

BUILDING PLACE

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October 8, 2014

Hope Township Planning Commission
5244 N. Hope Rd.
Hope, MI 48628

Subject: Summary of Additional Requested Zoning Ordinance Amendments

Dear Planning Commissioners:

During our meetings earlier this year related to the proposed recreational vehicle amendments, several other zoning ordinance-related issues were raised and discussed. As part of that discussion, we were asked to prepare the following additional Zoning Ordinance amendments for Planning Commission review and a public hearing on November 5, 2014:

- **Non-Farm Keeping of Farm Animals and Bees.** This amendment would allow limited non-farm keeping of farm animals and bees on some residential lots in the AG, FR, and R zoning districts, subject to the updated regulations in the proposed new Section 4.19.
- **Accessory Structures.** This amendment would consolidate regulations for sheds, garages, and other accessory structures into Section 4.2 of the Zoning Ordinance, with updated related to placement of such structures on waterfront and non-waterfront lots.
- **Medical Marijuana.** This amendment would add provisions allowing a medical marijuana patient as a permitted residential land use, and a medical marijuana caregiver as a permitted use in the Commercial District, subject to the proposed regulations listed in the new Section 4.20. The amendment is intended to be consistent with the Michigan Medical Marijuana Act and recent state court decisions related to implementation of that act.
- **State Mandated Changes.** Recent amendments to the Michigan Zoning Enabling Act require the Township to make corresponding changes to our Zoning Ordinance. Provisions for cell towers are proposed to be updated and new provisions for "bio-fuel production facilities" in the Agricultural District are proposed to be added consistent with state law.
- **Other Amendments.** Technical changes related to review of special use applications, regulation of child day care homes in the Residential District, and amendments have also been included in this set of ordinance amendments.

We will be available during the public hearing to answer any questions about the proposed amendments. Please call us with any questions about this information at (989) 492-0540.

Respectfully submitted,
BUILDING PLACE

Rodney C. Nanney, AICP
Township Planning Consultant

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF HOPE TOWNSHIP, MIDLAND COUNTY, MICHIGAN.

The Township of Hope, County of Midland, Michigan ordains, pursuant to the authority vested in it by Act 110 of 2006 of the Public Acts of the State of Michigan as amended, the following amendments to the Hope Township Zoning Ordinance.

SECTION 1.

Chapter 1, Preamble, Section 1.3, Scope, is hereby amended to add a new paragraph "G" as follows:

Section 1.3 Scope

- G. Land uses for enterprises or purposes that are contrary to federal, state or local laws or ordinances shall be prohibited in any zoning district.

SECTION 2.

Chapter 2, Definitions, Section 2.2, Definitions, is hereby amended to insert the following new definitions:

Section 2.2 Definitions

For the purpose of their use in this Ordinance, the following terms and words are hereinafter defined:

Biofuel is a renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including but not limited to ethanol and bio-diesel; and not including methane or any other fuel product from an anaerobic digester.

Biofuel Production Facility is an accessory use, clearly incidental and subordinate to an active farm operation lawfully operating on the same zoning lot, in which biofuel (as defined in this Section) is derived from recently living organisms or their metabolic by-products. This term shall include all equipment, storage tanks, and other improvements needed to produce, store, and transport the biofuel in a manner that meets all federal, state, and Township standards and limitations.

Medical Marijuana is a substance as defined and used in the Michigan Medical Marihuana Act (this Ordinance uses the more common spelling of the equivalent term, "marihuana," as used in the Michigan Medical Marihuana Act).

Medical Marijuana Caregiver is a person who has agreed to assist with a patient's medical use of marijuana, has been issued a registry identification card, and otherwise meets the definition of a "registered primary caregiver" under the Michigan Medical Marihuana Act.

Medical Marijuana Dispensary is defined as more than one (1) caregiver, patient or any combination thereof operating from a single location with the intent to cultivate, dispense, sell, store, transfer, keep or otherwise provide medical marijuana to or between qualifying patients. The term dispensary shall also include compassion center or club, cooperative, collective, provisioning center, and distribution center for medical marijuana. Medical marijuana dispensaries are a prohibited use in the Township.

