildings must not exceed 3,000 square feet.

B. Accessory Uses – General

1. Accessory uses are permitted only in connection with, incidental to, and on the same lot with a main use which is permitted in the particular zoning district. No accessory use may be placed on a lot without a main use.
2. An accessory use must be in the same zoning district as the main use on a lot.
3. No accessory use shall be occupied unless the main structure to which it is accessory is occupied.
4. Accessory uses shall not be permitted in the front yard. EXCEPTIONS: BOAT HOUSES ARE ALLOWED ON CANAL FRONTAGE IN THE FOLLOWING DESCRIBED AREAS. Channel Court lots 16-28, 34-41, 49-67, and properties 2-008-028-008-0080, 008-0160, 008-0120, and 008-0180, Winding River Estates lots 1-24.

C. Residential Accessory Buildings and Structures. Accessory buildings shall be permitted within the A-1, R-3, R-1a, R-1b, R-2, and MHP Districts or with any residential use provided that the following restrictions are met:

1. The combined floor area of all accessory buildings shall be as specified in the district regulations.
2. The total area occupied by the principal dwelling, all accessory buildings, and accessory structures such as breezeways, carports, gazebos, decks, patios and similar structures shall not exceed the maximum lot coverage permitted in each district.
3. No detached accessory building shall be located closer than the required setbacks for the zoning district in which the property is located.
4. Refer to Chapters 5 through 13, Zoning Districts, for height requirements.
5. If attached to the main building, the accessory building shall be constructed of like materials, similar design, and in a workman-like manner.
6. Private boat docks accessory to residential uses may be permitted under the provisions outlined in this subsection.

- a. One (1) private boat dock per dwelling shall be permitted for each single family and two-family dwelling unit.
 - b. No more than one (1) boat slip per dwelling unit shall be permitted for multiple-family dwellings.
 - c. Boat docks and boat slips shall be used only by persons residing on the premises or their guests, and shall not be leased, rented, or otherwise made available for compensation, except in conjunction with the lease or rental of the dwelling unit on the same lot.
7. Accessory buildings shall be of similar design, construction, and appearance as the principal dwelling.
- D. Other District Accessory Buildings and Structures. Accessory buildings shall be permitted within the C-1 and AS Districts provided the following restrictions are met:
1. The total area occupied by the principal building and all accessory buildings shall not exceed the maximum lot coverage permitted in each district.
 2. Detached accessory buildings shall meet all setback requirements as for principal buildings, for the zone district in which they are located.
 3. No detached accessory building shall be located nearer than eighteen (18) feet to any other building on the property.
 4. No accessory building shall exceed the permitted height for main buildings in the district in which it is located.
 5. Shipping / Storage containers are allowed in AS (Airport Service District)
Shipping
Storage i.e. metal containers used for rail and/or ocean shipping.

Section 3.15 Fences

- A. Installation of fences in all Zoning Districts requires a Land Use Permit.
- B. Fences erected in any front yard in a residential district shall not exceed four (4) feet in height. Fences within any front yard shall be of a type which is not more than fifty (50) percent solid, so as not to obscure vision at the right-of-way or property line of the lot or parcel on which it is placed.
- C. Six (6) foot privacy fences, the height of which is measured from the surface of the ground, to the uppermost portion of the fence, may be erected up to a total of twenty (20) feet in length, and shall be setback inside the side or rear property line.
- D. Fences in residential districts or enclosing residential uses shall not contain barbed wire or be electrified, unless in the A-1 district, and used in connection with a farm operation.

- E. Fences in nonresidential districts shall not exceed six (6) feet in height in any yard, and shall not be more than fifty (50) percent solid in the front yard, unless otherwise provided in this Ordinance.
- F. Fences in nonresidential districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence shall not be nearer than eight (8) feet from the surface of the ground. Under no circumstances shall razor wire be used. The total height of fences in any non-residential district shall not exceed ten (10) feet, and may be permitted in the rear yard only.
- G. Fences shall not be erected within any public right-of-way in any district.
- H. Fences shall not be erected or maintained in any district in such a way as to obstruct the vision of vehicle drivers within the clear vision area as outlined in Section 3.13, for corner lots. Further, clear vision shall be maintained at all driveways between the heights of three (3) feet and ten (10) feet above the ground surface, in a triangular area formed by the road right-of-way line, the outside edge of the driveway, and a line connecting them at points ten (10) feet from their intersection.
- I. Snow fences are considered temporary, and must be installed after November 1, and removed by the following May 1.
- J. Living fences, such as dense evergreen or other form of shrub, shall be at least forty-eight (48) inches from the inside of the lot line and comply with this ordinance.
- K. A Land Use Permit is required to install all fences including those for special uses. Special use fences include, but are not limited to pet enclosures and swimming pools.

Section 3.16 Temporary Dwelling, Tent, Camper or Recreational Vehicle

One temporary dwelling, tent, camper or recreational vehicle will be permitted on a lot in all residential zones for a period not to exceed three (3) days for the purpose of accommodating guests or owner's family members, without the necessity of obtaining a permit under this ordinance. For any such purpose which will exceed three (3) days, a permit must be obtained from the Ordinance Administrator. Said permit may be issued for seven (7) additional days and the fee for said permit shall be determined by the Township Board. A maximum of two (2) seven-day permits may be issued, per property, per calendar year. *(Amended 9/4/09.)*

Section 3.17 Low Profile Accessory Use

Application by the homeowner and subsequent approval by the Ordinance Administrator is subject to review by the Markey Township Planning Commission. If documented complaints justify a review, the applicant will be notified of the date, time and location of the review by certified mail. In the event that said use is revoked by the Ordinance Administrator or the Markey Township Planning Commission, the Applicant may apply for a Home Occupation

Permit. The Non-Refundable Fee for a Low Profile Accessory Use Permit is set by the Markey Township Board

Section 3.18 Home Occupations

- A. A request for a Land Use Permit shall be submitted in writing to the Township Ordinance Administrator who shall forward the request to the Planning Commission for a decision. At a minimum, the request shall provide the following information:
1. Type of activity
 2. Hours of operation
 3. Amount and type of waste (material and effluent) to be generated and the amount of handling and disposing of all waste.
 4. Anticipated impacts including levels of noise, odor, glare, dust, fumes and similar nuisance effects.
 5. Anticipated traffic levels (customers, delivery vehicles, etc.)
- B. Such occupation shall only be conducted by the person or persons occupying the premises as their principal residence while the occupation is being conducted.
- C. Required parking shall be provided off-street, in accordance with the applicable provisions of this ordinance, and shall not be permitted within the front yard. One vehicle of one ton capacity or less and one trailer of 5,000 lb. capacity or less directly related to the business may be parked at the residents.
- D. All activities connected with the home based occupation shall be conducted entirely within the dwelling or an approved accessory building and shall not result in the alteration of the dwelling, nor the construction of an accessory building which is not customary to or compatible with the residential character of the district in which it is located. No building or activity which requires automatic fire suppression, explosion proof construction, paint booths, hazardous waste containment (except for small quantities of motor oil, lubricants, or anti-freeze), or similar specialized systems shall be permitted.
- E. There shall be no exterior evidence, other than a permitted sign, that a home based occupation is being conducted on the premises.
- F. The home based occupation shall be clearly incidental and subordinate to the principal use of the premises for residential purposes.
- G. No goods or services shall be sold which are not strictly incidental to the home based occupation conducted therein.

