

Zoning Ordinance

Of

Emerson Township

Gratiot County, Michigan

Revised February 2006

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**Emerson Township Zoning Ordinance**

**Adopted:**

**Effective:**

**20.00 TITLE**

An ordinance enacted pursuant to the authority contained in Act 184 of the Public Acts of Michigan for 1943, as amended, known as the "Township Rural Zoning Act" for the establishment of zoning districts in the unincorporated portions of Emerson township, within which districts the use of land for agriculture, forestry, recreation, residence, industry, trade, migratory labor camps, soil conservation, water supply conservation, and additional uses of land may be encouraged, regulated or prohibited; for the adoption for such districts of provisions designating or limiting the location, height, number of stories and size of dwellings buildings and structures, including tents and trailer coaches which may hereafter be erected or altered; for the regulation of the area of yards, courts and other open space and the sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures, including tents and trailer coaches; for the designation of the maximum number of families which may be housed in buildings, dwellings and structures, including tents and trailer coaches; to establish a Zoning Board of Appeals, to grant authority to said board in addition to that expressly provided in said Public Act 184; to provide standards to guide actions and decisions of said board; to provide for the enforcement of the provisions of said ordinance and penalties and other relief for violations of said ordinance; and to provide for the amendment thereof and the repeal of all ordinances or parts of ordinances in conflict therewith.

**20.01 PREAMBLE**

In accordance with the authority and intent of Act 184 of the Public Acts of 1943, as amended, the township desires to provide for its orderly development which is essential to the well-being of the community and which will place no undue burden upon developer industry, commerce, residents, food producers, the natural resources, or energy conservation. The township further desires to assure adequate sites for industry, commerce, food production, recreation, and residences; to provide for the free movement of vehicles upon the streets and highways of the township to protect industry, commerce, food producers, natural resources,

energy consumption and residences against incongruous and incompatible uses of land; to promote the proper use of land and natural resources for the economic well-being of the township as a whole; to assure adequate space for parking of vehicles of customers and employees using commercial, retail and industrial areas; to assure that all uses of land and buildings within the township are so related as to provide for economy in government and mutual support; and to promote and protect the health, safety, comfort, convenience and general welfare of all persons and property owners within the township.

## **20.02 ENACTING CLAUSE**

The township of **Emerson**, County of **Gratiot**, State of Michigan ordains:

The township of **Emerson** shall be divided into zoning districts, as hereafter described, within which districts no buildings or premises shall be used and no building shall hereafter be erected, altered or located except for the uses and purposes hereinafter set forth as "permitted uses" under each separate zoning district classification, or hereinafter set forth as "special exception uses" under each such zoning district classification; subject, however, to such prior approval as is hereinafter required to be obtained from the Planning Commission for such special exception uses.

WHEREAS, ACT 184, P.A. 1943 as amended, empowers the township to enact a zoning ordinance and to provide for its administration, enforcement and amendment; and

WHEREAS, the Township Board deems it necessary for the purpose of promoting and protecting the health, safety, and general welfare of the people of the township to enact such an ordinance; and

WHEREAS, the township board, pursuant to the provisions of Act. 282, P.A. 1945, as amended, has appointed a planning commission to formulate plans and recommendations for the most effective economic, social and physical development of the township; and

WHEREAS, the planning commission has adopted a comprehensive plan of growth and development in accordance with Act. 282, P.A. 1945 as amended; and

WHEREAS, the planning commission has divided the township into districts and has prepared regulations pertaining to such districts in accordance with the comprehensive plan; and

WHEREAS, the planning commission has submitted this ordinance to the township board; and

WHEREAS, the planning commission has given due notice of public hearing relating to zoning districts, regulations and restrictions and has held such public hearing and

WHEREAS, all requirements of Act. 184, P.A. 1943, as amended, and Act 282, P.A. 1945, as amended, with regard to the preparation of this ordinance and subsequent action of the township board has been met

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP OF EMERSON,  
COUNTY OF GRATIOT, STATE OF MICHIGAN AS FOLLOWS:**

**20.03            SHORT TITLE**

This ordinance shall be known as the **Emerson Township Zoning Ordinance.**

**20.100****ARTICLE II  
DEFINITIONS****20.101 GENERAL**

When not inconsistent with the context, words used in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the singular. The word "Shall" is always mandatory and not merely directory. The word "building" includes the word "structure" and vice versa. Terms not herein defined shall have the meanings customarily assigned to them.

**20.102 SPECIFIC TERMS**

The following terms shall have the following meaning when used in the within ordinance:

**20.103 ACCESSORY BUILDING:**

Shall mean a building or portion of a building subordinate to and on the same lot as a main building and occupied by or devoted exclusively to an accessory use, including, but not limited to a private garage.

**20.104 ACCESSORY USE:**

A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

**20.105 APARTMENT HOUSE:**

A building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service or utilities in common.

**20.106 AGRICULTURAL LABOR HOUSING:**

A tract of land and all vehicles, buildings and other structures pertaining thereto which is established, occupied or used as living quarters for migratory workers engaged in agricultural activities including related food processing as licensed under the provisions of Act 289, P.A. Of 1965, as amended.

**20.107 BARROW PIT:**

An area for the excavation of sand or gravel where the volume of material extracted shall be less than 10,000 cubic yards or an area for the excavation of sand and gravel which is three acres or less in size.

**20.108 BASEMENT:**

That portion of a building below the first-floor joists, at least half of whose clear ceiling height is above the level of the adjacent ground.

**20.109 BILLBOARD:**

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

**20.110 BUILDING SETBACK:**

A line defining the front, side and rear yard requirements outside of which no building or structure may be located. It will be that line which coincides with any portion of the building nearest the lot line or the closest point thereon, which includes sun porches, porches and foundations and decks, but not steps.

**20.111 BOARDINGHOUSE/ BED & BREAKFAST:**

A dwelling in which lodging or meals, or both are furnished to up to twelve guests for compensation.

**20.112 BUILDING:**

A structure erected on site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support, or enclosure of persons, animals or property of any kind.

**20.113 CAMPGROUND:**

A tract or parcel of land under the control or charge of a person in which campsites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters, including, but not limited to two or more tents or recreational vehicles.

**20.114 CHILD CARE CENTER:**

A facility, other than a private residence, licensed by the Michigan Family Independence Agency, in which one or more children are given care and supervision for periods of less than twenty-four hours per day and where a parent or legal guardian is not immediately available to the child. Child Care Center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day.

Child Care Center does not include a Sunday School, a vacation Bible school or a religious class conducted by a religious organization where children are present for not greater than four hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks, during a twelve-month period, or a facility operated by a religious organization

where children are cared for not greater than four hours, while persons responsible for the children are attending religious classes or services.

**20.115 COMMERCIAL STORAGE WAREHOUSE:**

A building or buildings used primarily as a commercial business for the storage of goods and materials.

**20.116 CONVALESCENT OR NURSING HOME:**

A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and medical care. Said homes shall conform to, and qualify for licensing under applicable State of Michigan law.

**20.117 CONVENIENCE CENTER:**

A place where primary petroleum products such as gasoline, motor oil, or diesel fuel are sold at retail, and limited grocery items are sold. Said facility does not include establishments where auto repairs are made.

**20.118 DAY CARE HOME-FAMILY:**

A private residence in which the operator permanently resides as a member of the household, registered with the Michigan Family Independence Agency, in which one, but less than seven minor children/adults are given care and supervision for periods of less than twenty-four hours per day, unattended by a parent or legal guardian, except children/adults related to an adult member of the family by blood, marriage, or adoption. Family day-care home includes a home that gives care to an unrelated minor child/adult for more than four weeks during a calendar year.

**20.119 DAY CARE HOME - GROUP:**

A private residence in which the operator permanently resides as a member of the household, licensed by the Michigan Family Independence Agency, in which more than six but not more than twelve minor children/adults are given care and supervision for periods of less than twenty-four hours per day, unattended by a parent or legal guardian, except children/adults related to an adult member of the family by blood, marriage, or adoption. Group day-care home includes a home that gives care to unrelated minor children/adults for more than four weeks during a calendar year.

**20.120 DWELLING, SINGLE FAMILY:**

A building containing not more than one dwelling unit designed for residential use, complying with the following standards:

1. It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
2. It has a minimum width across any front, side or rear elevation of 20 feet and complies in all respects with the township building code\*, including minimum heights for habitable rooms. Where a dwelling 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 the township building code\*, then and in that event such federal or state standards or regulations shall apply.
3. It is firmly attached to a permanent foundation constructed on the site in accordance with the township building code\* and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.
4. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
6. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than that of them principal dwelling, which storage area shall be equal to 15% of the square footage of the dwelling or 150 square feet, whichever shall be less.

7. The dwelling will not have less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

8. The compatibility of design and appearance shall be determined in the first instance by the township zoning administrator, upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of 15 days from the receipt of notice of said zoning administrator' s decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, **view**, unique land contour or relief from the common or standard designed home.

9. The dwelling contains no additions or rooms or other area which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

10. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards, as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed **all** applicable roof snow load and strength requirements.

11. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the township pertaining to such parks.

12. All construction required herein shall be commenced only after a building permit has been obtained in accordance with applicable township building code\* provisions and requirements.

\* If the township has not adopted its own building code, insert "The Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under provisions of 1972 **PA** 230, as amended.

\* Michigan uses B.O.C.A. Codes with Revision for Building, Plumbing, Electrical and Mechanical.

**20.121 DWELLING, TWO-FAMILY:**

A building containing not more than two separate dwelling units designed for residential use and conforming in all other respects to the standards set forth in **Section 20.120**.

**20.122 DWELLING, MULTIPLE-FAMILY:**

A building containing three or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in **Section 20.120**.

**20.123 ESSENTIAL SERVICES:**

The term **Essential Services** means the erection, construction, alteration or maintenance by public utilities or township departments or commissions of underground or overhead gas, electrical, steam or water transmissions or distribution systems, collections, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings **EXCEPT THOSE EXPRESSLY REFERRED TO HEREIN**) reasonably necessary for the furnishing of adequate service by such public utilities or township departments or commissions or for the public health or safety or general welfare.

**20.124 EXCAVATION-TRANSPORTATION SERVICES:**

Excavation-Transportation Services shall include farm drainage, water and sewer line construction, septic systems, and related excavation and transportation businesses.

**20.125 FAMILY:**

1. An individual or a group of two or more persons related by blood, marriage or adoption, together with foster children and servants of them principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or

2. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or another similar determinable period.

**20.126 FARM:**

The land, plants, animals, buildings, dwelling, structures, including ponds used for agricultural or agricultural activities including machinery, equipment, and other appurtenances used in the commercial production of farm products. Farm products are those plants and animals useful to human beings produced by agriculture and include, but are not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, cervine, livestock, including breeding and grazing, equine, fish, and other agricultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms and other similar products, or any other product that incorporates the use of food, feed, fiber, or fur.

**20.127 FILLING STATIONS:**

Any place where primary petroleum products such as gasoline, motor oil or diesel fuel are sold at retail and auto repairs may be made as a secondary activity.