Michigan Medical Marijuana Act is the Initiated Law 1 of 2008 [MCL 333.26421 et seq.], proposed and enacted by a vote of the citizens of Michigan in November 2008 under the “initiative” process established in the Michigan Constitution. The intent of this Act is to create a legal exception for registered patients to use medical marijuana to help with a debilitating condition or its symptoms, and a legal exception for registered caregivers to cultivate and distribute medical marijuana to patients for their personal use.

Medical Marijuana Qualifying Patient is a person who has been diagnosed by a physician as having a debilitating medical condition and has been issued a registry identification card and who otherwise meets the definition of “registered qualifying patient” under the Michigan Medical Marijuana Act. Activities of a qualifying patient conducted entirely within the patient’s primary dwelling and in strict accordance with the Michigan Medical Marijuana Act and this Ordinance shall be considered an incidental residential use of the dwelling for purposes of this Ordinance.

SECTION 3.

Chapter 4, General Provisions, Section 4.2, Accessory Buildings, is hereby repealed in its entirety and replaced with a new Section 4.2, Accessory Structures, as follows:

Section 4.2 Accessory Structures

Accessory structures shall be subject to the following regulations:

A. General Standards.

All accessory structures, including agricultural accessory structures governed by the Right to Farm Act, shall conform to the following:

1. Where an accessory structure is structurally attached to a main building, except where otherwise noted, it shall be subject to and must conform with all regulations applicable to the main building.
2. Detached accessory structures shall be located outside of all required yard setback areas for the zoning district, unless otherwise provided for in this Section.

3. The height of detached accessory structures shall not exceed a maximum of 15 feet unless approved by Special Use Permit, or unless otherwise provided for in this Section.
4. Accessory structures shall not be located within a dedicated easement or right-of-way, and shall conform to the requirements of Section 4.5, Corner Clearance.
5. Accessory structures shall not be occupied for dwelling purposes, but may be used for home occupations as prescribed by this Ordinance.

B. Agricultural Accessory Structures.

The height of accessory structures in the Agricultural District (AG) shall not exceed a maximum of 35 feet.

C. Residential Accessory Structures.

The following additional standards shall apply to all detached accessory structures located in the Residential District (R):

1. The gross floor area of such detached accessory structures shall not exceed a maximum of 1,200 square-feet unless approved by Special Use Permit.
2. Such detached accessory structures may be located in the required side or rear yard, provided that the structure is set back:
 - a. A minimum of eight (8) feet from the boundaries of an existing lot in a state certified subdivision plat lawfully established prior to the effective date of this Ordinance with a lot width of less than 75 feet.
 - b. A minimum of ten (10) feet from the boundaries of any other lot in the Residential District (R).
3. A detached accessory structure on a waterfront lot in the Residential District (R) may be located in the required yard adjacent to the road right-of-way, subject to the following:
 - a. The structure shall be set back a minimum of 25 feet from lot boundaries and road rights-of-way.
 - b. A maximum of forty percent (40%) of the required yard area may be occupied by accessory structure floor area.

D. Commercial Accessory Structures.

The height of detached accessory structures in the Commercial District (C), or accessory to commercial land uses in any zoning district, shall not be the maximum permitted height of all structures in the zoning district. Such accessory structures shall be located in the side or rear yard and outside of all required yard setback areas.

E. Carports and Vehicle Shelters.

A carport or vehicle shelter, including a structure that is temporary in design or purpose, shall conform to the requirements of this Section as a detached accessory structure. Carports and vehicle shelters that are temporary in design or purpose shall be anchored and secured against high winds, and shall not be electrified or climate-controlled.

F. School Bus Stop Shelter.

One (1) detached accessory structure of up to 50 square feet in area and ten (10) feet in height shall be permitted within the required front yard for the purposes of providing temporary shelter at a school bus stop, provided that the structure is set back at least ten (10) feet from the side lot boundary and outside of the road right-of-way.

G. Private Swimming Pools.

To prevent unauthorized access and protect the general public, a temporary or permanent outdoor swimming pool, spa or hot tub with a diameter exceeding twelve (12) feet, a depth exceeding two (2) feet or a surface area exceeding 100 square feet shall conform to the requirements of this Section as a detached accessory structure, and shall be secured in accordance with the requirements of the State Construction Code.

