

FAIRPLAINS TOWNSHIP

MONTCALM COUNTY, MICHIGAN

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ZONING ORDINANCE

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Table of Contents

<u>ARTICLE</u>		<u>PAGE</u>
I	<u>Preamble</u>	1
	Section 1.0 Enactment, Authority and Name	1
	1.1 Purposes	1
II	<u>Definitions</u>	2
	Section 2.0 Words and Terms Defined	2
III	<u>Establishment of Districts</u>	4
	Section 3.0 Establishment of Districts	4
	3.1 Zoning Map	4
	3.2 Interpretation of District Boundaries	4
IV	<u>Regulation</u>	5
	Section 4.0 Application of Regulations	5
	4.1 General Regulations	5
	4.2 Supplementary District Regulations	7
	4.3 Special Use Permits	8
V	<u>Zoning Districts</u>	9
	Section 5.0 Agricultural District	9
	5.1 Residential District	11
	5.2 Commercial District	12
	5.3 Public Lands	13
	5.4 Natural River District	13
VI	<u>Administration</u>	13
	Section 6.0 Enforcement	13
	6.1 Application Procedures for Zoning Permits	14
	6.2 Procedure for Issuing Special Use Permits	14
	6.3 Certificate of Occupancy	15
	6.4 Schedule of Fees	15
	6.5 Board of Appeals	16
	6.6 Variances	17
	6.7 Violations	18
VII	<u>Amendments</u>	18
	Section 7.0 Amendment Procedure	18
VIII	<u>Miscellaneous</u>	19
	Section 8.0 Interpretation of Ordinance	19
	8.1 Separability	19
	8.2 Effective Date	19

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FAIRPLAINS TOWNSHIP

ZONING ORDINANCE

An ordinance regulating the location, construction, the use of buildings and structures, and the use of land in Fairplains Township, and for such purposes, dividing the Township into districts.

ARTICLE I

Preamble

1.0 Enactment, Authority and Name.

The Township Board of Fairplains Township in the County of Montcalm, under the authority of the Township Rural Zoning Act, also known as Public Act 184 of 1943 of the State of Michigan, hereby ordains, enacts and publishes this Ordinance, to be known as the Fairplains Township Zoning Ordinance.

1.1 Purposes.

There is hereby established a comprehensive zoning ordinance in accordance with the needs of Fairplains Township. The text, map and schedules contained herein shall constitute this Ordinance. Said Ordinance is adopted for the following purposes:

- 1.01 To protect and promote the public health, safety and general welfare of the Township.
- 1.02 To guide and protect the future growth and development of the Township.
- 1.03 To protect the character and the social and economic stability of all parts of the Township, and to encourage its orderly and beneficial development.
- 1.04 To protect and conserve the value of land throughout the Township and the value of buildings appropriate to the various districts established by this Ordinance.
- 1.05 To minimize the conflicts among the uses of land and buildings.
- 1.06 To provide a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the Township.
- 1.07 To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and sound management of the natural resources throughout the Township in order to preserve the integrity, stability and beauty of the community and the value of the land.

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1.08 To preserve the natural beauty of the topography of the Township and to insure appropriate development with regard to these natural features.

## ARTICLE II

### Definitions

#### 2.0 Words and Terms Defined.

**ACCESSORY USE.** A use customarily incidental and subordinate to the principal use or structure and located in the same lot with such principal use or structure.

**AGRICULTURE.** Raising of crops, animals and animal products; forestry; other commonly accepted agricultural operations for commercial purposes including the sale of products grown on the premises.

**COMMERCIAL USE.** All wholesale and retail sales and services, professional offices, resorts and restaurants, except for home occupations.

**DWELLING, SINGLE FAMILY.** A detached residential dwelling unit other than a mobile home, designed for and occupied exclusively by one family.

**DWELLING, TWO FAMILY.** A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

**HIGH WATERMARK.** The widest limit to which the Flat River or its major tributaries within the township periodically swells annually.

**HOME OCCUPATION.** Any use customarily conducted entirely with a dwelling or accessory structure which is clearly incidental and secondary to the use of the lot; does not change the character of the dwelling and is carried on by residents of the dwelling; or dwellings.