**20.128 FUEL STORAGE FACILITY:**

Facilities for the storage of propane and other related fuel sources solely for the personal, residential use of the owner or occupant of the lot it is located upon, and in no way shall fuel storage facilities include commercial sales.

**20.129 HOME OCCUPATIONS:**

Occupations engaged in within a dwelling or on the premises of the dwelling by the resident or residents of the same. The occupation shall be incidental and subordinate to the principal use of the building for residential purposes and shall comply with the following conditions and limitations:

1. Are operated in their entirety within the dwelling or within an accessory building or a residential type garage located on the premises and does not reduce the useable living space below the minimum area required for a residential dwelling.
2. Are only conducted by the person or persons occupying the premises as their principal residence a major portion of each month; provided, however, the Zoning Board of Appeals shall have the authority to permit additional subordinate assistants who do not reside within said dwelling where the same would not materially impair the residential character of the neighborhood or cause traffic congestion or parking problems. In no event, however, shall such additional assistants exceed three in number.
3. The dwelling has no exterior evidence, other than a permitted sign\* to indicate that the same is being utilized for any purpose other than that of a dwelling.

4. No goods are sold from the premises which are not strictly incidental to the principal home occupation conducted therein.

5. No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbance or the source of lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted.

6. Any such home occupation may be subject to annual inspection by the zoning administrator of the township and may be terminated by order of such inspector whenever the same fails to comply with the zoning ordinance.

7. The Planning commission shall have the authority to determine whether or not a proposed use complies with the zoning ordinance and is within the spirit of the same to ensure the compatibility of any use with the character of the zoning classification in which the same is located and that the health, safety, and general welfare of the neighborhood will not thereby be impaired.

\*Illuminated, non-blinking, no larger than eight square feet in size.

**20.130 INOPERATIVE MOTOR VEIDCLE:**

A motor vehicle which is incapable of being operated under its own power.

**20.131 INTENSIVE LIVESTOCK OPERATION(ILO):**

A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure.

Live animals, including poultry are restricted to this area containing 500 animal units or more. For the purpose of this ordinance one animal unit shall be equivalent to one thousand (1,000) pounds of live body weight.

**20.132 JUNKYARD:**

Any land or building used for commercial storage and/or sale of paper, rags, scrap metals, other scrap or discarded material, or for the dismantling, storage or salvaging of automobiles or other vehicles not in running condition, or of machinery or parts thereof, but not including a dump/landfill.

**20.133 KENNEL:**

Any lot or premises used for the keeping, sale, boarding or breeding of more than *four* dogs, cats, or other household pets in any combination thereof, for specified compensation.

**20.134 LOT:**

Land occupied or to be occupied by a building and its accessory building, or by a dwelling group and its accessory building, together with such open spaces as are required under the provisions of this ordinance for a lot in the district in which said lot is situated and having the required frontage on a street or road.

**20.135 LOT AREA:**

The total horizontal area included within lot lines. Where the front lot line is the centerline of a street/road or lies in part or in whole in the street/road area, the lot shall not include that part of the lot in use or to be used as the street/road. Area to be one acre.

**20.136 LOT, CORNER:**

A lot located at the intersection of two streets/roads or a lot bounded on two sides by a curving street/road, any two cords of which form an angle of 135 degrees or less as measured on the lot side. The point of intersection of the street/road lot lines is the "corner". In the case of a corner lot with a curved street/road line, the corner is that point on the street nearest to the point of intersection of the tangents describes above.

**20.137 LOT DEPTH:**

The mean horizontal distance from the front street/road line to the rear lot line.

**20.138 LOT, INTERIOR;**

A lot, other than a corner lot.

**20.139 LOT, FRONT LINE:**

That side of the lot abutting upon a public or private street/road right-of-way or abutting upon a lake in the case of a corner lot, either street/road right-of-way line may be considered the front line of the lot, if it contains the minimum required frontage.

**20.140 LOT, REAR LINE:**

Ordinarily that lot line which is opposite and most distant from the front lot line as herein before defined. In the case of an irregular-shaped lot, a line ten (10) feet in length entirely within the lot and parallel to and at the maximum distance from the front lot line shall be considered the rear lot line for the purpose of determining required rear yard spacing.

**20.141 LOT, SIDE LINE:**

Any lot line not qualifying as a front or rear lot line. A side lot line separating a lot from a street/road right-of-way shall be known as a Side Street/Road Lot Line. A side lot line separating a lot from another lot or lots shall be known as an Interior Side Lot Line.

**20.142 LOTWIDTH:**

The mean horizontal distance between the side lines as measured at right angles to such side lot lines. Where side lot lines are not parallel, the lot width shall be the average horizontal distances between such side lotlines.

**20.143 MANUFACTURED HOUSING:**

A dwelling unit which is designed for long term residential use and is wholly or substantially constructed at an off-site location. Manufactured housing also includes mobile homes and modular housing units. All Manufactured Homes must conform to the U.S. Department of Housing and Urban Development's Code for Manufactured Home s (HUD).

**20.144 MESSAGE ESTABLISHMENT:**

Any establishment where massages are administered for pay, including but not limited to, massage parlors, health clubs, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Michigan: a hospital, nursing home, medical clinic, physician, surgeon, chiropractor , osteopath, or physical therapist and their respective authorized employees, nor a public nonprofit organization such as a school, park department, YMCA or YWCA operating a community center, swimming pool or other educational, cultural, recreational facilities for residents of the area.

**20.145 MINERAL EXTRACTION INDUSTRY:**

Mineral extraction industries shall include earth removal, quarrying, gravel processing, mining and related mineral extraction businesses. Borrow Pits authorized by this Zoning Ordinance are not Mineral Extraction Industries.

**20.146 MOBILE HOME:**

A structure, transportable in one or more sections, which is built on a chassis and designed to be used with or without permanent foundation, when connected to the required utilities and that includes the plumbing, heating, air conditioning and electrical systems contained in the structure. Mobile Home does not include a recreational vehicle. (See definition of Recreational Vehicle) All mobile homes must conform to the U.S. Department of Housing and Urban Development's Code for Mobile Homes (HUD). Mobile Homes include the double-wide units.

**20.147 MOBILE HOME PARK:**

Mobile Home Park means a parcel or tract of land under single ownership in which three or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose, regardless of whether a change is made thereafter, together with any building structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park in accordance with the Mobile Home Commission Act, 419, Michigan Public Acts of 1976 as amended.

**20.148 MODULAR (PRE-MANUFACTURED) HOUSING UNIT:**

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

**20.149 NON-CONFORMING USES OR STRUCTURES:**

A building or structure or the use of a building, structure or land lawfully existing at the time this ordinance became effective but which does not conform with the present use regulations of the district in which it is located.

**20.150 OFFICE:**

A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases (accounting, filing, recording, communication and/or stenograph) equipment for current use in the office business, and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties; and other similar, related or incidental furniture, equipment or personnel connected or concerned with the performance of the personal service which causes or creates no external disturbance, nuisance, or annoyance beyond the confines of said rooms or building. (See 20.129 Home Occupations.)

**20.151 OUTDOOR RECREATIONAL FACILITIES:**

Outdoor recreational facilities shall include campgrounds, nature centers, riding stables, wildlife sanctuaries) conservation, hunting and gun clubs.

**20.152 PARKING AREA:**

Any area, other than a street or other public way, used for the parking of motor vehicles. A parking area may be accessible for public or private use as an accommodation for residents, clients, customers or employees licensed vehicles.

**20.153 PETROLEUM BULK PLANT:**

An establishment for the storage of petroleum products, in bulk and /or in packages for the distribution by tank car, tank vehicle or motor truck.

**20.154 PLANNED UNIT DEVELOPMENT:**

A development which permits integrated and coordinated residential dwellings and/or certain non-residential uses all to be developed according to approved plans.

**20.155 PLANNING COMMISSION:**

For the purposes of this Ordinance, these terms shall mean the Emerson Township Planning Commission.

**20.156 PUBLIC OR INSTITUTIONAL USES:**

Churches, accredited public, parochial or private schools, trade schools or colleges; hospitals, parks, nonprofit recreational uses; libraries; government owned facilities; fire stations, or similar uses providing services necessary to the community.

**20.157 PUBLIC UTILITY:**

Any person, firm or corporation duly authorized to furnish to the public, under state or municipal regulations, electricity, gas, steam, communications or water.

**20.158 RECREATIONAL VEIDCLE:**

A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, travel trailers, and tent trailers; provided, however, that any such vehicle or unit which is 40 feet or more in overall length shall be considered a mobile home and shall be subject to all regulations of this ordinance applicable to a mobile home.

**20.159 SETBACK:**

The minimum horizontal distance a building or structure or any portion thereof, is required to be located from the boundaries of the lot or parcel of land upon which the same is situated from road right-of-way.

**20.160 TELECOMMUNICATIONS - CABLE:**

Cable communication system means a system of antennas, cables, amplifiers, towers, microwave links, cable casting studios, and any other conductors, converters, equipment or

facilities designed and constructed for the purpose of distributing video programming to home/commercial subscribers and for producing, receiving, amplifying, storing, processing or distributing audio, digital, or other forms of electronic or electric signals.

**20.161 TELECOMMUNICATIONS - CELLULAR:**

For the purposes of this ordinance this definition shall mean wireless communications facilities. This shall include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting and receiving radio signals. This may include, but shall not be limited to radio towers, television towers, telephone devices and exchanges, microwave relays, telephone transmission equipment building and private and commercial mobile radio service facilities.

Not included within this definition are: satellite dishes and governmental facilities which are subject to state or federal law or regulations which preempt municipal authority.

**20.162 ZONING ADMINISTRATOR:**

Emerson Township Zoning Ordinance Enforcement Official.

**20.163 ZONING BOARD OF APPEALS:**

Also known as board of appeals. This body hears the appeals on administrative decisions, variance requests, interprets the provisions of this ordinance and fulfills any other duties delegated to it by this or any other properly adopted ordinance in Emerson Township in accordance with the provisions of Act. 183 of Public Acts of 1943 of the State of Michigan, as amended.

**20.164 ZONES OR ZONING DISTRICT BOUNDARIES:**

Where uncertainty exists as to the boundaries of any of the districts or zones shown in the zoning map, the following rules shall apply:

1. Zone Boundary lines are intended to be parallel or perpendicular to street/road, alley, or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on said zoning map.
2. Where zone boundaries are indicated as approximately following street/road or alley lines or proposed street/road lines, such lines shall be construed to be such boundaries.
3. Where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet distant therefrom, such lot lines shall be such boundaries.
4. If unsubdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the

text of the ordinance, shall be determined by the use of the map scale shown thereon and be scaled to the nearest foot. {NOTE: Whenever possible should not split lots by zoning .}

S. If all or any portion of any public street/ road, alley right-of-way, easement or land which is not included in any zone shall revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of these regulations which apply with the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zones, if there be more than one.

**20.165 ALL OTHER WORDS NOT DEFINED:**

All other words shall have the meaning as defined in the Webster's New World Dictionary, Second College Edition.