SECTION 4.

Chapter 4, General Provisions, Section 4.11, Satellite Dish Antennas, Telecommunication Towers and Antennas, and Similar Structures is hereby repealed in its entirety and replaced with the following:

Section 4.11 Satellite Dish Antennas, Telecommunication Towers and Antennas, and Similar Structures

A. Satellite dish antennas, television antennas, amateur radio antennas, and other structures similar in size, shape and function are permitted in all zoning districts subject to the following:

1. All satellite dish antenna, television antenna, amateur radio antennas and other similar structures shall be subject to the following setback requirements:

- a. All satellite dishes shall be located no closer than ten (10) feet from any side or rear lot lines.
 - b. All antennas and antenna towers shall be located no closer than the height of the tower from any lot line. Antennas and antenna towers greater than ninety (90) feet in height shall require a Special Use Permit.
 - c. Satellite dishes, antennas, and similar structures shall not be placed or constructed in any required front yard unless there is no other placement suitable for acceptable reception.
 - d. Satellite dishes may be placed or mounted on poles; however, they shall be subject to building height limitations.
2. Satellite dish antennas, television antennas, amateur radio antennas, and other structures similar in size, shape and function shall be subject to approval in accordance with Section 4.11C below.
- B. Telecommunication towers and antennas shall be subject to the regulations of the districts in which they are allowed in addition to the following:
1. All towers, tower structures, poles for holding telecommunication antennas, and other like structures require zoning and building permits.
 2. All towers and antennas must meet applicable state and federal regulations.
 3. All towers shall be designed to accommodate co-location of antennas by additional users.
 4. Tower height shall be limited to 199 feet unless justified to the Township's sole satisfaction.
 5. No tower shall be closer to any boundary of the lot on which it is sited than its height.
 6. Towers shall be separated from one another in accordance with the following table:

Separation distance between towers (feet)	Lattice	Guyed	Monopole Greater Than 75 Ft in Height	Monopole Less Than 75 Ft in Height
Lattice	5000	5000	1500	750
Guyed	5000	5000	1500	750
Monopole Greater Than 75 Ft in Height	1500	1500	1500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

7. Towers shall be of galvanized steel or be painted to blend with the surrounding environment.
8. No advertising or signage of any kind shall be attached to a tower or its appurtenant structures.
9. No lighting of any kind shall be allowed on or to illuminate a tower or its appurtenant structures except that required by FAA requirements if the structure is allowed to exceed 199 feet.
10. Plantings and fencing are required to screen a tower and its appurtenant structures from public view as much as possible. Native trees and other vegetation shall be retained on site and landscaping installed to achieve this objective.
11. An applicant for the installation of a telecommunication tower shall provide the Township a statement explaining the necessity for such a proposed tower.
12. The owner of any tower installed in the Township shall provide a Certificate of Insurance listing Hope Township as an additional insured party.
13. The Township may require the owner of any tower installed in the Township to provide a bond or performance guarantee that will ensure the removal of its tower and all appurtenance structures and equipment if its use shall be discontinued for more than 365 consecutive days.
14. The Township may retain a qualified expert to aid in its review of an applicant's request; the expense of this review shall be borne by the applicant.

15. Telecommunication towers and antennas other structures similar in size, shape and function shall be subject to approval in accordance with Section 4.11C below.

C. Telecommunication towers and antennas, satellite dish antennas, television antennas, amateur radio antennas, and other structures similar in size, shape and function shall be reviewed in accordance with the following table:

	Required Review and Approval		
	Special Use Permit	Zoning Permit	Exempt
NEW TOWER OR NEW ANTENNA INSTALLATION			
Construction of a new telecommunications tower or ground equipment enclosure area for a tower.	◆		
Antenna(e) installation on an existing principal building or accessory structure that includes use of a ground equipment enclosure area outside of the existing building or structure.	◆		
Antenna(e) installation on an existing principal building or accessory structure where all accessory equipment is installed and maintained within the existing building or structure.		◆	
Construction of television, radio, microwave, or public utility transmission towers, antennas or antenna arrays.	◆		
COLOCATION ON AN EXISTING TOWER			
Alteration or enlargement of a telecommunication tower that would continue to conform to maximum height requirements with an increase in the overall tower height by more than 20 feet or 10% of its original height, whichever is greater [also see Section 4.11D.5. below].	◆		