**LIGHT INDUSTRY.** Any industrial or warehousing operation that meets the performance standards of this ordinance, which is totally contained inside an enclosure or whose operation or storage is totally screened from view, and which does not create excessive off site noise or pollution and does not make excessive demands on public roads, water and sewage facilities or other community facilities.

**LOT.** Parcel of land occupied, or designed to be occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are arranged and designed to be used in connection with such buildings. A lot may or may not be the land shown on a duly recorded plat. If more than one lot of record is held in common ownership and said lots are contiguous and substandard in size to the minimum lot size in the zoning districts they shall, for the purpose of this Ordinance, be held as one lot or as many lots as shall leave no lot substandard.

**LOT LINE.** A boundary line of a lot.

**LOT LINE, FRONT.** The exterior line or right-of-way of a road on which a lot fronts or abuts.

**LOT LINE, SIDE.** Any lot line not a front lot line or a rear lot line.

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LOT LINE, REAR. Any lot line, other than a front lot line, which is parallel or nearly parallel to the front lot line.

LOT WIDTH. The average distance between side lot lines taken at the front yard or building line and measured at right angles to the side lot lines along a parallel to the street.

NON CONFORMING USE. The lawful use of a building or premises existing at the time of adoption of this Ordinance, but which does not conform with the present use regulations of the district in which it is located.

MOBILE HOME. A vehicle designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used or capable of being used as a detached single family residence; containing any of the following: sleeping accommodations, bathroom and kitchen facilities and plumbing and electrical connections for attachment to outside systems. This includes uses to which a mobile home might be put.

OUTDOOR RECREATION. Uses including temporary trailer sites, ski areas, sportsmans' clubs, swimming facilities and other recreational activities having an outdoor orientation. This includes private and commercial.

PRIVATE ROAD. Any road not publicly maintained.

ROAD FRONTRAGE. The length of the lot line which borders any public road.

SETBACK. The horizontal distance between the lot line and the part of the building nearest to the lot lines.

SITE PLAN REVIEW. The submission of plans for review, as part of the process of securing a zoning permit.

SPECIAL USE PERMIT. A use that would not be appropriate generally or without restriction throughout the zoning district but which if controlled as to the number, area, location or relation to the Township, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, and general welfare. Such uses shall be permitted when the planning commission finds that they meet the specific criteria provided in this Ordinance for them.

VARIANCE. A relaxation of the terms of the zoning ordinance by the Zoning Board of Appeals, and where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

WATERFRONT. That area contained in the Waterfront District which is comprised of the Flat River, its major tributaries within the Township, its floodplain, and all lands lying within 300 feet of the ordinary high water mark.

YARD, FRONT. A yard extending from the front lot line into the interior lot area.

YARD, REAR. A yard extending from the rear lot line into the interior lot area.

YARD, SIDE. A yard extending from the side lot line into the interior lot area.

ZONING PERMIT. A permit signifying compliance with the provisions of this Ordinance as to use, activity, bulk, and density.

### ARTICLE III

#### Establishment of Districts

3.0 Establishment of Districts.

The Township of Fairplains is hereby divided into the following districts: Agricultural, Residential, Commercial, Public Lands and Natural River.

3.1 Zoning Map.

The areas and boundaries of such districts are hereby established to scale as shown on a map entitled "Zoning Map of Fairplains Township", dated \_\_\_\_\_, adopted and certified by the Township Clerk, and referred to herein as the "Zoning Map". Said Zoning Map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this ordinance.

3.2 Interpretation of District Boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- 3.21 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- 3.22 Boundaries indicated as approximately following town limits shall be construed as following such town limits.
- 3.23 Boundaries indicated as approximately following or paralleling the highwater mark line of streams, lakes, or other bodies of water shall be construed to follow such lines.
- 3.24 Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- 3.25 Where physical or cultural features existing on the ground are at variance with the Zoning Map, or in other circumstances not covered by subsections 3.21 through 3.24 above, the Zoning Board of Appeals shall interpret the district boundaries.
- 3.26 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