- D. Markets for sale of products grown or produced upon the premises together with incidental products related thereto not grown or produced upon the premises but which are an unsubstantial part of said business including and advertising sign not more than eight square feet in area, advertising such products.
- E. Home occupations as defined within the ordinance. (See Paragraph 20.129)
- F. Churches and parish houses, public schools and educational institutions and other municipal buildings, structures or uses.
- G. Community Buildings, parks, public recreational area or golf courses.
- H. Essential services.
- I. Cemeteries.
- J. Private landing fields.

**20.205 SPECIAL EXCEPTION USES:**

- A. Public Utility and service buildings.
- B. Additional single-family homes.
- C. Nursing or convalescent homes.
- D. Wildlife reserves.
- E. Hunting preserves.
- F. Animal feedlots and piggeries.
- G. A complex or development of a multiple number of "permitted" or designated "special exception" uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exception uses.

- H. . Earth removal, quarrying, gravel processing, mining and related mineral extraction businesses.

## **20.R100 "R-1" RESIDENCE DISTRICT**

### **20.R101 STATEMENT OF PURPOSE**

This district classification is designed to be the most restrictive of the residential districts to encourage an environment of predominately low-density, single family dwellings, together with a minimum of other residentially related facilities and activities primarily of service to the residents in the area.

### **20.R102 PERMITTED USES:**

- A. Private single-family dwellings.
- B. Home occupations.
- C. Schools, libraries, and other municipal structures and uses.
- D. Churches.
- E. Hospitals.
- F. Essential public utility services, excluding building and regulator stations.
- G. Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot or parcel of land and not involving the conduct of a business.

### **20.R103 SPECIAL EXCEPTION USES:**

- A. Private two-family dwellings.
- B. Farming and agricultural operations, together with a reasonable number of accessory buildings, and the right to sell products, poultry or animals produced, raised or grown upon the premises.
- C. Essential public utility service buildings, or gas or electric regulator stations or buildings.

- D. A complex or development of a multiple number of "permitted" or designated "special exception" uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exception uses.

**20.R200 "R-2" RESIDENCE DISTRICT**

**20.R201 STATEMENT OF PURPOSE.**

This district classification is designed to permit a greater density of residential development than that provided in the "R-1" Residence District classification, together with other residentially related facilities which would serve the inhabitants of the area.

**20.R202 PERMITTED USES:**

- A Any use permitted in the "R-1" Residence District.
- B. Private two-family dwellings.

**20.R203 SPECIAL EXCEPTION USES:**

- A. Day nurseries for not more than six children.
- B. Nursing or convalescent homes.
- C. Boarding and lodging houses for not more than twelve guest units.
- D. Farming and agricultural operations, together with a reasonable number of accessory buildings, and the right to sell products, poultry or animals produced, raised or grown upon the premises.
- E. Essential public utility service buildings, or gas or electric regulator stations or buildings.
- F. A complex: or development of a multiple number of "permitted" or designated "special exception" uses which do not comply with all conditions and limitations pertinent thereto, but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exception uses.

**20.R300 "R-3" RESIDENCE DISTRICT****20.R301 STATEMENT OF PURPOSE.**

This district classification is designed to permit the greatest density of residential uses allowed within the township, together with other residentially related facilities designed to service the inhabitants of the area

**20.R302 PERMITTED USES:**

- A. Any use permitted in the "R-2" Residence District.
- B. Day nurseries.
- C. Nursing and convalescent homes.
- D. Boarding and lodging houses.
- E. Medical clinics and doctors' offices for the treatment of human beings, provided that they are constructed in appearance as a residence.
- F. Golf courses, parks and other municipally owned or operated public recreational facilities.

**20.R303 SPECIAL EXCEPTION USES:**

- A. Hotels, motels and other transient-type residential buildings.
- B. Private clubs, fraternities and lodges, excepting those of which the chief activity is a service customarily carried on as a business.
- C. Establishments for the retail sale of meals, provided that the same are constructed in appearance as a residence.
- D. Farming and agricultural operations, together with a reasonable number of accessory buildings, and the right to sell products, poultry or animals produced, raised or grown upon the premises.
- E. Essential public utility service buildings, or gas or electric regulator stations or buildings.

F. A complex or development of a multiple number of "permitted" or designated "special exception" uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exception uses.

G. Multiple dwellings.

**20.R400 "R-4" RESIDENCE DISTRICT**

**20.R401 STATEMENT OF PURPOSE.**

In recognition of the growing trend toward mobile homes and mobile home parks and the need for well-located and properly developed areas to accommodate them, this district is designed to provide for such use under appropriate construction and development standards to promote the health, safety, and general welfare of the residents of such areas as well as the residents of adjoining premises. The area zoned for such purposes should be able to accommodate the increased traffic generated from such developments as well as the sanitary requirements of the same. Such area should also be suitable for residential use and should be located as not to impede other more conventional residential developments in the vicinity.

**20.R402 PERMITTED USES:**

A. Mobile home parks, together with accessory buildings and uses customarily incident there to, including a residence for the mobile home park owner or operator and his family, but excluding any retail sales of mobile homes unless the same are located upon a developed mobile home site, subject, however, to the following conditions and limitations .

B. Conditions and Limitations for Mobile Home Parks:

1. AU mobile home parks shall comply with the requirements imposed by Michigan Public Act 419 of 1976 and any and all amendments thereto and with any and all regulations promulgated thereunder by the Michigan Mobile Home Commission and the Michigan Department of Public Health.
2. Application for a permit to erect such a park shall be made in writing to the Board of Appeals and filed with the Zoning Administrator. The application shall show the location and extent of the proposed park and such additional information as the Board of Appeals may deem essential to take proper action on the application.

3. Following the receipt of any such application the Board of Appeals may refer the same to the Township Planning Commission for its investigation and recommendation. Final approval or rejection of such application shall, however, rest with the Board of Appeals after a public hearing, notice of which shall be served at least five days prior to the date of such hearing.

**20.R403 SPECIAL EXCEPTION USES:**

- A. Farming and agricultural operations, together with a reasonable number of accessory buildings, and the right to sell products, poultry or animals produced, raised, or grown upon the premises.
- B. Essential public utility service buildings, or gas or electric regulator stations or buildings accessory thereto.
- C. Accessory buildings and uses incidental to a mobile home park such as recreational buildings and facilities, laundry facilities, maintenance garage and storage facilities.
- D. A complex or development of a multiple number of "permitted or designated "special exception" uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exception uses.

**Note:** If a township wishes to enact more stringent standards regulating mobile home parks than the standards set by the Michigan Mobile Home Commission and the Michigan Department of Public Health, it must first obtain the approval of the Michigan Mobile Home Commission to do so.

To apply for such approval, the township must first hold a public hearing on the more stringent standard it proposes to adopt. After the public hearing, the township should file its proposed standard with the Michigan Mobile Home Commission for review. Included with the proposed standard should be (1) a statement indicating the current state standard for which a more stringent standard is being sought, (2) a statement indicating why the township requires a stricter standard than being set forth by the state and (3) a statement that the proposed higher standard is not designated to generally exclude mobile homes or persons who engage in any aspect pertaining to the business of mobile homes.

If the Michigan Mobile Home Commission either approves the proposed standard or fails to disapprove the proposed standard within 60 days after it was filed with the Michigan Mobile Home Commission, then the township may adopt the standard by ordinance.

**20.C100 "C-1" COMMERCIAL DISTRICT**

**20.C101 STATEMENT OF PURPOSE.**

This district is designed to provide retail sales and commercial service uses catering to the general public as distinguished from industry or general business customers.

**20.C102 PERMITTED USES:**

- A. Retail sales businesses where no assembling, treatment or manufacturing is required.
- B. Offices.
- C. Banks, building and loan associations, and other lending institutions.
- D. Funeral parlors.
- E. Restaurants.
- F. Essential public utility services.
- G. Indoor theaters.
- H. Hotels, motels and apartment homes.
- I. Cleaning and laundry service customer stations.
- J. Rug Weaving.
- K. Barber shops and beauty parlors.
- L. Shoe repair shops.
- M. Churches

N. Accessory buildings and uses customarily incident to any of the foregoing, but not including any manufacturing or treatment activities.

**20.C103 SPECIAL EXCEPTION USES:**

- A. Automatic dry cleaning or laundry facilities.
- B. Brut houses.
- C. Gasoline stations.
- D. Automobile repair garages.
- E. Outdoor automobile sales and/or farm implement sales.
- F. Mining operations.
- G. Indoor commercial recreation facilities.
- H. Any uses allowed as permitted or special uses in any zoning district classification herein before setting forth.
- I. A complex or development of multiple number of "permitted" or designated "special exception" uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exception uses.

**20.C100 "C-2" COMMERCIAL DISTRICT**

**20.C201 STATEMENT OF PURPOSE.**

This district is designed to permit commercial uses more extensive than the "shopping center" variety, occupying greater land areas for such use and catering to business and industrial customers as well as the general public. The district is designed to also permit the uses specified in the "C-1" Commercial District classification.

**20.C202 PERMITTED USES:**

- A. Any use permitted in the "C-1" Commercial District.

- B. Any special exception uses permitted in the "C-1" commercial District without the necessity of prior Planning commission action, except for mining operations which shall require such prior approval and except also uses designated as "permitted uses" in District Classifications 'AG', "R-1", "R-2", "R-3" and "R-4" which shall also require such prior approval.
- C. Outdoor theaters.
- D. Veterinary hospitals.
- E. Kennels and petshops.
- F. Bus terminals.
- G. Outdoor commercial recreational facilities.
- H. Drive-in eating or fast food establishments.
- I. Wholesale sales.
- J. Enclosed warehouses.
- K. Farming and agricultural operations, together with a reasonable number of accessory buildings, and the right to sell products poultry or animals produced, raised or grown upon the premises.
- L. Sign shop.
- M. Cider mill.
- N. Cemeteries.
- O. Nurseries and greenhouses.
- P. Accessory buildings and uses customarily incident to any of the foregoing uses when located on the same lot or parcel of land.

**20.C203 SPECIAL EXCEPTION USES:**

- A. Lumber Yards.

- B. Mining operations with incidental gravel processing.
- C. A complex or development of a multiple number of 'permitted' or designated 'special exception' uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exception uses.

## **20.1100 "1- J" INDUSTRIAL DISTRICT**

### **20.11 01 STATEMENT OF PURPOSE.**

This district is designed for manufacturing, assembling and fabricating businesses and commercial activities which cause a minimum of adverse effect beyond the boundaries of the site upon which they are located.

### **20.1102 PERMITTED USES:**

- A. Industrial manufacturing operations and operations for the servicing, compounding, assembling or treatment of articles or merchandise which do not emanate noise, smoke, odors, dust, dirt, noxious gases, glare, heat, vibration or psychological ill effects which would be a nuisance or annoyance to owners or occupants of surrounding premises and which are wholly contained within fully enclosed buildings, except for the following permissible outdoor activities:
  1. Outdoor storage in the rear yard area which must not exceed 20% of the square foot area of the principal building upon the premises and which must be screened from adjoining premises of a higher use district classification and from public streets by a solid fence, wall, or natural screening adequate for the purpose.  
**Note:** See "Sight Barriers" Paragraph B and Article "Residential Buffer Area".
  2. Delivery operations to and from aid business.
  3. Such other outdoor storage or activities as may be allowed under a variance permit by the Zoning Board of Appeals which may be granted by said board where, in its discretion, the same would not be a nuisance or annoyance to adjoining property owners

and would be in accordance with the purpose of this zoning classification to create an industrial zone for activities which produce a minimum of adverse effect on adjoining premises and are compatible with one another and do not require large land areas for isolation or protection of adjoining premises or activities.