	Required Review and Approval		
	Special Use Permit	Zoning Permit	Exempt
Alteration or enlargement of a telecommunication tower that would continue to conform to maximum height requirements without increasing the overall tower height by more than 20 feet or 10% of its original height, whichever is greater.		◆	
Expansion of a previously approved ground equipment enclosure to a total area greater than 2,500 square feet [also see Section 4.11D.5. below].	◆		
Expansion of a previously approved ground equipment enclosure area to a total area less than or equal to 2,500 square feet.		◆	
Collocation of a new antenna on an existing tower that would continue to conform to maximum height requirements with an increase in the overall tower height by more than 20 feet or 10% of its original height, whichever is greater [also see Section 4.11D.5. below].	◆		
Collocation of a new antenna on an existing tower that would continue to conform to maximum height requirements without increasing the overall tower height by more than 20 feet or 10% of its original height, whichever is greater.		◆	
Construction or expansion of ground equipment building(s) within an approved ground equipment enclosure.		◆	
Installation of new ground equipment within an approved ground equipment building or enclosure.		◆	
SATELLITE DISH ANTENNA			
Installation of satellite dish antennas with a diameter of less than 1.5 meters.			◆
Installation of satellite dish antennas with a diameter 1.5 meters or larger.		◆	

	Required Review and Approval		
	Special Use Permit	Zoning Permit	Exempt
AMATEUR RADIO ANTENNA			
Installation of amateur radio transmission and reception antennas.		◆	
Installation of citizen band radio facilities, short wave facilities, amateur radio reception-only antennas and governmental facilities subject to federal or state laws or regulations that preempt municipal regulatory authority.			◆
OTHER PROJECTS			
Installation of new antennas or similar transmission devices on light poles, on other public utility structures or within road rights-of-way.	◆	◆	
Repair, service or maintenance of an existing approved telecommunications facility, provided that all work is in compliance with approved plans, permits and applicable building, fire and electrical codes.			◆

1. Activities listed as exempt from review shall be allowed without a zoning permit, subject to the applicable standards of this Section.
 2. Facilities subject to zoning permit review shall be subject to review and approval by the Zoning Administrator in accordance with the applicable standards of this Section and Chapter 10, Administration and Enforcement.
- D. Facilities subject to special use permit review shall be subject to a public hearing, and review and approval in accordance with this Section, Chapter 8, Special Uses, and the following limitations imposed by Section 3514 of the Michigan Zoning Enabling Act:
1. The Planning Commission shall have authority to approve, deny or approve with conditions the special use permit for any telecommunication facility subject to the requirements of this Section. Township Board action shall not be required for telecommunication facility special use permit applications.

2. Fees required for a telecommunication facility special use permit application shall not exceed the Township's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.
3. The Township shall have a maximum of 14 business days to determine application eligibility and completeness.
 - a. The Clerk shall immediately transmit a copy of the application materials and plans to the Zoning Administrator to determine if the application is administratively complete per Section 4.11B, Application.
 - b. The Zoning Administrator shall transmit a written response to the Clerk, Planning Commission Chair, and applicant within 14 business days stating either that the application is administratively complete or listing the specific information needed for a complete application.
 - c. The application shall be deemed administratively complete if no written response is transmitted to the Clerk, Planning Commission Chair, and applicant within the 14 business day period.
4. For any special use permit application not subject to the additional requirements of Section 4.11D.5. below, the Planning Commission shall complete its review of the application and take final action to approve, deny or approve with conditions within 90 calendar days after the date that the application is considered to be administratively complete. The application shall be deemed approved if the Commission takes no final action within this 90 calendar day period.
5. The following additional limitations shall apply to Township review of proposed alterations to existing telecommunication towers or ground equipment enclosures subject to special use permit approval per Section 4.11C and referencing this subsection:
 - a. The Planning Commission shall complete its review of the application and take final action to approve, deny or approve with conditions within 60 calendar days after the date that the application is considered to be administratively complete. The application shall be deemed approved if the Planning Commission takes no final action within this time period.