- H. No occupation shall be permitted or conducted upon or from the premises which would constitute a nuisance or annoyance to nearby residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or creation of traffic out of character with the surrounding residential area. In any case, no such nuisance effects shall be discernable beyond the boundaries of the property on which the occupation is conducted.
- I. A Land Use permit shall be required and any Home-Based Occupation shall be subject to annual inspections by the Ordinance Administrator. The Land Use Permit may be terminated at any time by order of the Ordinance Administrator or the Planning Commission if it is determined that the occupation doesn't comply with the standards and requirements of this section.
- J. The Planning Commission shall review the request and determine whether or not a proposed use complies with the Zoning Ordinance and is consistent with the intent and spirit of such ordinance. In addition to the requirements of this section, the Planning Commission shall also consider the following in deciding whether to approve a request for home based occupation: compatibility of the proposed use with the character of the zoning district in which it is located; protection of the health, safety, and general welfare of the surrounding properties; not have a negative effect on neighboring property values; and not have a detrimental impact on the viability of commercially zoned property within the Township. The applicant for a home based occupation shall also demonstrate to the Planning Commission why the proposed use would not be more appropriately located within an established commercial district.

Section 3.19 Garage Sales

Garage sales, yard sales, or any other offering of incidental and sundry items for sale shall be permitted on any one (1) piece of property only three (3) times during any one (1) year, and at no time shall such sale have a duration of more than three (3) days. A permit for such sale shall be obtained at the Markey Township Hall. One (1) sign advertising the sale may be permitted for the sale two (2) days before the sale. All signs must be removed immediately after the sale. Signs shall be on premises of the sale, however, one (1) sign may be permitted on a main highway for the side street sales.

Section 3.20 Flood Plain

The flood plain area of lakes, ponds, rivers, and streams and their branches and tributaries shall be determined from time to time by the Federal Emergency Management Agency (FEMA), the County Engineer, the U.S. Army Corp of Engineers, or other official U.S. or Michigan, public agency responsible for defining and determining flood plain areas. No building for human occupancy shall be erected or hereafter occupied, if vacant, in such designated flood plain areas.

Section 3.21 Keeping of Animals

A. The keeping of dogs is permitted as an accessory use in any Residential District as outlined below.

1. Kennels may be permitted as indicated in Chapters 5 through 13.
2. Keeping of dogs for personal enjoyment without remuneration.
 - a. A maximum of three (3) dogs per household.
 - b. For non-commercial kennels to house working dogs, a minimum of one (1) acre for the first two (2) dogs, and an additional one (1) acre shall be required for each dog after the first two (2). A maximum of five (5) dogs shall be permitted on any one (1) parcel.

B. The keeping of animals not normally considered **indoor**, household pets, including, but not limited to, horses, pigs, sheep, cattle, pigeons and poultry is prohibited in the R-1a, R-1b and MHP districts. Keeping animals is permitted with the following restrictions, with the exception of a bona fide farm, in the **R-2**, R-3 and A-1 Zoning District:

1. A minimum lot size of five (5) acres shall be required for the first animal unit, or combination of animals equaling one (1) animal unit, and one (1) acre for each additional animal unit, or combination of animals equaling one (1) animal unit.
2. For this subsection, one (1) animal unit shall be equal to the following:

Two (2) horses, donkeys, mules, or dairy or beef cows;
Three (3) pigs;
Twenty (20) sheep, lamb, or goats;
Fifty (50) chickens, turkeys, ducks, or pigeons; and
Seventy-five (75) rabbits.
3. An accessory building used to house, feed or shelter the animals shall not be nearer than one hundred (100) feet to any property line, and it shall be so constructed and maintained that odor, dust, noise, or drainage shall not constitute a nuisance or hazard to adjoining or nearby parcels.
4. Any grazing or exercise area shall not be nearer than one hundred (100) feet to any dwelling adjacent to the subject parcel.

C. The keeping of wild or exotic animals shall not be permitted in any district without a permit from the state and county agencies responsible for regulating such activities.

Section 3.22 Condominiums and Site Condominium Projects

Pursuant to authority conferred by Section 141, of the Condominium Act, Act 59 of 1978, as amended, all site condominiums shall be reviewed and are subject to approval of the Township Board as outlined in this section. In determining whether to approve a condominium subdivision plan, the Township Board shall consult with the Planning Commission, Ordinance Administrator, Township Attorney, and Township Engineer regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirements of the Condominium Act.

A. Definitions.

1. CONDOMINIUM PROJECT - A plan or project consisting of not less than two (2) condominium units established in conformance with the Condominium Act.
2. CONDOMINIUM SUBDIVISION PLAN - The drawings and information prepared and required pursuant to section 66, of the Condominium Act and such other information as required by this Ordinance.
3. CONDOMINIUM UNIT - That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed. A condominium unit is not a lot or parcel as those terms are used within the Zoning Ordinance.
4. CONSOLIDATING MASTER DEED - The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, the final amended master deed will fully describe the condominium project as completed.
5. CONTRACTIBLE CONDOMINIUM - A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provision in the condominium documents and in accordance of the condominium project.
6. CONVERSION CONDOMINIUM - A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.
7. CONDOMINIUM AREA - A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general limited common elements may be created pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.
8. EXPANDABLE CONDOMINIUM - A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.
9. FRONT YARD SETBACK - The distance between the front yard area line and the condominium dwelling.
10. LOT - The same a "Condominium Unit", as defined herein.
11. MOBILE HOME CONDOMINIUM PROJECT - A condominium project in which mobile homes as defined in Section 30a, of the Act 300 of Public Acts or 1949, MCL 257.30a, are intended to be located upon separate sites which constitute individual condominium units.
12. MASTER DEED - The condominium document as described and required by section 8, of the Condominium Act as approved by the Township Board to which

are attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

13. REAR YARD SETBACK - The distance between the rear yard area line and the condominium dwelling.
 14. SIDE YARD SETBACK - The distance between the side yard area line and condominium dwelling.
- B. Information requested. Concurrently with the notice required to be given Markey Township pursuant to section 71, of the Condominium Act, a person, firm, or corporation intending to develop a condominium project shall provide the following information with respect to the project:
1. The name, address, and telephone number of:
 - a. All persons, firms, or corporations with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each such entity interest.
 - b. All engineer, attorneys, architects or registered land surveyors associated with the project.
 - c. The developer or proprietor of the condominium project.
 2. The legal description of the land on which the project will be developed as well as the appropriate tax identification number(s).
 3. The amount of acreage of the land on which the project will be developed.
 4. The purpose of the project (i.e., residential, commercial, industrial, etc.)
 5. Number of condominium units for the project.
 6. Whether or not a community water system is proposed.
 7. Whether or not a community septic system is proposed.