**20.1103 SPECIAL EXCEPTION USES:**

- A. Motor freight warehousing businesses.
- B. Gasoline and petroleum storage.
- C. Ready-mix concrete and asphalt plants.
- D. Lumber yards.
- E. Auto body and auto paint shops.
- F. A complex or development of a multiple number of "permitted" or designated "special exception" uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exception uses.

**20.1200 "1-2" INDUSTRIAL DISTRICT**

**20.1201 STATEMENT OF PURPOSE.**

This district is designed for manufacturing, servicing, compounding, assembling and commercial businesses which require greater outdoor storage or activities and which accordingly, require larger sites and may have a greater adverse effect on adjacent properties and the uses permitted in the preceding classifications.

**20.1202 PERMITTED USES:**

- A. Any use permitted in the "I-1" Industrial District.
- B. Industrial manufacturing operations and operations for the servicing, compounding, assembling or treatment of articles which do not emanate noise, smoke, odor, dust, dirt,

noxious gases, glare, heat, vibration or psychological ill effects to such an extent as will be a nuisance or annoyance to owners or occupants of surrounding premises and which do not involve outdoor storage or activities occupying more than 50% of the square floor area of the principal building located upon the premises.

**20.1203 SPECIAL EXCEPTION USES:**

- A. Building material storage yards for new material.
- B. Storage yards for machinery, trucks, or equipment in operating condition, provided adequate screening is installed and maintained, screening the same from adjoining premises and public streets and highways.
- C. Slaughter houses.
- D. Mining operations and incidental gravel processing.
- E. A complex or development of a multiple number of "permitted" or designated "special exception" uses which do not comply with all conditions and limitations pertinent thereto, but which still comply with the spirit of this ordinance with the approval of the Planning Commission under the procedure and standards specified in the ordinance for special exception uses.

**20.1300 "J-3" INDUSTRIAL DISTRICT**

**20.1301 STATEMENT OF PURPOSE.**

This district is designed to accommodate those uses not otherwise expressly included in the foregoing district classifications of an industrial and commercial nature and which, by virtue of the lack of conditions and restrictions attached to the operations, should be located in isolated areas or be located on sufficiently large sites to minimize any adverse effect emanating therefrom upon adjacent premises.

**20.1302 PERMITTED USES:**

- A. Any use permitted in the "1-2" Industrial District.
- B. Any kind of industrial manufacturing operations and operations for servicing, compounding, assembling or treatment of merchandise which does not emanate noise, vibration, odor,

smoke, dust, dirt, noxious gasses, glare, heat or psychological ill effect to such an extent as would be a nuisance or annoyance to owners or occupants of surrounding premises.

**20.003 SPECIAL EXCEPTION USES:**

A. Mining operations and incidental mineral processing.

**20.300 ARTICLE IV  
SPECIAL EXCEPTIONS**

**20.301 SPECIAL EXCEPTION STANDARDS.**

In order to make this ordinance a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the township, the Planning Commission, in addition to its other functions, is authorized to approve the establishment of certain uses designated as **Special Exception Uses** within the various zoning classifications set forth in the ordinance.

Such Special Exception Uses have been selected because of the unique characteristic of the use which, in the particular zone involved, under certain physical circumstances and without proper controls and limitations, might cause it to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto.

With this in mind, such Special Exception Uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the Planning Commission, in its absolute discretion, is satisfied that the same, under the conditions, controls, limitations, circumstances and safeguards proposed therefor, and imposed by said commission, would be compatible with the other uses expressly permitted within said district, with the natural environment and the capacities of public services and facilities affected by the land use; would not, in any manner be detrimental or injurious thereto; would not, in any manner, be detrimental or injurious to the use or development of adjacent properties to the occupants thereof or to the general neighborhood; would promote the public health, safety, morals and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; and that the standards required by the board for the allowance of such Special Exception Uses can and will, in its judgment, be met at all time by the applicant.

**20.302 SPECIAL EXCEPTION PROCEDURE:**

- A. All applications for Special Exception Use Permits shall be filed with the township clerk and shall include all pertinent plans, specifications, and other data, as required, upon which the applicant intends to rely for a Special Exception Use Permit.
- B. The Planning Commission shall, upon receipt of the application in proper form, schedule and hold a hearing upon the request, preceded by notification to the applicant, the owner of the property proposed for consideration and the owners and occupants of all property within 300 feet of the boundary of the property proposed for consideration as shown by the latest assessment role. If the name of the occupant is unknown, the term "occupant, may be used in the notice. The notice shall be mailed or personally delivered and published in the local newspaper of record between five and fifteen days prior to the bearing. Notification needs not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

All notices shall describe the nature of the special land use request, indicate the property which is the subject of the special land use request, state when and where the special land use request will be considered, and indicate when and where written comments will be received concerning the request.

- C. Following such hearing, said commission shall either grant or deny a permit for such Special Exception Use and shall state its reasons for its decision in the matter. All conditions, limitations and requirements upon which any permit is granted shall be specified in detail by said commission in its decision and shall be filed with the zoning enforcement officer of the township. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect natural resources, the health, safety and welfare and social and economic well-being of the owners and occupants of the land in question, of the area adjacent thereto and of the community as a whole constitute a valid exercise of the police power and be related to the purposes which are affected by the proposed use or activity; be consistent with the intent and purpose of the zoning ordinance; designed to

ensure compatibility with adjacent uses of land and the natural environment; and designed to ensure that the public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

- D. The Planning Commission shall have the right to limit the duration of a Special Exception Use where the same is of a temporary nature and may reserve the right of an annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such conditions and limitations may be terminated by action of said commission after a hearing upon application of any aggrieved party.
- E. The plot plan and specifications and all conditions, limitations and requirements imposed by the commission shall be recorded with the township and shall be incorporated as a part of the special exception permit. Violations of any of these at any time shall cause revocation of said permit and said special exception use shall cease to be a lawful use.
- F. Any property which is the subject of a special exception permit which has not been used for a period of six months (without just cause being shown which is beyond the control of the owner and which is acceptable to the Planning Commission) for the purposes for which such a special exception was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification and the permit for such special exception uses shall thereupon terminate and revert to original zoning.
- G. To ensure compliance with the zoning ordinance and any conditions, limitations or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the township and future users or inhabitants of the proposed project or project area, the Planning Commission may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition, limitation or requirement conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the township clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than the six months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

**20.303 EARTH REMOVAL, QUARRYING, GRAVEL PROCESSING, MINING AND RELATED MINERAL EXTRACTION BUSINESSES.**

Prior to the approval by the Planning Commission of a special exception use for earth removal, quarrying, gravel processing, mining and related mineral extraction businesses in the area of the township, said board shall be satisfied the following conditions and limitations are, or shall be, strictly complied with, in addition to any other requirements contained in the township zoning ordinance or in any other township ordinance controlling such operations.

**A Location**

1. All such operations shall be located on a primary road, as defined by the County, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, said board may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all weather» roads.
2. Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such excavation operation shall be permitted closer than 150 feet to interior boundary lines of the property or such larger setback as may be required by the Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly effected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the board and adequate lateral support as set forth at all times maintained.
3. No such excavation operation shall be permitted within 50 feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
4. The permanent processing plant and its accessory structures shall not be located closer than 250 feet from the interior property lines and the adjoining public rights-o f-way and

s hall, where practical, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.

5. No such excavation operation shall be located within 100 feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other State commission having jurisdiction thereof. No such mining operations shall interfere with the natural watershed flow of surface waters to the detriment or damage of adjoining public or private properties.

#### B. Sight Barriers

- I. Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:
  - (a). Earth berms constructed to a height of six feet above the mean elevation of the centerline of the adjacent public highway or six feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one foot vertical to three feet horizontal and shall be planted with grass, trees or shrubs.
  - (b). Plantings of evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than four feet in height at the time of planting and which grow to not less than six feet in height at maturity and sufficiently spaced to provide effective sight barriers when six feet in height.
  - (c). Masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than six feet and maintained in good repair.

#### C. Nuisance Abatement

1. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the use of proper berms, walls and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.

2. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
3. Hours: The operation shall be restricted to the hours of 7,0 clock am until 7 o'clock pm and no operations shall be allowed on Sundays.
4. Fencing: All dangerous excavations, pits and pond areas, banks or slope s shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.

D. Reclamation of Mined Areas

1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation shall be affected within one year after termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.
2. The following standards shall control reclamation and rehabilitation:
  - (a). All excavation shall be either to a water-producing depth of not less than five feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-flammable and non-combustible solids to ensure:
    - (i) That the excavated area shall not collect stagnant water and not permit the same to remain t herein; or,
    - (ii) That the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
  - (b). The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope which shall not be steeper than one foot vertical to three feet horizontal.

- (c). Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one-year period. Where used, top soil shall be applied to a minimum depth of four inches sufficient to support vegetation.
- (d). Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
- (e). Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time, not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they may be located under such plan may be retained.

E. A performance bond or cash shall be furnished the township clerk ensuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall not be less than \$3,000 per acre proposed to be mined or excavated in the following 12 months period and which has previously been mined or excavated during any proceeding period and not reclaimed and rehabilitated in accordance with this ordinance and the applicant's filed plan. Mined areas resulting in a water depth of five feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shoreline thereof and to the extent of the shoreline where the same has been sloped to a grade of not more than one vertical to three horizontals, for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually on or about the anniversary date of the excavation permit for adjustment and compliance with the forgoing requirements by the zoning administrator of the township and the township planning commission. In no event shall such financial guarantee be less than \$3,000 in amount.

F. Submission of Operation and Reclamation Plans.

- 1. No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the

Planning Commission disclosing compliance with all of them provisions of the within ordinance or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:

- A. A Contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets, and whether or not the same are "all weather» roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
- B. The number of acres and the location of the same proposed to be operated upon within the following 12-month period after commencement of operations.
- C. The type of mining or processing proposed to be conducted and the nature of the equipment to be used
- D. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
- E. Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than 150 feet from the boundaries of the site, said soil boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the township engineer. The written consent of the owners of adjoining premises and of the Zoning Commission shall be required if mining operations shall be closer than specified in the within ordinance to the boundaries of the site.
- F. A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and other such matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.
- G. Hearing
  - I. After receiving an application for the grant of a special exception permit for an earth removal, quarrying, gravel processing, mining, and related mineral extraction business accompanied by the required plans and specifications and permit fees, the Planning Commission shall hold a public hearing upon such application in the same

manner preceded by the same notice as set forth in Section 20.302 of this ordinance pertaining to special exception uses.