- b. Authority to impose conditions on any approval of an application subject to the additional requirements of this subsection shall be limited to conditions intended to verify compliance with the applicable requirements of this Ordinance; or to ensure that the telecommunication facility meets the requirements of federal and state laws and other Township ordinances before the facility begins operation.

SECTION 5.

Chapter 4, General Provisions, is hereby amended to add a new Section 4.19, Keeping of Farm Animals, as follows:

Section 4.19 Keeping of Farm Animals

The keeping of farm animals and bees on non-farm residential lots in the Township shall be subject to the following:

Type	Maximum Quantity Permitted on a Lot of Record	Minimum Required Land Area (acres)
Bees	No restriction	1.0 acre or larger
Small poultry, rabbits, pygmy goats and similar small farm animals	12 such animals total	1.0 acre to 1.99 acres
	25 such animals of any single species, and 50 animals total	2.0 acres or larger
Horses, ponies and other large farm animals	2.0 acres for the first animal, and 1.0 acre for each additional animal	

- A. All facilities for keeping of animals shall be so constructed and maintained that odor, dust, noise, and drainage shall not constitute a nuisance or hazard to adjoining premises.
- B. Barns or shelters for farm animals, and any manure storage piles, shall be set back a minimum of one hundred (100) feet from any lot line. Apiary structures for beekeeping shall conform to the minimum yard setbacks for the district.
- C. The standards of this Section shall not apply to apiaries or keeping of animals that are part of an active farm operation maintained in conformance with the Right to Farm Act (P.A. 93 of 1981, as amended) and Generally Accepted Agricultural Management Practices (GAAMPS) established by the Michigan Department of Agriculture.

SECTION 6.

Chapter 4, General Provisions, is hereby amended to add a new Section 4.20, Medical Marijuana, as follows:

Section 4.20 Medical Marijuana

The Michigan Medical Marijuana Act allows under state law the medical use of marijuana, and provides for a system of registry identification cards and administrative rules for identifying qualified patients and primary caregivers. The intent of this subsection is to regulate medical marijuana caregivers in a manner that protects the public health, safety, and welfare; minimizes potential impacts on abutting land uses, neighborhoods, and the Township as a whole; and conforms to the requirements of the Michigan Medical Marijuana Act.

- A. The following standards shall apply to all medical marijuana facilities and operations authorized by the Michigan Medical Marijuana Act:
 - 1. Noise and odor from the medical marijuana facility or operation shall be completely contained within the building.
 - 2. Light emitted from the medical marijuana facility or operation shall not exceed levels customary for other permitted land uses in the district.
- B. A maximum of one (1) medical marijuana qualifying patient shall be permitted per lot of record. Alterations in the appearance or principal use of any dwelling or premises for a qualifying patient to engage in private cultivation and personal use of medical marijuana authorized by the Michigan Medical Marijuana Act shall be prohibited.
- C. The following additional standards shall apply to all medical marijuana caregiver facilities and operations authorized by the Michigan Medical Marijuana Act:
 - 1. Establishment, enlargement or alteration of a medical marijuana caregiver facility or operation shall be subject to approval per Chapter 9, Development Site Plan Review.
 - 2. The medical marijuana caregiver facility and operation shall conform to the requirements of the Michigan Medical Marijuana Act and the general rules of the Michigan Department of Community Health as adopted under the Act. Documentation of compliance shall be provided to the Township with any application for approval under this Ordinance, and upon request by the Township in accordance with Section 10.9, Enforcement.

3. A maximum of one (1) medical marijuana caregiver shall be permitted per lot of record to assist up to a maximum of five (5) qualifying patients in any given calendar week with activities permitted under the Michigan Medical Marihuana Act.
 - a. The caregiver shall be limited to cultivation of a maximum of twelve (12) marijuana plants per qualifying patient, as authorized by the Michigan Medical Marihuana Act.
 - b. The medical marijuana caregiver shall be prohibited from operating in any manner that would meet the definition of a medical marijuana dispensary, per Section 2.2, Definitions.
4. Nothing in this Ordinance is intended to grant immunity from criminal prosecution for growing, sale, consumption, use, distribution or possession of marijuana not in strict compliance with the Michigan Medical Marihuana Act and adopted general rules; grant immunity from prosecution under Federal laws; or shield patients or caregivers or owners of property on which medical marijuana is grown or used from having their property seized by Federal authorities under the U.S. Controlled Substances Act.