The above information shall be furnished to the Township Board and Ordinance Administrator, and shall be kept updated until such time as a Certificate of Occupancy has been issued.

- C. Site Plans - Condominium Plans. Prior to recording of the master deed required by section 72, of the Condominium Act, as amended, the project and condominium subdivision plan shall undergo site plan review according to Section 15.1 of this Ordinance.

All condominium plans, for site plan review, shall include the information required by section 66, of the Condominium Act including the following:

1. A survey plan of the condominium subdivision.
2. A flood plain plan, when appropriate.
3. A site plan showing the location, size, shape, area, and width of all condominium units.
4. A site plan showing the location, size and number of each parking space with dimensions showing their relationship to all of the condo units.
5. A utility plan showing all sanitary sewer, water, and storm sewer lines, and any easements granted to an entity other than the developer or owners association for installation, repair, and maintenance of all utilities. To the maximum extent possible, all utility lines should be located in the street right-of-way.
6. A street construction, paving, and maintenance plan for any street within the proposed condominium project. All streets within the condominium project must be constructed in compliance with the Private Road provisions of this ordinance (Section 3.23).
7. A storm drainage and storm water management plan, including all lines, swales, drains, basins, and other facilities approved by the County Drain Commission.
8. Each plan must be submitted on a separate sheet. A composite sheet of all the plans must also be included.

Prior to expansion or conversion of a condominium project to additional land, the new phase of the project shall undergo site plan review and approval pursuant hereto and Section 15.1 of this Ordinance.

- D. **Site Condominium Projects - Monuments Required.** All condominium projects which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreations sites shall be marked with monuments as provided in this subsection.
1. Monuments shall be located in the ground and made according to the following requirements. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily re-established by reference, to monuments along the sidelines of the streets.
 2. All monuments used shall be made of solid iron or steel bars at least one-half (½) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.

3. Monuments shall be located in the ground at all angles in the boundaries of the condominium project: at the intersection lines of streets where such lines intersect the boundaries of the condominium project, and at the intersection lines of alleys where such lines intersect the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature, and angle points in the side lines of street and alleys; at all angles of an intermediate traverse line and at the intersection of all limited common elements and all common elements.
 4. If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
 5. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half (½) inch in diameter shall be drilled and grouted into a solid rock to a depth of at least eight (8) inches.
 6. All required monuments shall be placed flush with the ground where practicable.
 7. All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (½) inch in diameter, other markers may be approved by the Township Board.
 8. The Township Board may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposit with the Township Clerk cash or a certified check, or irrevocable bank letter of credit running to the Township of Markey, whichever, the Township selects, in an amount not less than twenty-five dollars (\$25.00) per monument, and not less than one hundred dollars (\$100.00) total. Such cash certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.
- E. All Condominium Projects - Monuments Required. All condominium projects shall be marked at their boundaries with monuments meeting the requirements of Section D, 2, above.
- F. State and County approval. The developer or proprietor of the condominium project shall provide to the Township appropriate documentation establishing that appropriate State and County approvals have been received regarding the fresh water system of the proposed project and regarding the waste water disposal system for the proposed project.
- G. Compliance with Federal, State, and Local law. All condominium projects shall comply with federal and state statutes and local ordinances.
- H. Single Family and Multiple Detached Condominiums.
1. Single family and multiple detached condominiums shall be subject to all requirements of section 16.07

2. In the event the project will include recreation space or open space for park, environmental preservation, or other aesthetic reasons, then the project may provided for lots smaller in area than that required by the zoning district in which it is located; provided, however, under no circumstances shall the project contain more units than would be allowed if there was no such open space. In computing the number of units allowable in relation to the overall acreage of the project, the area comprising the streets and roads within the project shall not be included in determining the number of units in the project.
- I. Subdivision of Condominium Units. All subdivisions of individual condominium units shall conform to the requirements of this Ordinance or minimum lot width, lot area, and the building setback requirements, shall be approved by the Planning Commission, and these requirements shall be made part of the bylaws and recorded as part of the Master Deed.
- J. Encroachment Prohibited. Encroachment on one (1) condominium unit upon another, as described in section 40, of the Condominium Act, shall be prohibited by the Condominium Bylaws and recorded as part of the master deed.
- K. Relocation of Boundaries. The relocation of boundaries, as described in section 48, of the Condominium Act, shall conform to all setback requirements of this ordinance for the district in which the project is located, shall be approved the Ordinance Administrator, and this requirements shall be made part of the bylaws and recorded as part of the master deed.
- L. Documents to be filed with Markey Township. After final approval, the condominium project developer or proprietor shall furnish to the Ordinance Administrator a copy of the recorded master deed with Exhibits A and B, and any and all amendments thereto.
- M. Condominium Plans - Copy Requirements. After submittal of the condominium plan and by-laws as part of the master deed, the proprietor shall furnish the Township of Markey and Roscommon County Register of Deeds with a copy of the site plan on a photographic hard copy, laminated photo static copy or Mylar sheet of at least thirteen inches by sixteen inches (13" X 16") with an image not to exceed ten and one-half inches by fourteen inches (10.5" X 14").
- N. Procedure. The Township of Markey requires that all condominium projects be reviewed and approved according to a two step process a "Preliminary Site Plan Approval", and "Final Site Plan Approval".
 1. Preliminary site plan.
 - a. The applicant for all condominium projects are required to submit at least ten (10) copies of the preliminary site plan to the Township Clerk with the information as required under paragraph B, and C, herein. The Township Clerk will provide copies of the site plan to the Planning Commission and the Ordinance Administrator.
 - b. Submittal of the preliminary site plan must be received by the Township Clerk at least thirty (30) days prior to the next regularly scheduled Planning Commission meeting. The Township Clerk shall not place the submittal on the agenda until all required information has been properly provided. Once officially placed on the agenda, the Planning Commission

shall approve, conditionally approve or deny in accordance with the time requirements of Section 15.1 of this Ordinance.