2. Opportunity shall be given to all present to be heard at such hearing.
3. Following such hearing, said Planning Commission shall grant or deny the application and set forth its reasons of its decision. Such decision shall be based upon the criteria set forth in the within ordinance and shall be based, in addition, on a consideration of the following:
  - A. The most advantageous use of the land, resources and property.
  - B. The character of the area in question and its peculiar suitability, if any, for particular uses.
  - C. Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area.
  - D. The protection and preservation of the general health, safety and the welfare of the township.
  - E. The scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations
  - F. Whether or not the operations were previously in existence proper to the adoption of the text provision concerning the same and the extent and character of such previous operations.
  - G. In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety, and general welfare of the neighborhood and the adjoining residents and property owners. It may also *limit* the length of time its special exception permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. It shall be empowered to renew or extend a special exception permit where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area. No permit shall be revoked or not renewed until the operator has been given

written notice of any violation forming the basis of such revocation or denial of renewal and not less than thirty (30) days have elapsed to correct the said violation. All permits shall be reviewed by the Planning Commission annually.

The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.

#### H. Liability Insurance

All operators shall be required to carry personal injury and property damage insurance while any unreclaimed or unrehabilitated area exists, in the amount of not less than **\$100,000** for each person or property injured or damaged and not less than **\$300,000** for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operation as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the township clerk.

#### I. Variances

The Zoning Board of Appeals shall have the right and authority to grant variances from the foregoing conditions and limitations where particular circumstances or hardship may exist, the spirit and the intent of the provisions to protect the neighborhood from devastation are still complied with and substantial justice would thereby be affected.

## **20.400 ARTICLE V**

### **20.401 NON-CONFORMING USES**

The following regulations shall control lawful non-conforming uses in existence at the time of passage of this ordinance.

**20.402** Lawful non-conforming uses or structures in existence or under construction of this ordinance may be continued but shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this ordinance. If under construction, must be completed within one (1) year time period.

- 20.403** If the cost of repair or replacement of the non-conforming use or structure which has been destroyed by reason of windstorm, fire, explosion or any act of God or the public enemy exceeds fifty percent (50%) of the total replacement cost of the use or structure, such use or structure shall not be continued or rebuilt except in conformity with the provisions of this ordinance and started within a one (1) year timeperiod.
- 20.404** If the non-conforming use of any land or structure shall terminate for a continuous period of time exceeding one (1) year, such use shall not be reestablished and any future use of the land and structure shall be in conformity with this ordinance.
- 20.405** If a non-conforming use is changed to a permitted or more restrictive use in the district which it is located, it shall not revert or be changed back to a non-conforming less restrictive use.
- 20.406** Notwithstanding the foregoing, a home located in a zone which does not permit the same may still be altered, expanded and/or rebuilt.

20.500

**ARTICLE VI****SETBACK AND SIDE LINE SPACING**

- 20.501** In "A" Agricultural Districts, "R-1" Residence Districts, "R-2, Residence Districts, "R-3" Residence Districts and "R-4" Residence Districts there shall be:
- A. No building or structure or any portion thereof, except steps and uncovered porches less than ten (10) feet in width, shall be erected within fifty (50) feet from the right-of-way of any road or street. "The right-of-way line shall be established by the Michigan Department of Transportation or the Gratiot County Road Commission."
- B. Front yards shall be fifty (50) in depth from the edge of the highway or street right-of-way, except when forty percent (40%) or more of the dwellings within three hundred (300) feet of either side of a proposed residential building have uniform front yard setbacks, either greater or less than required in that district by this Ordinance, the setback line of the proposed residential building shall be the same as such uniform setback line, provided that no new setback line shall

unreasonably restrict the use of such property. and provided that no new residential building shall be erected less than twenty (20) feet from the side line of the street nor need be set back more than fifty (50) feet.

- C. Side yards shall not be less than twenty-five (25) feet in width between any structure and the lot line. If the side yard abuts on an intersecting highway or street, the side yard shall have a minimum depth of fifty (50) feet from the edge of the right-of-way.
- D. The front and rear yards in "**A-R**" and "**R**" Districts shall be maintained across the entire width of the lot except for that space occupied by permitted accessory buildings. The yards shall be kept clear and unobstructed, shall not be used for the storage of materials, rubbish or debris, but maybe used for gardening and planting.
- E. . Rear yards, in "**A-R**" District and "**R**" District there shall be on every lot a rear yard, the minimum depth of which shall be fifty (50) feet. The depth of a rear yard abutting upon a street shall not be less than the depth of the front yard required for a building of the same kind and size, on adjoining interior lot fronting on such rear street. In rear yards, accessory buildings will be permitted and may be constructed within ten (10) feet of either side lot line or the rear lot line, provided, however, that the use of such structure does not tend to produce objectionable noise or annoyance or prove otherwise injurious to the surrounding neighborhood. There must be a rear yard area of not less than twenty-five (25) feet from the rear of the main dwelling to the nearest accessory building and extending from side lot line to the other side lot line.
- F. No barn or farm outbuilding located on property adjacent to a residential lot in an "**R**" District may be erected within two-hundred (200) feet of the dwelling house.

**20.502** In Class "**C**" Commercial Districts, "**I**" Industrial Districts, the minimum setback line for commercial and industrial buildings shall be seventy-five (75) feet from all street /road right-of-way lines abutting the property and there shall be a minimum setback line for the parking or storage of automobiles and vehicles outside buildings or structures of not less than twenty-five (25) feet; provided, however, that *in* any such districts where there are commercial and industrial buildings (other than private residences or buildings originally constructed as private residences) already existing on the effective date of this amending ordinance, on the side of the street between

two (2) intersecting streets, the minimum setback for buildings on such side of the street between such intersecting streets shall be to the depth as established by such existing commercial or industrial building which is closest to the street line. In no event, however, shall vehicle parking be allowed on private premises closer than twenty-five (25) feet to the street/road right-of-way line abutting such premises except where such parking is presently being conducted on the effective date of this ordinance, and no other parking are on the premises is available which would permit parking beyond said twenty-five (25) foot setback requirement. There shall be no side or rear line restriction from interior lot lines for commercial and industrial buildings within such commercial and industrial districts unless otherwise specified in this ordinance. Any residential buildings, however, constructed within said district shall be set back not less than five (5) feet from such interior, side and rear lot lines.

It is further provided that notwithstanding anything herein contained to the contrary, the minimum setback line shall be twenty-five (25) feet for gasoline pumps, display racks, air pumps, and other equipment; and twenty-five (25) feet for cars, farm machinery and other vehicles on property used for the sale of same.

**20.503** No temporary outside toilets shall be erected closer than fifteen (15) feet to the side line of the premises upon which such structure is to be placed; provided, however, that such structure shall not be erected closer that twenty-five (25) feet to any building being used as a permanent habitation upon adjoining premises.

**20.600**

## **ARTICLE VII**

### **DWELLING CONFIGURATION & AREA REQUIREMENTS**

**20.601** Every one(1) family dwelling hereafter erected, altered or moved upon premises in any "R" District shall contain not less than nine-hundred, sixty (960) square feet of floor area at the first floor level. Two-story and one and one-half story houses shall contain not less than nine-hundred, sixty (960) square feet of first-floor area. In no case shall such area include area in an attached garage, open porch or other attached structure.

The minimum floor space for a Mobile Home on a permanent foundation and used for a dwelling shall be eight-hundred, forty (840) square feet. The area of the

Mobile Home shall be figured from the specified dimensions on the title of said Mobile Home. In no case shall such area include area in an attached garage, open porch or other attached structure.

A Modular, Manufactured Home shall have a minimum of nine hundred, sixty (960) square feet of floor area at the first-floor level. In no case shall such area include area in an attached garage, open porch or other attached structure.

20.602 AU measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways and carports.

20.603 In the event of any controversy concerning what constitutes habitable floor area, Zoning Board of Appeals is hereby given the authority to determine the same upon application thereto by either the Zoning Administrator of the township or by the applicant for a building permit.

20.700

## **ARTICLE VIII**

### **OFF-STREET PARKING OF MOTOR VEHICLES**

20.701 Every property owner shall provide and maintain an adequate number of off-street parking spaces, and the necessary loading and unloading facilities associated thereto in each district for all occupants, employees and patrons of said property.

20.702 A plan showing the required parking and loading spaces, including the means of access and interior circulation for all dwellings shall be provided at the time of application for a building permit for the erection or enlargement of any building/dwelling.

20.703 Parking space shall be provided in the manner and location herein specified.

1. No parking area, parking space or loading space which exists at the time this Ordinance becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this ordinance unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this Ordinance within

three-hundred (300) feet of the proposed or existing uses for which such parking will be available.

2. Parking of motor vehicles in Residential zones, except those used for farming, shall be limited to passenger vehicles, and not more than one commercial vehicle of the light delivery type not to exceed  $\frac{3}{4}$  ton. The parking of any other type of commercial vehicles, or busses, except for those parked on school property, is prohibited in a Residential zone.

**20.704** Requirements for all parking spaces and parkinglots:

1. Each automobile parking space shall not be less than two-hundred (200) square feet nor less than ten (10) feet wide, exclusive of driveway and aisle space.
2. All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets and shall be constructed of materials which have a dust-free surface resistance to erosion.
3. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining residential lots.
4. No parking space shall be closer than thirty (30) feet from the property line or buffer line.
5. Off-street parking facilities in non-residential zones shall be effectively screened on any side which adjoins or faces property in any residential zone by a wall, fence, or compact planting not less than four (4) feet or more than eight (8) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.
6. All off-street parking area that make it necessary for vehicles to back out directly into a public street /road are prohibited, provided that this prohibition shall not apply to off-street parking areas for one- or two-family dwellings.
7. Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely

within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.

#### 20.705 Minimum Required Parking Spaces.

1. Apartment houses: Three (3) parking spaces for family unit.
2. Office buildings: One (1) parking space for each two-hundred (200) feet of floor space utilized for work space for employees.
3. Retail stores, supermarkets, department stores, personal service shops and shopping centers: One (1) parking space for each one-hundred (100) square foot area in the basement and on the first floor used for retail sales; one (1) space for each one-hundred, fifty (150) square feet of floor area on the second unused for retail sales; one (1) space for each three-hundred (300) square feet of floor area on the third floor used for retail sales; and one (1) space for each four-hundred (400) square feet of any additional floor used for retail sales.
4. Manufacturing buildings: One (1) parking space for each three(3) employees on the maximum shift.
5. Libraries, museums and post offices: One (1) parking space for each one-hundred (100) square feet of floor area.
6. Bowling alleys: Three (3) parking spaces for each alley.
7. Motels and tourist homes: One (1) parking space for each separate unit.
8. Theaters, auditoriums, stadiums and churches: One (1) parking space for each four (4) seats.
9. Dance halls, assembly halls and convention halls without fixed seats: One (1) parking space for each one-hundred (100) square feet of floor area if to be used for dancing or assembly.
10. Restaurants and night clubs: One (1) parking space for each one-hundred (100) square feet of floor area.
11. Roadside stand: Two (2) parking spaces.