SECTION 7.

Chapter 4, General Provisions, is hereby amended to add a new Section 4.21, Volatile Farm-Based Biofuel Production, as follows:

Section 4.21 Volatile Farm-Based Biofuel Production

In accordance with Section 3513 of the Michigan Zoning Enabling Act, limited, farm-based production of certain biofuels shall conform to the following requirements:

- A. The following standards shall apply to all such facilities:
 1. The biofuel production facility shall be accessory to and located on the same zoning lot as an active farm operation lawfully operating in the Township.
 2. Biofuel production authorized by this Section shall be limited to a renewable fuel product, such as ethanol and bio-diesel, derived from recently living organisms or their metabolic byproducts. Farm-based production of methane or any fuel product from an anaerobic digester shall be prohibited.
 3. No part of a biofuel production facility, including driveways and other site improvements, shall be located within any required yard

setback area per Section 5.5.3, Development Standards. In addition, such facilities and improvements shall be set back a minimum of 100 feet from all lot boundaries and road rights-of-way.

4. Structures, facilities, and equipment used in the production or storage of biofuel shall comply with this Ordinance, other ordinances, and applicable state and federal laws and regulations.
5. Prior to the start of operation and upon any written request from the Township, the owner or operator of the biofuel production facility shall provide to the Zoning Inspector documentation of all necessary permits and approvals from applicable federal, state, and local authorities with jurisdiction over any of the following:
 - a. Air pollution emissions.
 - b. Transportation of biofuel or another product or by-product of production.
 - c. Use or reuse of additional products resulting from biofuel production.
 - d. Storage of raw materials, fuel or additional products used in or resulting from biofuel production.
 - e. Verification that the facility includes sufficient storage for raw materials, fuel, and additional products resulting from biofuel production; or the capacity to dispose of additional products through land application, livestock consumption, sale or other lawful means.
 - f. Compliance with federal requirements associated with ethanol production of more than 10,000 proof gallons annually.
6. The operator of the facility shall keep a written record of the source(s) of the feedstock for the biofuel production facility, and the end users of the biofuel or another product or by-product produced by the biofuel production facility.
7. The operator of a facility with an annual production capacity of not more than 100,000 gallons of biofuel operating as a permitted use in the zoning district (without special use permit approval) shall also provide an annual written report to the Zoning Administrator which demonstrates that:
 - a. At least seventy-five percent (75%) of the feedstock was produced on the farm where the biofuel production facility is located; and
 - b. At least seventy-five percent (75%) of the biofuel or another product or byproduct produced by the biofuel production facility is used on that farm.

- c. Operation of a biofuel production facility with an annual production capacity of not more than 100,000 gallons that does not conform to the percentage limitations of this subsection shall be subject to special use permit approval in accordance with this Section and Ordinance.
- B. In accordance with Section 3513 of the Michigan Zoning Enabling Act, the following additional standards shall apply only to biofuel production facilities with an annual production capacity of more than 100,000 gallons of biofuel, and to any biofuel production facility subject to special use permit approval in accordance with this Section or Ordinance:
1. Such facilities shall be limited to a maximum annual biofuel production capacity of not more than 500,000 gallons.
 2. Any application for approval of a such a facility shall include all of the following, in addition to the other applicable requirements of this Ordinance:
 - a. A detailed description of the process to be used to produce the biofuel.
 - b. The number of gallons of biofuel anticipated to be produced annually.
 - c. An emergency access and fire protection plan, subject to review and recommendation by emergency response agencies serving the Township.
 - d. Documentation of compliance with applicable requirements of this Ordinance, other ordinances, and state and federal laws and regulations.
- C. Per Section 3513 of the Michigan Zoning Enabling Act, Township review of a special use permit application for a biofuel production facility shall be modified as follows:
1. For any special use permit application subject to the requirements of this Section, the Planning Commission shall hold a public hearing on the application within 60 calendar days after the filing date of a complete and accurate application.
 2. The application shall be deemed to have been rejected as incomplete if no public hearing is held within this 60 calendar day period. An application deemed incomplete per this subsection may be resubmitted as a new application for the purpose of completing the review process.