- c. The Planning Commission shall review the preliminary site plan and the comments of any Township consultants, and shall approve, deny, or grant conditional approval subject to specific modification and changes all to be recorded in the minutes of the meeting.
 - d. The Planning Commission shall note its approval on the copy of the preliminary plan and return to the proprietor or set forth reasons in its minutes for rejection or requirements for approval. The Planning Commission may require the submission of other pertinent related data as it deems necessary. After approval, the Township Clerk shall distribute approved copies to:
 - i. One (1) copy to proprietor.
 - ii. One (1) copy as a matter of permanent record to the Planning Commission files.
 - iii. One (1) copy to the Township Ordinance Administrator.
 - e. The proprietor, upon receiving the preliminary site plan approval from the Planning Commission, shall submit the preliminary plan to all authorities required by Public Act 59 or 1978, as amended, to include but not limited to:
 - i. County Drain Commissioner.
 - ii. County Road Commission.
 - iii. County Health Department.
 - f. Preliminary site plan approval shall confer upon the developer a commitment of approval for a period of one (1) year with regard to the size, shape and layout of the building site and street layouts. Such preliminary plan approval may be extended if applied for by the proprietor within the effective period, and approved by the Planning Commission.
2. Final condominium subdivision plan review.
- a. The applicant for a final site plan shall submit the plan to the Planning Commission and Township Board for its review. Plans and documentation shall be detailed sufficiently for the Planning Commission and Township Board to determine the project compliance with all applicable laws, rules, codes, ordinances, and approved site plans.
 - b. The final condominium subdivision plan to be recorded shall include the following certificates similar to those as prescribed in the Subdivision Control Act for a recorded plat, lettered or printed legibly with black, durable ink or typed legibly with black ribbon shall appear on it and the certificate shall contain the following statements and shall be signed and dated by the appropriate authority:
 - i. A surveyor's certificate of compliance with the statute.
 - ii. A certificate of taxes being paid, from the Roscommon County Treasurer.
 - iii. A certificate of approval from the County Drain Commissioner.

- iv. A certificate of approval from the Board of County Road Commissioners if public streets and roads shown on the development will be under its jurisdiction and, if any of the streets or roads are private, a certificate from the Township consultant that it complies with the standards for private roads and drives as adopted by the Township.
- v. A certificate of approval of the governing body if the development meets compliance with this ordinance.
- vi. A certificate of approval from the County Health Department.
- c. The Planning Commission will ascertain that the development has complied with the preliminary site plan approval requirements as specified therein.
- d. The developer/project applicant also shall submit for review and approval by the Township Attorney a copy of the proposed master deed and any additional information to be recorded at the County Register of Deeds.
- e. At a regularly scheduled meeting or a special meeting called for that specific purpose, the Planning Commission shall approve the final site plan and documents if all of the requirements have been met to the satisfaction of the Commission.
- f. If granting approval of the final condominium subdivision plan, the Planning Commission shall instruct the Ordinance Administrator to issue a land use permit. Building Permits, Site Construction Permits and Certificate of Occupancy are in the purview of County agencies, but the Township shall issue land use permits and Zoning Ordinance Compliance Certificates prior to the County issuing their final permits for Certificate of Occupancy. If the Planning Commission disapproves the final site plan, specific reasons shall be given.
- g. The Planning Commission shall render its decision on the final site plan within sixty (60) days after receiving the final site plan unless the time period is extended by mutual agreement between the developer/applicant and the Planning Commission.

Section 3.23 Private Roads

- A. Purpose. The Township has determined that it is in the best interest of the community to regulate the construction, improvement, extension, relocation, and use of private roads. These provisions have been enacted to insure that:
 - 1. Proposed private roads will not be detrimental to the public health, safety, or general welfare.
 - 2. Proposed private roads will not adversely affect the long term development policies of Markey Township.
 - 3. Private roads will be designed and constructed with adequate width, road surface, and grade to insure safe passage and maneuverability of private vehicles, as well as police, fire, ambulance, and other safety vehicles.

4. Private roads will be constructed so as to protect against or minimize soil erosion, and prevent damage to the lakes, rivers, streams, wetlands, and natural environment of Markey Township.
- B. The following terms found in this Section shall be defined as outlined below. Terms not herein defined shall have the meaning customarily assigned to them.
1. Certificate of compliance - A document signed by an authorized Township official as a condition precedent to the commencement of opening a private road which acknowledges that such road complies with the provisions of this Ordinance.
 2. Cul-de-sac - A road with a single, common ingress and egress, with a turnaround at the end.
 3. Design professional - A registered land surveyor or certified civil engineer.
 4. Road commission - The Roscommon County Road Commission.
 5. Road surface - The portion of the right-of-way treated for safe passage of all types of motorized vehicles that meet the minimum standards outlined in this Ordinance.
- C. Application Procedure. The application packet for the construction of a Private Road shall be submitted to the Ordinance Administrator. The application packet shall contain the following to be considered a complete packet:
1. An application form supplied by the Township, completed by the applicant.
 2. Payment of a fee for such permits shall be submitted. Such fee shall be established by the Township Board from time to time by resolution.
 3. Ten (10) copies of a site plan, drawn to scale, shall be submitted. Such site plan shall include the following:
 - a. The precise location of the private road.
 - b. Road grade.
 - c. Road route.
 - d. Road elevation.
 - e. Road dimensions.
 - f. A written legal description of the right-of-way.
 - g. Existing features within three hundred (300) feet of the proposed road.
 - h. Other roads within three hundred (300) feet of the proposed road, and any road to which the proposed road connects.
 - i. Location of public utilities.

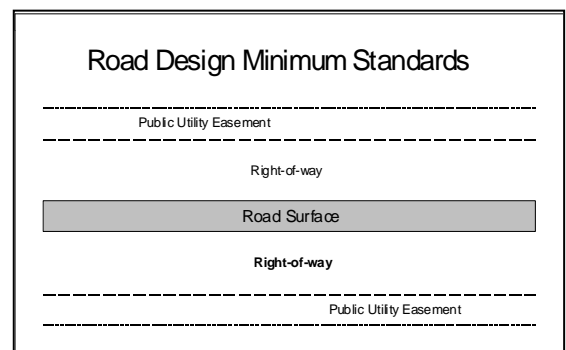
- j. Location of lakes, rivers, streams, wetlands, and significant natural features within one hundred (100) feet of the proposed road.
- k. Any proposed extensions to the road, or additional phases of construction.
- l. A small map to illustrate the proposed road location in relation to the existing Township road system.