12. Schools, private or public elementary and junior high schools: One (1) parking space for each employee normally engaged in or about the building and grounds. Senior High Schools and institutions of higher learning: One (1) parking space for each employee normally engaged in or about the building or grounds and one additional space for each five (5) students enrolled in the institution.
  13. Other uses not specifically mentioned: In the case of buildings which are used for uses not specifically mentioned, those provisions for off-street parking facilities for a use which is so mentioned and to which said use is similar in terms of parking demand shall apply.
  14. Mixed uses in the same building: In the case of mixed uses in the same building, the amount of parking space for each use specified shall be provided and the space for one use shall not be considered as providing required spaces for any other use except as to churches and auditoriums incidental to public and parochial schools permitted herein.
- 20.706 The Zoning Board of Appeals shall have authority to grant variances from the foregoing where it is satisfied under the circumstances prevailing that the requirements for off-street parking are unnecessarily too large for the particular development.

**20.800****ARTICLE IX****USE DISTRICT BOUNDRIES**

- 20.801** The location and boundaries of the zones established in the township shall be shown on a map entitled Zoning Map of Emerson Township and said map, section, or portion thereof: together with all notations, dimensions and other data shown thereon, are hereby made a part of this ordinance to the same extent as if the information set forth on said map were fully described and incorporated herein.
- 20.802** The official copy of the zoning map, properly attested, shall be in the custody of the township clerk.
- 20.803** Such zoning map may be amended from time to time to reflect changes in zones and the rezoning of property shown thereon in the same manner as amendments may be made to the text of this Zoning Ordinance. Such changes shall be recorded to scale on

duplicate copies of the original zoning map and shall be accomplished by written legal descriptions in appropriate amending ordinances,

**20.900****ARTICLE X****RESIDENTIAL BUFFER AREA**

- 20.901** As a result of the lack of zoning prior to the adoption of this ordinance, many residential dwellings have been constructed and located within areas that are now predominately commercial or industrial areas. In order to protect such existing dwellings from new commercial or industrial activities or structures, it is herein provided that no new commercial or industrial activities or structures shall hereafter be located closer than two-hundred (200) feet to any such existing dwelling property line and further new commercial or industrial structures or activities shall be screened from such adjoining dwelling in accordance with the provisions of Article XI of this ordinance.
- 20.902** The foregoing provision shall not, however, operate to reduce the usable area of the adjoining commercial or industrial property under bona fide separate ownership on the effective date of this ordinance below fifty per cent (50%). If the same would cause such a result, this buffer area shall be accordingly reduced to permit such fifty per cent (50%) use.

**20.1000****ARTICLE XI****GENERAL LIGHTING AND SCREENING REQUIREMENTS**

- 20.1001** All lighting upon any premises, regardless of zone, shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or to the traveling public on public highways.
- 20.1002** Except as otherwise provided in this zoning ordinance, all premises used for business, commercial or industrial purposes and located within a Commercial or lower district classification shall be screened from adjoining premises located in a "R-4" Residential District or higher district classification by any of the following methods:

1. A natural compact planting area of evergreens or shrubbery which maintain their density and screening effect throughout the calendar year, not less than four (4) feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential district.
2. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants or adjoining premises, not less than five (5) feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
3. No such planting area, wall or fence shall be closer than ten (10) feet from any adjoining street right-of-way line or property line.

**20.1003** In the event of any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the Zoning Board of Appeals shall have the right and is hereby given the authority to determine whether the same is a violation of those screening and lighting provisions and the purpose herein sought to be accomplished of the screening of abutting businesses and residential properties and the prevention of nuisance from artificial lighting.

**20.1004**

## **ARTICLE XI**

### **REQUIREMENTS FOR A BUILDING PERMIT**

1. Residential and Commercial Building Permits shall meet all drainage regulations and be approved by the County Drain Commissioner and proposed water supply shall be approved by the County Health Department.
2. No structure shall be erected, altered, or excavation started until a building permit has been issued by the township Zoning Administrator for same.
3. **Water Supply:** Every living unit shall have available a supply of safe water obtained from either:
  - A. A municipal supply if available.
  - B. A drilled or driven well.

4. **Sewage Disposal:** No premises shall be occupied for dwelling purposes unless provision shall have been made for disposal of sewage through a municipal sewage disposal system or a private sewage disposal system constructed in accordance with the standards and requirements of the Michigan Department of Health. No septic tank or tile used in conjunction with the sewage system from any dwelling or building shall be installed within fifteen (15) feet of the lot line of an adjoining property owner or within fifty (50) feet of an existing well. No well used for household purposes shall be installed within twenty-five (25) feet of the lot line of an adjoining property owner.
5. No septic tank, drain field or tile used in conjunction with the sewage system from any dwelling or building shall be installed within fifty (50) feet of the normal water level of any lake, pond, river or stream.

**20.1100****ARTICLE XII****TENTS AND TRAVEL TRAILERS: MOBILE HOMES**

- 20.1101** Tents, travel trailers and/or automobile trailers shall not be used for dwelling purposes within the township limits; provided, however, that travel trailers or automobile trailers may be used for temporary dwellings for a total period of not more than 14 days in any one year when located upon premises having running water and sewage facilities, and provided further that automobile trailers and travel trailers may be occupied for dwelling purposes within duly licensed travel trailer camps and subject to the requirements thereupon imposed.
- 20.1102** Mobile Homes which do not conform to the standards of Section 20.120 of this ordinance shall not be used for dwelling purposes within the township unless located within a Mobile Home Park or a mobile home plat zoned for such uses, unless used for temporary residence purposes as hereinafter provided. A variance permit may be secured from the Zoning Board of Appeals to use a mobile home as a temporary residence for a period not to exceed One (1) year, provided that the ability and intent to erect a house on the premises is shown; provided that the mobile home is located upon premises having running water and sewage facilities; provided further that upon expiration of the one year period, the Zoning Board of Appeals may renew the permit for an additional period of one (1) year upon sufficient showing that the house construction could not be completed within said one (1) year but has substantially

Progressed during said period. Said board may require a performance bond conditioned upon the removal of the mobile home from the premises within the time limited in an amount satisfactory to said Board.

**20.1200****ARTICLE XIII****DISMANTLED, NON-OPERATING OR UNLICENSED MOTOR VEIDCLES**

- 20.1201** No person, firm or corporation shall store, place or permit to be stored or placed, allowed to remain on any parcel of land for a period of more than ten (10) days in any one year a dismantled, partially dismantled or inoperable motor vehicle, unless the same is kept in a wholly enclosed structure , or is located in an approved junkyard by special exception as herein provided, or unless a variance therefore is first obtained from the Township Board of Appeals to be granted in a special hardship cases beyond the control of the applicant, where peculiar circumstances exists, where not an adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.
- 20.1202** No person, firm or corporation shall park or store upon premises within the township a motor vehicle in operating condition which is not regularly used for the purpose for which it was manufactured or designed unless the same is kept within an enclosed building, approved junkyard, or unless a variance is first obtained therefore from the Board of Appeals, to be granted only in special hardship cases beyond the control of the applicant, where special peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.
- 20.1203** The purpose of these regulations is to *limit* and restrict the outdoor storage or unreasonable accumulation of junk cars, unused cars, stock cars and dilapidated non-operating motor vehicles upon any land in the township except within areas where a junk dealer is permitted to operate or the area is zoned for such purposes.
- 20.1204** These provisions shall not be construed as repealing any ordinance now in effect or hereafter made effective relating to rubbish, litter,garbage, refuse, trash or junk but shall be construed as supplementary to any ordinances, as well as any statutes of the State of Michigan relating thereto.

**20.1205** Any motor vehicle must be in operating condition and eligible for use in accordance with the requirements of the Michigan Motor Vehicle Code being Act No. 300 of 1949, as amended. This regulation includes the following:

1. An engine that runs, four wheels, four tires capable of holding air, current license plates, and a working battery.

20.1300

## ARTICLE XIV

## ADVERTISING SIGNS AND BILLBOARDS

20.1301

No advertising signs or billboards of any land or nature shall be erected in a "R-1" or "R-2" Residential District or any variation of the same except as follows:

1. In a Residential "R-1, or "R-2, District, a name plate **not exceeding** *Four* (4) square feet in area, containing the name and home occupation of the resident of the premises and a temporary sign, pertaining to the construction, lease, hire or sale of building or premises, **not exceeding** Eight (8) square feet in area may be installed or constructed.
2. In a Residential Subdivision or "R-4" (Mobile Home Parks) District, a name plate, **not exceeding**, one (1) square foot in area containing the name the home occupation of the resident of the premises and a temporary pertaining to the construction, lease, hire, or sale of a building or premises, **not exceeding**, eight (8) square feet in area may be installed or constructed.

20.1302

In an Agricultural "A" District classification or any variation of the same, a sign, **not exceeding**, eighteen (18) square feet in area, advertising permitted services rendered or offered upon or from the premises where the same is situated (except for home occupation and temporary signs which may be governed by exception No. 1 above) may be constructed, provided it is located **not less** than twenty-five (25) feet from the required building setback from the street/road right of way abutting the property; it in no way, constitutes a traffic hazard; is of a subdued nature commensurate with the residential or agricultural character of the neighborhood; is maintained in a neat and attractive manner; contains no neon or intermittent lighting or other bright or glaring lighting which would be a nuisance or annoyance to a neighborhood or which would create any electrical disturbance therein; and if projecting from a building or located over a sidewalk or pass way is **not less** than eleven (11) feet above such sidewalk or pass way.

No signs shall be erected within three hundred (300) feet of a residence unless the owner of the residence waives this provision in writing and such waiver is presented in writing and such waiver is presented to the Township Planning Commission with the application for the land use permit.

- 20.1303** None of the foregoing signs shall be erected or installed until a permit is first obtained from the Building and Zoning Administrator of the township.
- 20.1304** Billboards may be erected in a Commercial "C-1" District, provided they do Not exceed five hundred (500) square feet in area; are set back not less than Seventy-five (75) feet from any abutting street/road right of way line; do not constitute a traffic hazard; are maintained in a neat and attractive manner; do not create a nuisance or annoyance by reason of lighting, electrical disturbance, or otherwise; and are not installed or constructed until a permit therefor has been received from the building and zoning administrator of the township.
- 20.1305** Advertising signs, advertising goods, products, services or activities sold, produced, rendered or available from or upon the premises where the same are located, may be installed or constructed within a Commercial "C-1" District or lower zoning district classification, provided they are located not less than ten (10) feet from the side line of the property not less than thirty (30) feet from the required building setback distance from the abutting street/road right of way line; in no manner constitute a traffic hazard are not less than eleven (11) feet above any sidewalk or pass way for pedestrians or vehicles beneath the same; are not a nuisance or annoyance by reason of lighting, electrical disturbance, or unreasonable size, and are not constructed or installed until a permit has first been obtained therefor from the building and zoning administrator of the township.
- 20.1306** No advertising sign or billboard permit shall be issued until the building and zoning administrator is satisfied the sign or billboard to be constructed complies with the provisions of this ordinance and will be constructed in a safe, sturdy, and durable manner with the proper bracing, anchorage and foundation.
- 20.1307** Signs within business, commercial or industrial areas, as defined in the "Highway Advertising Act of 1972" (1972 PA 106), bordering interstate highways, freeways, or primary highways as defined in said Act shall be regulated and controlled by the provisions of such statute, notwithstanding the provisions of the within zoning ordinance.