## ARTICLE IV

### Regulation

#### 4.0 Application of Regulations.

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

- 4.01 All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations herein specified for the district in which it is located.
- 4.02 No building or other structure shall hereafter be altered:
  - A) to accommodate or house a greater number of persons or families than permitted by the Zoning District;
  - B) to have narrower or smaller rear yards, front yards, or other side yards, other than permitted.
- 4.03 No yard nor lot existing at the time of passage of this Ordinance shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- 4.04 Continuing existing uses. The lawful use of a building, structure or other premises existing at the time of the effective date of this Ordinance may be continued although such use does not conform to the provisions hereof.
- 4.05 Nonconforming Uses. No building, structure or premises containing a nonconforming use shall hereafter be extended, altered or enlarged unless it is made to conform to the provisions of the zoning regulations for the district in which it is located. No nonconforming use, if discontinued for more than twelve (12) months, or changed to a use permitted in the district in which it is located, shall again be resumed, and the premises must thereafter comply with the Zoning Ordinance.

#### 4.1 General Regulations.

- 4.11 Zoning Permit Requirements. No building permit shall be issued until a zoning permit or a special use permit has been issued. This shall apply to all new construction and all major improvements to existing structures. In the case of detached accessory buildings and structures, a zoning permit is required where the total gross floor area to be constructed is greater than 144 square feet. Permits will not be necessary

for minor repairs to existing structures so being improved such as unenclosed patios, painting, plumbing, waterwells and new roofs, etc.

4.12 Mobile Homes. No person shall construct or locate any trailer or mobile home within the Township unless the same shall be securely affixed to a continuous enclosed masonry foundation with footings or anchored and blocked and shimmed on a six (6) inch thick, poured, and reinforced concrete slab running its entire length and width or on solid piers extending at least four (4) feet below ground level or bed rock and unless the same shall be fully skirted and enclosed with brick, concrete blocks, painted metal, or painted or stained wood and unless the same shall have an adequate septic tank and field or other sanitary sewage disposal system, a good potable water supply complying with the requirements of the Michigan State and Montcalm County health regulations and a minimum floor living area of not less than four hundred seventy (470) square feet. A zoning permit is required.

4.13 Exemptions from Mobile Home Requirements. This Ordinance shall not apply to any trailer or mobile home located within the Township and which:

- A) remains there for a period of 60 days or less; or register with Zoning Board within 10 days; or
- B) is stored as a recreational trailer or motorized home; or
- C) is part of a construction or project site, and used as a field, work, or tool office to be promptly removed from the site after project completion.

4.14 Parking, Storage, or Use of Major Recreational Equipment. For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No such equipment shall be used for permanent living or house-keeping purposes when parked or stored on a lot, or in any location not approved for such use.

4.15 Parking and Storage of Unlicensed Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be stored within the required front yard on any property other than in completely enclosed buildings.

4.16 Conformance to Public Health Design Standards. All proposed dwellings, whether or not they are in a subdivision as defined by regulations of Montcalm

County Department of Health, shall conform to the design standards set forth therein, in order to promote and protect the public health, safety, and welfare of the community and its environs. A zoning permit or special use permit shall not be granted until health department approval is secured.

4.2

Supplementary District Regulations.

4.21 Nonconforming Uses. A nonconforming use may be maintained, restored, reconstructed or altered so long as the nonconforming use is not extended in its degree of nonconformity and provided that any nonconforming use may be changed or extended to a use of higher classification, and such use may not thereafter be changed to a lower classification except upon approval of the Board of Appeals.

4.22 Substandard Lots. Individual lots of record, with no contiguous lots under the same ownership, at the time of enactment shall be deemed to meet the minimum lot size regulations of this Ordinance pursuant to variance procedure.

4.23 Structures to Have Access. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

4.24 Corner Lots. On a corner lot each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate on the site plan, which of the remaining two required yards shall be the required side yard and which the required rear yard.

4.25 Visibility at Intersections. On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and a half feet and ten feet above the center-line grades of the intersecting streets in the area bounded by the street lines of such corner lots for a length of thirty feet measured from the point of the intersection.

4.26 Accessory Buildings. No accessory building, except for garage, shall be erected in any required front yard (less than 25 feet road right-of-way) and no separate accessory building shall be erected within five (5) feet of any other building or within ten (10) feet of any property line.