D. Review Procedure.

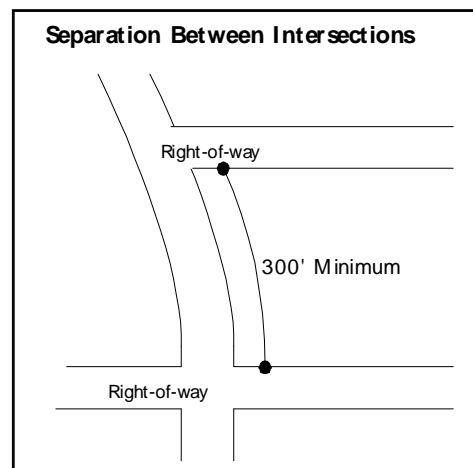
- 1. The application packet shall be forwarded to the Township Board, at the next scheduled meeting. The Board shall then schedule a public hearing within forty (40) days of their receipt of the application packet.
- 2. The Township Board shall hold a public hearing on the application.
 - a. Prior to the hearing, the Township shall cause a notice to be published in a newspaper with general circulation in the Township, such notice shall indicate that the Board will hold a public hearing regarding the proposed private road, including the proposed road location (by approximate common address), where the hearing will take place, the date and time of the hearing, and an address where comments may be sent regarding the request.
 - b. Further, the same notice shall be sent, or personally delivered to all property owners adjacent to the properties to be served by the proposed road, as indicated by the last tax assessment roll.
 - c. Said notices shall be published and sent not less than fifteen (15) days prior to such hearing.
- 3. The Board shall consider the application based on the standards outlined in Subsection E, of this Ordinance.
- 4. The Township Board may request the Planning Commission review the private road application, and make a recommendation. The Planning Commission shall use the same standards as outlined in Subsection E, in making their recommendation.

E. Design Requirements. The construction of private roads shall comply with the following standards:

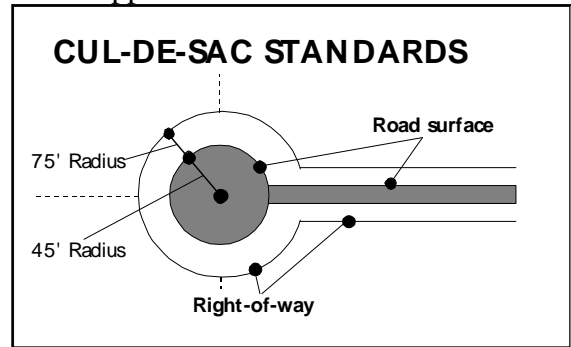
- 1. No private road shall extend for a distance more than two thousand six hundred forty (2,640) feet in length from the nearest public road right-of-way, without a second direct access available from another public road. Said distance shall be measured along the centerline of the private road.



2. All private roads shall have a recorded permanent right-of-way and easement with a minimum width of forty-five (45). Public utilities shall be permitted to be installed in a required fifteen (15) foot wide utility easement on both sides of the right-of-way.
3. The road surface shall follow as closely as practicable, the centerline of the right-of-way. The Board may permit variations if the applicant can demonstrate that adhering to the strict letter of the Ordinance will diminish the rural character of the area, or will result in the removal or degradation of significant natural features.
4. The road surface shall be a minimum of twenty (20) feet in width.
5. Roadside ditches shall be at least twenty-four (24) feet apart, have a minimum depth of eighteen (18) inches, and a minimum width at the bottom of twenty-four (24) inches.
6. In any case, the road, including the surface and shoulders, shall be constructed to meet the road commission specifications for local roads.
7. The maximum longitudinal road grade shall not exceed six percent (6%), however, if the applicant produces written justification satisfactory to the Township engineer, that an increase in the road grade will not adversely affect public safety and the design of the road system(s), then ten percent (10%) grade may be permitted.
8. The layout of the private road and the intersections of the private road with any other road shall be such that clear vision and safe turning and travel in all directions at the posted speed limit is assured, as determined by the Ordinance Administrator or Township engineer. The minimum distance between intersections shall not be less than three hundred (300) feet, as measured along the right-of-way line.
9. The private road shall be constructed with storm water run-off culverts and drainage contours as is required by the Roscommon County Drain Commission, if the Ordinance Administrator or Township engineer determines construction with such systems would promote the Purpose of this Ordinance.
10. All roads may be named by the applicant, however, the road commission is not obligated to approve said road name if it is the same as, or in their opinion closely resembles an existing road name. The street addresses shall be posted in a conspicuous place at the entrance to the private road.



11. Stop signs shall be provided, by the applicant, at the intersection of the private road and any other road. All signs shall be in accordance with the Michigan Manual of Uniform Traffic Control Devices.
12. Frontage.
 - a. Parcels utilizing a private road shall have frontage on the private road for a distance equal to, or greater than the minimum lot width required for the Zoning District in which the parcel is located.
 - b. If the road surface ends at the parcel, and the lot has access to the road by a cul-de-sac or continuous loop, then the frontage shall be not less than one hundred (100) feet.
 - c. The right-of-way shall continue the entire length of the end lot(s), for possible future development. If the applicant can demonstrate that no future development can take place because of soil type or topography, for example, then the Board may waive this requirement.



13. A cul-de-sac, or a continuous loop shall be required at the end of any dead-end private road. The cul-de-sac shall have minimum radius of seventy-five (75) feet, and a road surface radius of forty-five (45) feet.
14. All existing private roads shall be made to comply with these standards if another private road connects to it, it is extended, or if additional lots are created adjacent to it, and to be served by it.
15. At the initiation of a property owner(s) being served by the private road, or the Board, private road rights-of-way may be vacated after a public hearing as outlined under Section 3.22, D, parts 1, 2, and 4. However, a public utility easement shall be maintained where the right-of-way was abandoned.

F. Maintenance and Repairs.

1. Private roads shall be maintained in manner that complies with the provisions of this Ordinance.
2. All private roads shall be continuously maintained in such way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township and are readily accessible to, and usable by emergency vehicles in all types of weather.
3. All costs for maintenance and repair of the private road shall be the responsibility of the property owners served by the private road.
4. The applicant shall provide the Board with a recordable Private Road Maintenance Agreement which shall indicate that the road will be regularly maintained, repaired, and snow plowed, so as to insure that the provisions of this Ordinance are complied with. The maintenance agreement shall also indicate the responsible parties for carrying out the private road maintenance outlined in said agreement.