20.1400

**ARTICLE XV****EMERSON TOWNSHIP FIRE CHARGES ORDINANCE**

An Ordinance to establish charges for Fire Department Services under Michigan Public Act. 33 of 1951, as amended (Compiled Law 41.801 etc.) And provide methods for the collection of such charges and exemptions therefrom.

20.1401

**Purpose**

The within Ordinance is adopted for the purpose of providing financial assistance to the Township from those receiving direct benefits from the fire protection service. It is further the purpose of the within Ordinance to provide for the full funding of the expense of Fire Department protection which remains, in part, an at-large governmental expense which is based upon the general benefits derived within the Township from the existence of fire protection to extinguish fires within the Township and to perform related emergency services.

20.1402

**Charges**

There shall be a charge due and payable to the Township in the amount of Two Hundred - Fifty Dollars (\$250.00) for each fire run involving a building or real estate.

There shall be a charge due and payable to the Township in the amount of Five Hundred Dollars (\$500.00) for each fire run involving a motor vehicle.

There shall be no charge for false alarms.

20.1403

**Time for Payment for Run**

The foregoing charge shall be due and payable within thirty (30) days from the date of the fire run, and in the event said charge is not paid within the said thirty (30) days, the same shall be collectible through proceedings in district court or any other court of competent jurisdiction as a matured debt.

20.1404

**Lien Rights**

Where land or other property of value remains following a fire call by the Fire Department, the Township shall hereby have a lien upon the same to secure payment of the foregoing charge due to the Township resulting from such fire protection service. Such lien shall remain upon the property until the charge has been paid in full and may be foreclosed by the Township to secure such charge in

the same manner as the foreclosure of the "Mechanics" lien under the laws and statutes of the State of Michigan existing at the time of such foreclosure.

The foregoing lien right shall not preclude the township from proceeding in District Court by suite to collect any monies remaining unpaid.

**20.1405**      **Non-Exclusive Charge**

The foregoing charge shall not be exclusive of the charges that may be made by the Township for the costs and expenses of maintaining a Fire Department, but shall only be supplemental thereto. Charges may additionally be collected by the Township through general taxation after a vote of the electorate approving the same or by special assessment established under the Michigan statutes pertinent thereto. General fund appropriations may also be made to cover such additional costs and expenses.

**20.1406**      **Multiple Property Protection**

Where a particular service rendered by the Fire Department directly benefits more than one person or property, the owner of each property so benefited and where property protection is not involved shall be liable for the payment of the full charge for such service hereinbefore outlined. The interpretation and application of the within section is hereby delegated to the Township Clerk, subject only to appeal, within the time limits for payment, to the Township Board and shall be administered so that the charge shall only be collected from the recipients of the service.

**20.1407**      **Severability**

Should any provision or part of the within Ordinance be declared by any court or competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of the Ordinance which shall remain in full force and effect.

20.1500

**ARTICLE XVI****EMERSON TOWNSHIP MOTOR VEIDCLE ORDINANCE**

20.1501

**Purpose**

An Ordinance regulating the accumulation or storage of partially dismantled or inoperative Motor vehicles on private property.

20.1502

**Emerson Township Ordains:**

Unless otherwise permitted, no person or corporation, whether he be the owner, Tenant or manager of private property, or whether he be the last registered owner of the vehicle or transferee on a Bill of Sale covering the vehicle, shall permit the accumulation on private property of one or more motor vehicles or parts or pieces thereof, which do not meet the following conditions:

1. Any motor vehicle must be in operating condition and eligible for use in accordance with the requirements of the Michigan Motor Vehicle Code, being Act. No. 300 of 1949, as amended. Provided, that any such vehicle may not comply with these regulations for a period **not exceeding** thirty (30) days in any one year.
2. These requirements include, but are not limited to, an engine that runs, four wheels and four pneumatic tires capable of holding air, current license plates and a working battery.
3. Any person enumerated in this section who, under special conditions of hardship, or for valid reasons such as preservation of a historic or classic vehicle, may request an extension of the thirty (30) day limitation above described by filing a timely request with the Township Board. Said Township Board may, at its discretion, after review of all the circumstances and after holding any hearings which it deems necessary, grant said applicant any reasonable extension of time.

4. These provisions shall apply in all areas except where the storage of said vehicles or parts and pieces of are in a completely enclosed building, or in a junk or salvage yard where a valid permit has been authorized by the Planning Commission.
  
5. Upon conviction of the violation of this Ordinance, there shall be a maximum One Hundred Dollar (\$100.00) fine or Ninety (90) days in jail at the discretion of the Court. Minimum fine for the conviction as a **First Offense** is Twenty-Five Dollars (\$25.00); minimum fine for a conviction as a **Second Offense** is Fifty Dollars (\$50.00); minimum fine for the conviction as a **Third Offense** is Seventy-Five Dollars (\$75 .00).

20.1600

## ARTICLE XVII

**SEXUALLY ORIENTED BUSINESS ORDINANCE  
(ADULT ENTERTAINMENT BUSINESSES)**

20.1601

**Purpose**

Whereas., sexually oriented businesses require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such business as well as the citizens of the communities where they locate, and

Whereas, the **Emerson** Township Board finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

Whereas, the concern over sexually transmitted diseases is a legitimate health concern of the Township which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

Whereas, permitting and/or licensing is a legitimate and reasonable means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations; and

Whereas, there is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing deleterious location and a concentration of sexually oriented businesses within the Township. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarity, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

**20.1602**     **Definitions**

- A.     **Adult Bookstore.** An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: a) books, magazines, periodicals, or other printed matter, or photographs, films, movies, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis on the depiction or description of **SPECIFIED SEXUAL ACTIVITIES**, or **SPECIFIED ANATOMICAL AREAS**, or b) instruments, devices, or paraphernalia designed for the use as part of, or in connection with **SPECIFIED SEXUAL ACTIVITIES**.
- B.     **Adult Motion Picture Theater.** An establishment where, for any form of consideration, films, motion pictures, videos, slides or other photographic reproductions are shown, in which a **SUBSTANTIAL PORTION** of the total presentation is devoted to the showing of material characterized by an emphasis on the depiction or description of **SPECIFIED ANATOMICAL AREAS** or **SPECIFIED SEXUAL ACTIVITIES**.
- C.     **Adult Entertainment Business.** One or a combination of more than one of the following types of businesses: **ADULT BOOKSTORE**, or **ADULT MOTION PICTURE THEATER**
- D.     **Substantial Portion.** **SUBSTANTIAL PORTION** means a use or activity accounting for more than 20% of any one or more of the following: stock-in-trade, display space, floor space, or viewing time, movie display time, or entertainment time measured per month.
- E.     **Specified Anatomical Areas.** Specified anatomical areas means and includes any one or more of the following: a) Less than completely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or b) human male genitals in a discernible turgid state, even if completely and opaquely covered.
- F.     **Specified Sexual Activities.** Specified sexual activities means and includes any one or more of the following: a) the fondling or erotic touching of human genitals, pubic region, buttocks, anus or female breasts; b) human sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, and sodomy; c) human masturbation, actual or simulated; d) human excretory functions as part of, or as related to, any one of the activities

described above, and e) physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to, any of the activities described above.

**20.1603 Permit and/or License Required**

- (A.) It shall be unlawful for a person(s) to operate a sexually oriented business without a valid permit and/or license, issued by the Township Planning Commission.
- (B.) **An** application for a permit and/or license must be made on a form provided by the Township of **Emerson**. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior premises to an accuracy of plus or minus six inches.
- (C.) If a person(s) who wishes to operate a sexually oriented business is an individual, (s)he must sign the application for a permit/license as the applicant. If the person(s) who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten (10%) percent or greater interest in the business must sign the application for a permit/license as the applicant. If a corporation is listed as owner of a sexually oriented business, each individual having a ten (10%) percent or greater interest in the corporation must sign the application for a permit and/or license as the applicant.
- (D.) The fact that a person possesses other types of state or county permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit and/or license.
- (E.) Applications for a permit, whether original or renewal, must be made to the Township Planning Commission by the intended operator of the establishment. The intended operator shall be required to give the following information on the application form:
- (1.) a. The names and street address (and mailing address if different), and Michigan driver's license number of the intended operator if (s)he has such a driver's license  
b. The name and street address (and mailing address if different) of the owner(s);
  - (2) The name under which the establishment is to be operated and a general description of the services to be provided;
  - (3) The telephone number of the establishment;

- (4) The address and legal description of the tract of land on which the establishment is to be located;
- (5) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the permit is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the permit is sought; and
- (6) If the establishment is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the permit). If the expected start-up date is to be more than ten (10) days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.

( F.) The application shall be accompanied by the following:

- (1) Payment of the application fee in full
- (2) If the establishment is a Michigan corporation, a certified copy of the articles of incorporation, together with all amendments thereto.
- (3) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto.
- (4) If the establishment is a limited partnership formed under the laws of Michigan, a certified copy of the certificate of limited partnership, together with all amendments thereto.
- (5) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto.
- (6) Proof of the current ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed.
- (7) If the persons identified as the owner(s) of the tract of land in item (6) are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the establishment to have

or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment.

- (8) Any of items (2) through (7) above shall not be required for a renewal application if the applicant states that the documents previously furnished with the original application or previous renewals thereof remain correct and current.
- (G) The application shall contain a statement under oath that:
- (1) The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and,
  - (2) The applicant has read the provisions of this article.
  - (3) A separate application and permit shall be required for each sexually oriented business.

#### **20.1604 Issuance of Permit and/or License**

- (A) The Planning Commission shall approve the issuance of a permit and/or license to an applicant within 30 days after receipt of an application, unless it finds one or more of the following to be true:
- (1) An applicant is under eighteen (18) years of age.
  - (2) An applicant or an applicant's spouse is overdue in his payment to the Township of taxes, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
  - (3) An applicant has failed to provide information reasonably necessary for issuance of the permit and/or license or has falsely answered a question or request for information on the application form.
  - (4) An applicant is residing with a person who has been denied a permit and/or license by the county to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
  - (5) The permit and/or license fee required by this ordinance has not been paid.

- (6) An application of the proposed establishment is in violation or is not in compliance with any of the provisions of this ordinance.
- (7) An applicant has been convicted of any of the following criminal offenses in any jurisdiction:
  - (a) prostitution, procuring a prostitute, or solicitation of a prostitute;
  - (b) sale distribution, or display of obscene material;
  - (c) sale, distribution, or display of material which is harmful to minors;
  - (d) soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
  - (e) possession, sale, or distribution of child pornography;
  - (f) public lewdness;
  - (g) indecent exposure;
  - (h) indecent conduct with a child;
  - (i) sexual assault or rape;
  - (j) incest;
  - (k) sexual solicitation of a child;
  - (l) contributing to the delinquency of a minor; or
  - (m) harboring a runaway child.
- (B) The permit and/or license, if granted, shall state on its face, the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit and/or license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

- (C) In the event that the Planning Commission determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days of the receipt of its application by the Planning Commission, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this ordinance.
- (D) An applicant may appeal the decision of the Planning Commission regarding a denial to the Zoning Board of Appeals by filing a written notice of appeal within fifteen (15) days after the applicant is given notice of the Planning Commission's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Planning Commission may submit a memorandum in response to the memorandum filed by the applicant on appeal. After reviewing the relevant information, the Zoning Board of Appeals shall vote to either uphold or overrule the Planning Commission's decision. Such vote shall be taken within forty-five (45) calendar days after the date on which the board receives the notice of appeal. However, all parties shall be required to comply with the Planning Commission's decision during the pendency of the appeal.