4.27 Minimum Specifications.

- A) Agricultural or Residential Districts. Lot area of 20,000 square feet; Lot width of 100 feet; Front yard of 25 feet; Side yard of 10 feet; Rear yard of 10 feet.
- B) Commercial Districts. Lot area of 160,000 square feet; Lot width of 400 feet; Front yard of 25 feet; Side yard of 10 feet; Rear yard of 10 feet.

4.28 Erection of More than One Principal Structure on a Lot. In any district, more than one structure housing a permitted or permissible principle use may be erected on a single lot, providing that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

4.29 Parking and Loading Areas. All buildings located in the township shall provide adequate off-street parking for the use intended. All commercial, recreational and industrial buildings shall provide off-street loading adequate for the use intended, as specified in this Ordinance.

4.3 Special Use Permits.

The special uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this Ordinance. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

4.31 Standards for Special Use Permits. The review standards for Special Use Permits shall consider:

- A) 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 Uses by Special Use Permit within the various zoning classifications set forth in the Ordinance.
- B) Such Special Permit 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.

C) With this in mind, such Special Permit 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 with the same, under the conditions, controls, limitations, circumstances and safeguards proposed therefor, and imposed by said Planning Commission, would be compatible with the other uses expressly permitted within said district; 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 Planning Commission for the allowance of such Special Use Permit can and will, in its judgment, be met at all times by the applicant. The burden of proof of facts which might establish a right to a Special Use Permit under the foregoing standards shall be upon the applicant.

4.32 As a condition of granting a Special Use Permit, the Planning Commission may require that certain site development measures be taken by the applicant in order to satisfy the review standards set forth in Section 4.31 A-C. Said measures must be incorporated by the applicant in his site plan.

4.33 A Special Use Permit shall be deemed to authorize only a particular special use and shall expire if the special use shall cease for more than twelve (12) months for any reason.

4.34 No permit shall be issued for a special use for a property where there is an existing violation of this Ordinance.

## ARTICLE V

### Zoning Districts

#### 5.0 Agricultural District.

5.01 Statement of Purpose. Agricultural districts are those open areas of the township where farming, dairying, forestry operations and other such rural-type activities exist and should be preserved or encouraged. Large vacant areas, fallow land and wooded areas may also be included. Although the demand for other uses in these districts may ultimately outweigh their use as zoned, any such zoning changes should be made cautiously with the realization that adequate food supply is essential to the health and welfare of the township, county, state and nation.

#### 5.02 Permitted Uses:

- A) Farm dwellings, barns, stables, silos, housing for farm labor, and accessory buildings, structures and uses customarily incidental to any of the foregoing permitted uses.
- B) Agricultural, horticultural, viticultural, dairy farming, cattle raising, poultry raising, livestock raising, farm forestry and other similar bona fide farming or agricultural enterprises excluding, however, rendering plants, commercial fertilizer production or garbage feeding or disposal activities.
- C) Greenhouses or nurseries.
- D) Markets for the 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 an advertising sign not more than eight (8) feet square in area advertising such products.
- E) Home occupations as defined in the within Ordinance.
- F) Churches and parish houses, public schools and educational institutions and other municipal buildings, structures or uses.
- G) Community buildings, parks, public recreational areas or golf courses.
- H) Essential services.
- I) Cemeteries.
- J) Private landing fields.

5.03 Uses allowed by special use permit.

- A) Public utility and service buildings.
- B) Additional single or two-family homes.
- C) Nursing or convalescent homes.
- D) Wildlife reserves.
- E) Hunting preserves.
- F) Earth removal, quarrying, gravel processing, mining and related mineral extraction businesses.
- 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

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Ordinance with the approval of the Planning Commission under the procedure and standards specified in the Ordinance for special exception uses.

5.1 Residential District.

5.11 Statement of Purpose. This district classification is designed to promote and encourage residential development and other residentially related facilities which would serve the inhabitants of the area.

5.12 Permitted Uses:

- A) Private single and two-family dwellings.
- B) Home occupations.
- C) Schools, libraries, and other municipal structures and uses.
- D) Golf courses, parks, and other municipally owned or operated public recreational facilities.
- E) Churches.
- F) Hospitals.