- G. Effect of Approval. The private road approval shall not become effective until the applicant provides the following:
1. A letter indicating acceptance of all conditions of approval made by the Board.
 2. A letter indicating that by applying for or securing a permit to construct the private road they shall indemnify and will hold the Township harmless from any and all claims for personal injury or property damage arising out of the use of the private road, or of the failure to properly construct, maintain, use, repair, and replace the private road.
 3. Prior to the beginning of road construction, the Board may require as a condition of approval, the applicant to provide a performance guarantee, in accordance with following:
 - a. As a condition of approval, the Township Board may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and the users of the proposed development. Such features or components, hereafter referred to as “improvements.”
 - b. Performance guarantees shall be processed in the following manner:
 - i. Prior to the issuance of a Permit, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the Township Supervisor. The amount of the performance guarantee shall be one hundred percent (100%) of the cost of purchasing materials and installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.
 - ii. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.
 - iii. Upon receipt of the required performance guarantee, a Permit for the subject development shall be issued, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the Township.
 - iv. The Township Treasurer will refund to the developer portions of the performance guarantee, only after written notice from the Township Supervisor, that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
 - v. When all of the required improvements have been completed, the applicant shall send written notice to the Township Supervisor of completion of said improvements. Thereupon, the Township Supervisor shall cause a final inspection to be made of the improvements and approve, partially approve, or reject the

improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth.

- vi. A record of authorized performance guarantees shall be maintained by the Township Clerk.
- 4. Private road construction is to be completed within one (1) year of approval by the Board. Failure to complete private road construction within one (1) year shall render said approval null and void.
- 5. Upon completion of the private road, the applicant shall provide a letter signed by their design professional indicating the private road has been constructed to meet the standards outlined in this Ordinance.

H. Permits.

- 1. The Board may elect to have all design and construction plans, and maintenance agreements or other covenants reviewed by the Township attorney, engineer, and/or planner, as applicable, prior to consideration of the application for the private road permit.
- 2. No Building Permits shall be issued for construction of any building or structures on lots or condominium units served by a private road until construction of the private road as approved by the Board has been completed and certificate of compliance has been issued.
- 3. A driveway permit shall be obtained from the Roscommon County Road Commission prior to issuance of any Building Permit.
- 4. A Soil Erosion and Sedimentation Control permit shall be obtained from the Roscommon Drain Commission, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
- 5. It shall be the applicant's responsibility to obtain all applicable State and Federal permits for the road construction.

Section 3.24 Nonconforming Lots of Record, Uses, and Buildings and Structures

A. Intent

- 1. It is recognized that there exist in zoning districts certain lots, buildings and structures, and uses which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated, or restricted under the terms of this Ordinance. It is the intent of this Section to permit legal nonconforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their survival.

2. Nonconforming lots, uses, and buildings and structures are declared by this Ordinance to be incompatible with permitted uses in the districts in which they are located. It is the intent of this Section that these non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the district.
3. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted.

B. Nonconforming Lots of Record

Where a lot of record in existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width or lot area, such lot of record may be used for any use permitted by right in the zoning district in which the lot is located, subject to approval of water supply, and sanitary sewer or septic system by the County Health Department, or other proper agency having jurisdiction, further, the requirements on chart 14.01B shall be met for the zoning district in which the lot is located. (as amended #1 5/21/04)

C. Nonconforming Uses

1. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance.
2. No part of any nonconforming use shall be moved unless such movement eliminates the non-conformity.
3. If a nonconforming use is abandoned for any reason for a period of more than one (1) year, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected;
 - b. The property, buildings, and grounds, have fallen into disrepair;
 - c. Signs or other indications of the existence of the nonconforming use have been removed;
 - d. Equipment or fixtures necessary for the operation of the nonconforming use have been removed;

- e. Other actions, which in the opinion of the Ordinance Administrator, constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
 4. A nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the Zoning Board of Appeals:
 - a. The proposed nonconforming use shall be as compatible, or more compatible with the surrounding neighborhood than the previous use.
 - b. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous use.
 - c. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.
 5. An existing resort located in a zone which does not permit the same may still be altered, expanded, or rebuilt after obtaining the required permits. For this purpose they will not be considered as a nonconforming use. Any new unit will be at least 576 square feet.
- D. Nonconforming Buildings and Structures
 1. Where a lawful building or structure exists at the effective date of this Ordinance, or an amendment thereto, that does not comply with the requirements of this Ordinance because of restrictions such as lot area, coverage, width, height, or yards, such building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - a. No such building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is nonconforming by up to one half (1/2) the distance required by this Ordinance. Only in these cases may the nonconforming setback be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.
 - b. Should a nonconforming building or structure be destroyed to an extent of more than fifty (50) percent of its replacement value, exclusive of the foundation, it shall be reconstructed only within its existing foundation, unless it is designed and rebuilt to become more conforming with the provisions of this Ordinance.
 - c. Should a nonconforming building or structure be moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this Ordinance.
 2. None of the provisions of this Section are meant to preclude normal repairs and maintenance on any nonconforming building or structure that would prevent strengthening or correcting of any unsafe condition of the building or structure.
- E. The Township may acquire, through purchase or condemnation, private nonconforming buildings, structures, or land. The Township Board may make this purchase of private property in the manner provided for by law.
- F. Those alleged nonconforming uses of land, buildings, and structures which cannot be proved conclusively to have been existing prior to the effective date of this Ordinance, or any amendment thereto, shall be declared illegal nonconforming uses and shall be discontinued upon written notification from the Ordinance Administrator.