20.1605 Fees

The annual fee for a sexually oriented business permit and/or license is Five-Hundred Dollars (\$500.). This fee is to be used to pay for the cost of the administration and enforcement of this ordinance.

**20.1606 Expiration of Permit and/or License.**

- (A) Each permit and/or license shall expire one year from the date of the issuance and may be renewed only by making application as provided in Section **20.1604**. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit and/or license will not be affected.
- (B) When the Planning Commission denies renewal of a license, the applicant shall not be issued a permit and/or license for one year from the date of denial. If, subsequent to denial, the Planning Commission finds that the basis for denial of the renewal permit and/or license has been corrected or abated, the applicant may be granted a permit and/or license if at least ninety (90) days have elapsed since the denial became final.

**20.1607      Suspension.**

The planning Commission shall suspend a permit and/or license for a period not to exceed thirty (30) days if it determines that the permittee and/or licensee or an employee of the permittee and/or licensee has:

- (1) violated or is not in compliance with any section of this ordinance;
- (2) become impaired or intoxicated through the use of alcoholic beverages while on the sexually oriented business premises;
- (3) refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance;
- (4) knowingly permitted gambling by any person on the sexually oriented business premises.

**20.1608      Revocation.**

- (A) The Planning Commission shall revoke a permit and/or license if a cause of suspension Section **20.1604** occurs and the permit and/or license has been suspended within the proceeding twelve (12) months.
- (B) The Planning Commission shall also revoke a permit and/or license if they determine that:
  - {1) a permittee and/or licensee gave false or misleading information in the material submitted during the application process;
  - (2) a permittee and/or licensee or an employee has knowingly operated the sexually oriented business during a period of time when the permittee's and/or licensee's permit and/or license was suspended;
  - {3) there was a change of owner or operator for which a transfer application was not timely filed.
- (C) When the Planning Commission revokes a permit and/or license, the revocation shall continue for one (1) year, and the permittee and/or licensee shall not be issued a sexually oriented business permit and/or license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Planning Commission finds that the basis for the revocation *has* been corrected or abated, the applicant may be granted a permit and/or license, if at least ninety (90) days have elapsed since the date the revocation became effective.

**20.1609      Transfer of Permit and/or License.**

A permittee and/or licensee shall not transfer his permit and/or license to another, nor shall a permittee and/or licensee operate a sexually oriented business under the authority of a permit and/or license at any place other than the address designated in the application.

**20.16 10      Location Restrictions.**

- (A) A sexually oriented business may not be operated within 2650 feet of: (1)  
A public or private elementary or secondary school;
- (B) A sexually oriented business may not be operated within 1500 feet of: (1)  
a church, synagogue or regular place of religious worship;  
(2) a boundary of any residential zoned district or any residential structure within or without a zoned area;  
(3) a public park;  
(4) a licensed day-care center;
- (C) A sexually oriented business may not be operated within 1000 feet of:  
(1) another sexually oriented business
- (D) A sexually oriented business may not be operated in the same building, structure, or portion thereof: containing another sexually oriented business.
- (E) For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential daycare center.

- (F) For purposes of Subsection (E) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

**20.1611 Non-Conforming Uses.**

Any business operating on the effective date of this ordinance that is in violation of the location or structural configuration requirements of this ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is non-conforming.

A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit and/or license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, or residential structure, within the location restrictions of section **20.16 10, (A),(B),& (C)**. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

**20.1612 Exterior Portions of Sexually Oriented Businesses.**

- (A) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.
- (B) It shall be unlawful for an operator of a sexually oriented business to allow exterior portions of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manor except to the extent permitted by the provisions of this ordinance.

- (C) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
- (1) The establishment is part of a commercial multi-unit center, and
  - (2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the businesses, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
- (D) Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

**20.1613 Sign Regulations.**

- (A) Notwithstanding any other township ordinance, code, or regulation to the contrary, it shall be unlawful for the owner of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than one (1) primary sign and one (1) secondary sign as provided herein.
- (B) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
- (1) Not contain any flashing lights;
  - (2) Be a flat plane, rectangular in shape;
  - (3) Not exceed 32 square feet in area and;
  - (4) Not exceed 4 feet in height or 8 feet in length;
  - (5) Not exceed a height of 12 feet above the surface of the ground.
- (C) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manor, and may contain only the name of the enterprise.

- (D) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
- (E) Secondary signs shall have only one (1) display surface. Such display surface shall:
  - (1) Be a flat plane, rectangular in shape;
  - (2) Not exceed 4 square feet in area;
  - (3) Not exceed 2 feet in height and 2 feet in width and;
  - (4) Be affixed or attached to any wall or door of the enterprise.
- (F) The provisions of item (1) of subsection (B) and subsection (C) and (D) shall also apply to Secondary signs.

#### **20.6114**      **Notices**

- (A) Any notice required or permitted to be given by the Planning Commission or any other township office, division, department or other agency under this ordinance to any applicant, operator, or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application which has been received by the Planning Commission, or any notice of address change which has been received by the Planning Commission. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Planning Commission or its designee shall cause it to be posted at the principal entrance to the establishment.
- (B) Any notice required or permitted to be given to the Planning Commission by any person under this ordinance shall not be deemed given until and unless it is received by the Planning Commission.
- (C) It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Planning Commission in writing of any change of residence or mailing address.

**20.6115            Injunction.**

A person who operates or causes to be operated a sexually oriented business without a valid permit and/or license or otherwise violates this ordinance is subject to a suit for injunction as well as prosecution for criminal violations.

**20.1616            Severability.**

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

20.1700

**ARTICLE XVIII  
LAND DIVISION ORDINANCE**

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant, but not limited to Michigan Public Act 288 of 1967, as amended and Public Act. 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

The Township of Emerson, Gratiot County, Michigan Ordains:

**20.1701      TITLE.**

This ordinance shall be known and cited as the **Emerson Township Land Division Ordinance.**

**20.1702      PURPOSE.**

The purpose of this ordinances to carry out the provisions of the State Land Division Act. (167 PA 228, as amended, formerly known as the Subdivision Control Act.), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

**20.1703      DEFINITIONS.**

For purposes of this ordinance certain terms and words used herein shall have the following meaning:

- A.    **Applicant:** A natural person, firm, association, partnership, corporation, or combination of them that holds an ownership interest in land whether recorded or not.
  
- B.    **Divide or Division:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Section I08 and 109 of the State Land Division Act. "Divide, and "Division" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and

any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act. Or the requirements of other applicable local ordinances.

- C. Exempt Split or Exempt Division:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent.
- D. Forty Acres or the Equivalent:** Either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- E. Governing Body:** The Emerson Township Board.

#### **20.1704 Prior Approval Requirement For Land Divisions**

Land in the Township shall not be divided without the prior review and approval of the Township assessor, or other official designated by the governing body, in accordance with this ordinance and the State Land Act.; provided that the following shall be exempted from this requirement:

- A.** A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.
- B.** A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.
- C.** An exempt split as defined in this ordinance, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the State Act.

**20.1705      Application For land Division Approval.**

An applicant shall file all of the following with the Township Assessor or other official designated by the governing body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- A.**     **A** completed application form or such form as may be approved by the Township Board.
- B.**     Proof of fee ownership of the land proposed to be divided.
- C.**     A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.
- D.**     Proof that all standards of the State Land Division Act. And this Ordinance have been met.
- E.**     If a transfer of division rights is proposed in the land transfer, detailed information about the terms and transfer availability of the proposed division rights transfer.
- F.**     A fee equal to the costs of the review of the application and administration of this Ordinance and the State Land Division Act as set by the Emerson Township Board periodically revised up or down by said Board as the need arises.
- G.**     A survey showing the land encompassing the parcel to be split from the parent parcel or parcels.
- H.**     If the proposed split will involve procurement of an easement for ingress and egress, a description of that easement with a minimum width of thirty-three (33) feet.
- I.**     If the splits will necessarily involve construction of a private road or drive for ingress and egress, a description of said road and a written acknowledgement from the Gratiot Count Road Commission, indicating that the road comports, or will comport with all current Gratiot County Road Commission guidelines for road construction.

- J. If accessibility is by a private road or easement, a document acceptable to the Township shall be recorded with the County Register of Deeds and filed with the assessor or designee specifying the method of private financing of all maintenance, improvement, sand snow removal, the apportionment of these costs among those benefited, and the right of the Township to assess such costs against those properties benefited, plus a 25% administrative fee, and to perform such improvements in the event of a failure of those benefited to privately perform these duties for the health, safety, and general welfare of the area.
- K. Copies of deeds showing the state of title for the parcels involved.

**20.1706 Provisions for Review of Application for Land Division Approval**

- A. The Township shall approve or disapprove the land division applied for within forty-five (45) days after receipt of a complete application conforming to this Ordinance's requirements and the State Land Division Act., and shall promptly notify the applicant of the decision and if denied, the reasons for denial.
- B. Any person or entity aggrieved by the decision of the assessor or designee may, within thirty (30) days of said decision appeal the decision to the governing body of the Township or other such body or person designated by the governing body which shall consider and resolve such appeal by a majority vote of said Board or by the appellate designee at its next regular meeting or session affording sufficient time for a twenty (20) day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.
- C. The assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
- D. Approval of a division is not a determination that resulting parcels comply with other ordinances or regulations.
- E. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

**20.1707      Standards for Approval of Land Division**

A proposed land division reviewable by the Township shall be approved if the following criteria are met:

- A.** All parcels created by the proposed division(s) have a minimum width of 150 feet as measured at the (road frontage; required front setback line, whichever is appropriate) unless otherwise provided for in an applicable zoning ordinance.
- B.** All such parcels shall contain a minimum area of two (2) acres, unless otherwise provided for in an applicable zoning ordinance.
- C.** The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-development sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement.
- D.** The proposed land division(s) comply with all requirements of this Ordinance and the State Land Division Act.
- E.** All parcels created and remaining have existing adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

**20.1708      Consequences of Non-Compliance with Land Division Approval Requirement.**

Any division of land found to be in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll and no construction thereon which requires prior issuance of a construction or building permit shall be allowed. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance.

An unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefor, together with any damages sustained by the purchaser, recoverable in action at law.

**20.1709      Severability.**

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void and unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof

**20.1710      Repeal.**

All previous Land Division Ordinances affecting un-platted land divisions in conflict with This Ordinance are hereby repealed however, this Ordinance shall not be construed to repeal any provision in any applicable Zoning Ordinances, Building Codes, or other ordinances of the Township which shall remain in full force and effect notwithstanding any land division approval hereunder.