5.13 Uses Allowed by Special Use Permit.

- A) Multiple 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) Day nurseries.
- E) Nursing and convalescent homes.
- F) Boarding and lodging houses.
- G) Medical clinics and doctors' offices for the treatment of human beings, provided that they are constructed in appearance as a residence.
- H) Hotels, motels and other transient-type residential buildings.
- I) Private clubs, fraternities and lodges, excepting those of which the chief activity is a service customarily carried on as a business.
- J) Establishments for the retail sale of meals.
- K) Mobile home parks.
- L) A complex or development of a multiple number of "permitted" or designated "special exception" uses which do not comply with all conditions and

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limitations pertinent thereto but which will 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.

5.2 Commercial District.

5.21 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.

5.22 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 houses.
- I) Cleaning and laundry service customer stations.
- J) Rug weaving.
- K) Barber shops and beauty parlors.
- L) Shoe repair shops.
- M) Churches.
- N) Automatic dry cleaning or laundry facilities.
- O) Bait houses.
- P) Gasoline stations.
- Q) Automobile repair garages.
- R) Outdoor automobile sales.
- S) Outdoor theaters.
- T) Veterinary hospitals.
- U) Kennels and pet shops.
- V) Bus terminals.
- W) Outdoor commercial recreation facilities.

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- X) Drive-in eating or fast food establishments.
- Y) Wholesale sales.
- Z) Enclosed warehouses.
- AA) 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.
- BB) Sign shops.
- CC) Cider mill.
- DD) Cemeteries.
- EE) Nursery and greenhouses.
- FF) Accessory buildings and uses customarily incident to any of the foregoing, not including any manufacturing or treatment activities.
- GG) Automobile body and automobile paint shops.
- HH) Lumber yards.

5.23 Uses Allowed by Special Use Permit.

- A) Mining operations with incidental gravel processing.
- B) Industrial uses.
- 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.

5.3 Public Lands.

This district is simply established to identify the lands currently owned by the State of Michigan or other local municipality. Said lands shall be deemed to be zoned agricultural.

5.4 Natural River District.

This district encompasses all lands lying within 300 feet of the Flat River System, especially its major tributary within the Township, Dickerson Creek. This district is controlled by the previously enacted Natural River Zoning Ordinance of Fairplains Township.

ARTICLE VI

Administration

6.0 Enforcement.

This Ordinance shall be enforced by the Code Enforcement Officer, designated and appointed by the Township Board. He shall keep records of all application proceedings and make copies available upon request.

6.1

Application Procedures for Zoning Permits.

6.11 Prior to construction or physical development of a proposed activity, or acquisition of a building permit, an application for a required zoning permit shall be submitted to the Township Clerk or Code Enforcement Officer. Any application for a zoning permit shall consist of the following:

- A) Name and address of applicant.
- B) Location of proposed building or improvement.
- C) Description of proposed building (dwelling, structure, barn, garage, etc.) or improvement.
- D) Proof of County Health Department approval, or status thereof, where required.
- E) Any other information, such as detailed site plans, as may be requested by the Code Enforcement Officer, Planning Commission or Board of Appeals.

6.12 A fee as set by the Township Board and listed in the Schedule of Fees shall accompany any plans or application in order to defray the cost of administration and inspection.

6.13 The Code Enforcement Officer shall begin to process the application within ten (10) working days from the day of application. He shall review said application for required contents and shall require, for approval, conformance with zoning district regulations, unless waived by the Planning Commission. Upon satisfaction of the Ordinance standards and those additional requirements or conditions, if any, as prescribed by the Planning Commission and empowered by this Ordinance, the Code Enforcement Officer shall issue a zoning permit. Said permit shall be valid for one year in order to obtain a building permit and is nontransferable. A valid zoning permit is eligible for an additional one year extension granted by the Code Enforcement Officer as a reasonable length of time in which to secure a building permit. Upon the granting of a zoning permit, the application will receive final action within ten (10) working days from the date the permit was granted.

6.2

Procedure for Issuing Special Use Permits.

6.21 All applications for Special Use Permits shall be filed with the Township Clerk and shall include all pertinent plans, specifications, and other data upon which the applicant intends to rely for a Special Use Permit.

6.22 The Township Clerk shall transmit said application to the Planning Commission for its review and recommendation within a period not to exceed thirty (30) days and shall hold a public hearing upon the application

preceded by notification of said hearing to the applicant and the owners and occupants of all contiguous parcels of land. If no recommendation is received from the Planning Commission within the said thirty (30) day period, the application shall be considered to have been approved by the Planning Commission.