Section 3.25 Soil Removal and Grading

- A. Where soil is removed for any purpose, it shall be done in such a manner as to leave the area from which it was removed reasonably level. No holes may be left where stagnant water could partially or entirely fill them. No soil shall be removed that will cause erosion of any public street or highway.
- B. In no event shall soil be removed below grade level within one hundred seventy-five (175) feet of the nearest existing street or highway right-of-way.
- C. Any soil removed mentioned herein shall not be construed to include excavation in conjunction with on site construction, construction of ponds for fish, wildlife and other conservation practices, in ground swimming pools and/or artificial lakes shall require Land Use Permits.
- D. Prior to removal of any soil, aggregate, sand, stone, or other mineral, the person or persons removing same shall deposit with the Township Treasurer cash bond to the Township of Markey in the amount of \$1,000.00 dollars to insure compliance with the provisions of this section. If said bond is a surety bond, there shall be sufficient sureties to be approved by the Township Treasurer.
- E. Upon commencement of any soil removal, said removal must be completed within a reasonable period thereafter, a reasonable period being defined as not to exceed six (6) months. Upon completion of soil removal, the party removing same shall notify the Ordinance Administrator, who shall make an inspection to determine compliance with this section.
- F. Upon completion of said inspection and a determination by the Ordinance Administrator that the provisions of this section have been complied with, the Ordinance Administrator shall direct the Township Treasurer to release any cash or surety bond.
- G. In the event the Ordinance Administrator determines that the provisions of this section have not been complied with, said Administrator shall notify said party in writing, by certified mail, return receipt requested, specifying the nature of the non-compliance with this section and ordering compliance within thirty (30) days after the date of said notice. In the event that said party fails to comply with the provisions of said Section within thirty (30) days after the date of said notice, said bond shall be forfeited.
- H. It shall be the duty of the Ordinance Administrator to notify the Township Treasurer forthwith of such forfeiture. The proceeds of said bond shall be used as directed by the Township Board to the extent necessary to bring compliance within the provisions of this Section and the surplus, if any, shall be returned to sureties therein. In event that the proceeds of said bond are not sufficient in amount to bring compliance with the provisions of this Section, the party shall be liable to the Township of Markey for the amount of such deficiency.
- I. There shall be no filling in or removal of ground on a building lot which would seriously affect the grade at the adjacent neighbor's lot line unless mutually agreed to, in writing, by the respective owners of the property affected by such change in grade. No lot or parcel of land shall be filled until the area thereof to be used for buildings, septic, tanks, drainage fields, or wells, shall be stripped of all organic material such as logs, brush, stumps, and organic soil. Any owner of a lot to be filled that needs fifty (50) yards or

more of fill dirt for filling shall first get a land use permit from the Land Use Administer. All grading shall comply with Act 347, Public Acts of 1972, Soil Erosion Law.

Section 3.26 Open Space Preservation

- A. Purpose: The purpose of this Section is to adopt open space preservation provisions consistent with Section 16(h) of the Township Zoning Act (Act 184 of 1943, as amended) which requires qualifying townships to permit lands satisfying specified criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than 50%, that could otherwise be developed, under existing regulations, on the entire land area.

- B. Qualifying conditions: Land may be developed under the provisions of this Section only if each of the following conditions is satisfied:
 - 1. The land shall be zoned in the A-1, R-2, or R-3 Zoning Districts;
 - 2. The zoning district in which the land is located shall permit development at a density equivalent to two or fewer dwelling units per acre, if the land is not served by a public sewer system; or three or fewer dwelling units per acre, if the land is served by a public sanitary sewer system;
 - 3. The development of land under this Section shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering option provided by this Section would also depend on such extension; and
 - 4. The open space preservation option shall not have previously been exercised with respect to the same land.

- C. Permitted uses: Only dwelling units and non-dwelling unit structures (as described in Section 3.26F.10. permitted by the zoning district in which the land is located shall be permitted on land developed, or used pursuant to the provisions of this Section.

- D. Application and Review Procedure: The application and review procedures for land proposed to be developed pursuant to this Section shall be those stated in Section 15.01 of this Ordinance, governing site development plans, except as otherwise provided in this Section. In addition to the application materials required by Section 15.01C.2. of this Ordinance, an application for the development of land under the provisions of this Section shall include the following:
 - 1. A Parallel Plan prepared for the purpose of demonstrating the number of dwelling units that could reasonably be developed on the land under its existing zoning if the open space preservation option were not exercised. The Parallel Plan may be conceptual in nature but shall include at least the following information:

- a. Date, north arrow and scale, which shall not be more than 1" = 100, and, in all cases, the scale shall be the same as that utilized for the site development plan illustrating the proposed open space preservation development.
 - b. Location of street rights-of-way or easements.
 - c. Location of all lots, illustrating lot area and width to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - d. Required building setback lines on all lots to demonstrate the availability of sufficient buildable land to make the lot usable.
 - e. Location of all utilities that would be necessary to serve a development under the Parallel Plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
 - f. If development under the Parallel Plan would require the use of septic tanks and drain fields, such Plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Roscommon County Health Department.
 - g. The location of all portions of the land that are unbuildable for residential purposes due to the presence of wetlands, slopes in excess of 25%, flood plains, or other features prohibiting development for residential purposes.
2. When reviewing an application submitted under the terms of this Section, the Planning Commission shall determine whether the Parallel Plan accurately reflects the number of dwelling units that could be developed on the land under its existing zoning. If the Planning Commission determines that the number of dwellings illustrated on the Parallel Plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning, the applicant shall submit a revised site development plan for the clustering option reflecting the permitted number of dwellings, as determined by the Planning Commission.
 3. A copy of the conservation easement, plat dedication, restrictive covenants, or other legal instrument that would run with the land, and would have the legal effect of preserving the open space in perpetuity in an undeveloped state. Such legal instrument shall be reviewed by the township attorney prior to recording, and shall be subject to the approval of the Township Board, consistent with the terms of this Section. The legal instrument shall:
 - a. Indicate the proposed permitted use(s) of the undeveloped open space.
 - b. Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except such drainage improvements, utility lines, riding trails, hiking trails, picnic

- areas, park or playground equipment, agricultural structures or similar improvements that may be approved by the Planning Commission.
 - c. Require that the open space be maintained by parties who have an ownership interest in the property.
 - d. Provide standards for scheduled maintenance of the open space, including necessary pruning and harvesting of trees and new plantings.
4. The site development plan for the open space preservation option shall include the following minimum information, in addition to that required by Section 15.01C.2. of this Ordinance:
- a. Land proposed to remain in a perpetually undeveloped state and the portions of the land to be used for clustered development.
 - b. Total number of acres of land proposed to remain in a perpetually undeveloped state, the total number of acres of land proposed to be used for clustered development, and the area contained within rights-of-way or easements for streets. The percentage of each, as compared to the total site acreage, shall be indicated.
 - c. Lots and proposed building envelopes and indicate the lot area and width of each lot. The number of lots on the site development plan shall not exceed the number of lots on the Parallel Plan, as approved by the Planning Commission, and reduced to accommodate non-dwelling structures, if necessary, as described in Section 3.26F.11.
 - d. Location and type of all proposed structures or improvements that are not dwellings.
 - e. Location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Roscommon County Health Department.
5. If the development is to be served by public streets, proof that the Roscommon County Road Commission has approved the design, layout and construction of the streets.
- E. If a site development plan satisfies all applicable requirements of Section 15.01C.2. of this Ordinance, all requirements of this Section and all conditions of approval imposed by the Planning Commission, the Planning Commission shall approve the site development plan. The Planning Commission may require performance guarantees, in accordance with Section 18.04.
- F. Development requirements:
- 1. Required Open Space. At least 50% of the land proposed for development under the provisions of this Section shall remain in a perpetually undeveloped state (i.e., "open space"), as provided in Section 3.26D.3. The following areas shall not constitute open space:

- a. The area within all public street rights-of-way.
 - b. The area within all private street easements.
 - c. Any easement for overhead utility lines, unless adjacent to open space.
 - d. The area within a platted lot or site condominium unit.
 - e. Off street parking areas.
 - f. Detention and retention ponds.
 - g. Community drain fields.
 - h. Areas devoted to community water supply or sanitary sewer treatment systems.
 - i. Marinas.
 - j. Club houses and swimming pools.
2. Standards for Open Space. The following standards shall apply to the open space required pursuant to this Section:
- a. The open space shall not include a golf course.
 - b. The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, natural area, agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.
 - c. The open space shall be available for all residents of the development, subject to reasonable rules and regulations and shall be reasonably usable by such residents for passive recreation such as hiking and picnicking. The open space may be, but is not required to be, dedicated to the use of the public.
 - d. Open space shall be located so as to be reasonably accessible to the residents of the development. Safe and convenient pedestrian access points to the open space from the interior of the development shall be provided.
 - e. A portion of the open space shall be located along the perimeter street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help to preserve or enhance the existing views.
 - f. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land.
 - g. If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.
3. Use of Open Space. All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Planning Commission, in its discretion, may permit structures or improvements to be located in the open space if such would be consistent with the designated purpose of the open space. By way of example only, park or

playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use. However, club houses, swimming pools, golf courses, marinas, and similar recreational amenities shall not be permitted within the designated open space.

4. Underlying- Zoning District. The development of land under this Section shall comply with all requirements of this Ordinance applicable to the zoning district in which the land is located, except those setback and lot area requirements that must be adjusted to allow the clustering option permitted herein.
5. Uniform Lot Size. Lots shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Planning Commission.
6. Building Envelopes. The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the Planning Commission. The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.
7. Required Frontage. Each lot shall have a minimum of 50 feet of frontage measured at the street right of way or easement line. All dwelling lots shall be accessed from an interior street within the development and shall meet the minimum frontage requirement on such interior street.
8. Lot Width. Each lot shall have a minimum width equal to no less than one-half (2) the minimum lot width specified for the zoning district in which the land is located.
9. Maximum Number of Lots. The clustered portion of the development shall contain no more than the maximum number of lots, as determined from the Parallel Plan approved by the Planning Commission, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in Section 3.26F.11.
10. Non-Dwelling Unit Structures. Lots containing non-dwelling structures such as a clubhouse and its related amenities, shall be subject to all requirements of this Section applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed.
11. Reduction in Lots for Non-Dwelling Structures. If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted to be developed shall be reduced as follows:
 - a. The area occupied by non-dwelling structures, shall be divided by the average area of dwelling lots that could be situated in the clustered

development if the non-dwelling structures were not included, based on the approved Parallel Plan. If this number is a fraction, it shall be rounded up to the nearest whole number.

- b. The number calculated under subsection a. shall be subtracted from the number of dwelling lots that could be permitted in the clustered development, as determined from the approved Parallel Plan.
12. Perimeter Lots. Notwithstanding any other provision of this Section, the Planning Commission may require that the open space preservation development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
 13. Grading. Grading within the development shall comply with the following requirements:
 - a. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.
 - b. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Planning Commission. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Planning Commission.
 - c. Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.
 14. Private Streets. Private streets within a open space preservation development shall conform to the private street requirements of this Ordinance.
 15. Other Laws. The development of land under this Section is subject to all other applicable Township ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

G. Amendments to an Approved Site Plan:

1. An approved open space preservation development plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent

of the Planning Commission and the applicant, except as otherwise stated below with respect to a minor change.

2. Changes to an approved development plan may be permitted only under the following circumstances.
 - a. The holder of an approved plan shall notify the Zoning Administrator of any desired change.
 - b. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the open space development, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - i. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
 - ii. Internal rearrangement of a Parking Lot which does not affect the number of parking spaces or alter access locations or design;
 - iii. Changes required or requested by the Township, Roscommon County, or other State or Federal regulatory agency in order to conform to other laws or regulations.
 - iv. Change of phases or sequence of phases if all phases have been approved.

H. Time Limitation on Development:

1. Each development permitted pursuant to this Section shall be under construction within one year after the date of approval of the open space preservation plan by the Planning Commission. If this requirement is not met, the Planning Commission may, in its discretion, grant no more than one extension not exceeding one year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the clustered development.
2. If the clustered development has not been commenced within the above-stated time period, or within any authorized extension thereof, any building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek renewed approval from the Planning Commission under the terms of this Section in order to exercise the clustering option.

SECTION 3.27 EMERGENCY TEMPORARY DWELLINGS

PURPOSE:

Emergency Temporary Dwellings may be permitted upon a finding by the Township that the principal residential structure has been destroyed in whole or in part by fire, explosion, or natural disaster and therefore is uninhabitable and the standards set forth herein have been met.

PERMIT APPLICATION AND REVIEW.

1. An application for a zoning and land use permit for the emergency temporary use and installation of a mobile home, modular, or prefabricated dwelling unit shall be made to the Ordinance Administrator. The application shall be accompanied by a plot plan showing the location of the proposed structure.
2. The application shall be reviewed by a committee composed of the Ordinance Administrator, Township Supervisor and Planning Commission Chairman or the person designated. Approval of the application may be granted by a majority vote of the committee upon a finding that all of the following conditions are met.
 - a. The principal residential structure has been destroyed in whole or in part by fire, explosion, or natural disaster and therefore is uninhabitable.
 - b. The temporary dwelling unit will be connected to public sewer or septic and a well.
3. The granting of a permit for an emergency temporary dwelling unit shall be for a period of up to one (1) year from the date of approval by the committee. Any conditions of approval shall be specified in writing on the permit.
4. To guarantee compliance with the provisions of the ordinance and removal of the emergency temporary dwelling upon expiration of the permit, the committee or the Township Board may require a cash bond to be posted prior to the issuance of a permit.
(Adopted 09-04-09.)

SECTION 3.28 SINGLE FAMILY RESIDENTIAL DRIVEWAYS

All new driveways providing access for single-family dwellings shall be constructed in such a manner as to provide a year-round access from public or private roads so that emergency vehicles and services can reach such structures readily, conveniently and safely. Driveways shall be a minimum of ten (10) feet wide, minimum of thirteen feet six inches (13 ft 6 in.) overhead clearance of vegetation and other obstructions, and shall be constructed from the road (public or private) to a point which intersects the front plane of the structure closest to the road. *(Amended and added to ordinance 09-04-09.)*