6.23 The Planning Commission shall forward its recommendation in writing to the Township Board for final action. Said recommendation should include all suggested conditions and limitations for an approved permit and should include a rough draft of the proposed permit when the application is given approval. The Township Board shall grant or deny the application for the Special Use Permit and shall enumerate its reasons for the decision.

6.24 The Planning Commission shall have the right to limit the duration of a Special Use Permit where the same is of a temporary nature and may reserve the right of 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 the Township Board after a hearing upon application of any aggrieved party.

6.25 The plot plan and specifications, and all conditions, limitations and requirements imposed by the Township Board, shall be incorporated as a part of the Special Use Permit and violations of any of these at any time will cause revocation of said permit and said Special Use shall cease to be a lawful use.

6.26 Any property which is the subject of a Special Use Permit which has not been used for a period of six (6) months (without just cause being shown which is beyond the control of the owner and which is acceptable to the Township Board) for the purposes for which such 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.

6.3 Certificate of Occupancy.

Upon construction, no dwelling or building or mobile home, subject to the provisions of this Ordinance, shall be occupied or used until the Code Enforcement Officer has issued a Certificate of Occupancy to the owner or applicant who made application for the zoning permit. At least ten (10) days prior to being ready for use or occupancy, the owner or applicant shall notify the Code Enforcement Officer who shall, within five (5) days, assure himself that the building and site requirements are in proper conformity and, if so, issue a Certificate of Occupancy. One copy shall be returned to the owner or applicant. If a certificate or application is disapproved for cause, the owner or applicant shall be so notified in writing.

6.4 Schedule of Fees.

6.41 The Township Board is hereby authorized to establish by resolution such fees and fee schedules as are necessary

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48838

to implement this Ordinance; such as for the zoning permit, special use permit, application for variance, application for an amendment to the Zoning Ordinance, or appeals to the Board of Appeals. These fees shall be set so as to held defray the cost to the Township of such proceedings. Such fees may be altered by subsequent resolution of the Township Board.

6.42 In the event that an application for a permit is not approved, the applicant shall be entitled to a refund of 50% of the fee paid. If construction work has been started and the application is not approved, the fees paid shall not be refunded.

6.5 Board of Appeals.

A Board of Appeals is hereby established in accordance with Act 183 of the Public Acts of the State of Michigan for 1943, as amended, to carry out the responsibilities provided therefrom, and those delegated herein.

6.51 Membership to the Board of Appeals shall consist of not less than 3, no more than 5 members. The first member of the Board of Appeals shall be the Chairman of the Township Zoning Board or that body appointed to sit as the Township Zoning Board. The second member shall be a member of the Township Board and appointed by the Township Board. The third, fourth and fifth members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. The third, fourth, or fifth member, or any employee of the Board of Appeals, may not serve while simultaneously serving as an elected official or employee of the Township Board.

- A) Except for the member who is a member of the Township Board, any of the remaining 2 or 4 members may serve as Chairman of the Board of Appeals.
- B) The Terms of office shall be for 3 years, except that the first members appointed to the Board of Appeals shall stagger their terms of office with some serving 1 year, some serving 2 years and some serving 3 years respectively.
- C) Removal of any member shall be made by the Township Board for nonperformance of duty or misconduct in office.

6.52 Powers and Duties. The Board of Appeals shall have all the power and duties prescribed by law and by this Ordinance which are more particularly specified as follows:

- A) The Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination, as in its opinion ought to be made in the premise, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.

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GREENVILLE, MICH.  
48838

B) Interpretation - Upon appeal from a decision of an administrative official, to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

C) Variances - The Board of Appeals shall be empowered to issue variances under conditions set forth in this Ordinance.

D) Required Hearings. It shall also hear and decide all matters referred of it, or upon which it is required to act, under any Ordinance adopted pursuant to said Act 183, as amended.

6.53 Meetings. Meetings of the Board of Appeals shall be public and shall be held at the call of the Chairman and at such other time as the Board may determine for the efficient conduct of its business. Decisions shall be reached by majority vote of the members present and voting. A quorum is required.

6.54 Any decision of the Board of Appeals granting a zoning permit, special use permit or variance shall be valid for a period of one year with an additional one year extension during which time a building permit (or in the case of a variance, a zoning permit) must be secured.

6.55 Final Action on Appeals. The decision of the Board of Appeals shall not be final, and any person having an interest affected by any such decision shall have the right to appeal to the Circuit Court on questions of law and fact.

6.56 Effect of Appeals Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Appeals after the Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would cause immediate peril of life or property.

6.6 Variances.

6.61 Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance, the Board of Appeals shall have the power, in passing on appeals, to vary or modify any of its rules, regulations, or provisions, by granting variances, provided that any variation granted from this Ordinance:

- A) will not be contrary to the public interest,
- B) will not permit establishment within a District of any use which is not permitted by right within that District,
- C) will not cause a substantially adverse affect upon property values,

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48838

- D) will relate only to the property under control of the appellant,
- E) will not jeopardize the preservation of substantial right, so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice be done,
- F) will not adversely affect the purpose of this Ordinance,
- G) will not impair the adequate supply of light and air to any adjacent property,
- H) will not increase the hazard from fire, flood or similar dangers,
- I) will not increase traffic congestion,
- J) will not produce nuisance conditions to occupants or nearby premises, whether by reason of dust, noise, fumes, odor, vibration, smoke or lights, or
- K) not otherwise impair public health, safety, comfort or general welfare of the residents of the Township.

6.7 Violations.

- 6.71 Violations of this Ordinance shall be subject to the provisions of applicable law. Upon determination by the Enforcement Officer that a violation exists, written notice shall be sent to the last known owner of the property. Such notice shall state the specific provision in violation and that action is to be taken by said owner to remove such violation within twenty (20) days or a proceeding to compel compliance with this Ordinance will be instituted or criminal prosecution maybe instituted.
- 6.72 A violation of this Ordinance is a misdemeanor. Upon conviction the violator may be punished by a fine not to exceed \$100 or up to ninety (90) days in the county jail, or both.
- 6.73 Violations of this Ordinance shall be deemed separate offenses. Each day the violation continues shall be deemed to be a separate and distinct violation.

ARTICLE VII

Amendments

7.0 Amendment Procedure.

The Township Board may from time to time on its own motion, or on petition, or on the recommendation of the Planning Commission or other body affected, amend, supplement or repeal the regulations and provisions of this Ordinance after public notice and hearing. Every such proposed amendment or change shall be enacted in conformance with

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48838

the provisions of the Township Rural Zoning Act, Michigan Public Act 184 of 1943, as amended, and shall follow the same procedures used for the enactment of this Ordinance.

ARTICLE VIII

Miscellaneous

8.0 Interpretation of Ordinance.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare.

8.01 Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the higher standard, shall govern.

8.02 This Ordinance shall not abridge the provisions of a validly adopted building code, mobile home ordinance, subdivision or other regulations.

8.1 Separability.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any other part thereof.

8.2 Effective Date.

This Ordinance shall take effect 90 days from the date of publication in The Daily News. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

I hereby certify that the foregoing Ordinance was adopted by the Fairplains Township Board on June 4, 1984.

*Carol Nitengale*  
Carol Nitengale  
Township Clerk

FAIRPLAINS TOWNSHIP  
ZONING ORDINANCE

1. Date of Passage: June 4, 1984
2. Vote by each member present:
  - a. Wilson - - - - - Yes
  - b. Nitengale - - - - Yes
  - c. Vandenburg - - - - Yes
  - d. Hansen - - - - Yes
  - e. Bell - - - - Absent
3. Date of Public Hearing by Planning Commission:  
May 5, 1984.
4. Dates of Publication of Notice of Public Hearing:  
April 13, 1984 and May 3, 1984.
5. Date of Submission to the Montcalm County Board of  
Commissioners: May 5, 1984.
6. Date of Publication of Notice of Ordinance Adoption:  
June 18, 1984
7. Date of Filing with Montcalm County Clerk:  
June 18, 1984

I hereby certify that the above facts and dates are  
true to the best of my knowledge and belief.

Dated: 6/18/84

*Carol Nitengale*  
Carol Nitengale  
Fairplains Township Clerk