3. Authority to impose conditions on any approval of a biofuel production facility subject to this Section shall be limited to conditions necessary to verify that the facility conforms to all of the requirements of this Section.

SECTION 8.

Chapter 5, District Regulations, Section 5.5, Agricultural District (AG), subsection 5.5.1, Permitted Principal Uses, is hereby amended to add the following land uses:

Section 5.5.1 Principal Permitted Uses

Medical marijuana qualifying patient (see Section 4.20)

Volatile Farm-Based Biofuel Production Facility With an Annual Production Capacity of Up To 100,000 Gallons of Biofuel (see section 4.21)

SECTION 9.

Chapter 5, District Regulations, Section 5.5, Agricultural District (AG), subsection 5.5.2, Conditional Uses, paragraph "A" is hereby amended to add the following land use:

Section 5.5.2 Conditional Uses

Volatile Farm-Based Biofuel Production Facility With an Annual Production Capacity of Between 100,000 and 500,000 Gallons of Biofuel (see Section 4.21)

SECTION 10.

Chapter 5, District Regulations, Section 5.5, Agricultural District (AG), subsection 5.5.6, Miscellaneous Regulations, is hereby repealed in its entirety and replaced with the following:

Section 5.5.6 Miscellaneous Regulations

The keeping of farm animals and bees is allowed on non-farm residential parcels, subject to the requirements of Section 4.19, Keeping of Farm Animals.

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.

SECTION 11.

Chapter 5, District Regulations, Section 5.6, Forested District (FR), subsection 5.6.1, Permitted Principal Uses, is hereby amended to add the following land use:

Section 5.6.1 Principal Permitted Uses

Medical marijuana qualifying patient (see Section 4.20)

SECTION 12.

Chapter 5, District Regulations, Section 5.6, Forested District (FR), subsection 5.6.6, Miscellaneous Regulations, is hereby repealed in its entirety and replaced with the following:

Section 5.6.6 Miscellaneous Regulations

The keeping of farm animals and bees is allowed on non-farm residential parcels, subject to the requirements of Section 4.19, Keeping of Farm Animals.

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.

SECTION 13.

Chapter 5, District Regulations, Section 5.7, Residential District (R), subsection 5.7.1, Permitted Principal Uses, is hereby amended to add the following land uses:

Section 5.7.1 Principal Permitted Uses

Medical marijuana qualifying patient (see Section 4.20)

Family child day care homes providing care to less than seven (7) children for less than 24 hours per day.

SECTION 14.

Chapter 5, District Regulations, Section 5.7, Residential District (R), subsection 5.7.2, Conditional Uses, is hereby repealed in its entirety and replaced with the following:

Section 5.7.2 Conditional Uses

The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.17 for landscaping standards.

Bed and breakfast establishments.

Public and private parks and recreational facilities.

Mobile home parks (see Section 5.10).

Group child day care homes, child day care centers, and related facilities providing care to seven (7) or more persons.

Churches and other religious buildings.

Public and private schools.

SECTION 15.

Chapter 5, District Regulations, Section 5.7, Residential District (R), subsection 5.7.5, Accessory Structures and Uses, is hereby repealed in its entirety and replaced with the following:

Section 5.7.5 Accessory Structures and Uses

Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right. Accessory structures shall be subject to the requirements of Section 4.2, Accessory Structures.

SECTION 16.

Chapter 5, District Regulations, Section 5.7, Residential District (R), subsection 5.7.7, Miscellaneous Regulations, is hereby repealed in its entirety and replaced with the following:

Section 5.7.7 Miscellaneous Regulations

The keeping of farm animals and bees is allowed on residential lots within this district, subject to the requirements of Section 4.19, Keeping of Farm Animals.

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.

SECTION 17.

Chapter 5, District Regulations, Section 5.8, Commercial District (C), subsection 5.8.1, Permitted Principal Uses, is hereby amended to add the following land use:

Section 5.8.1 Principal Permitted Uses

Medical marijuana caregiver (see Section 4.20)

SECTION 18.

Chapter 5, District Regulations, Section 5.8, Commercial District (C), subsection 5.8.5, Accessory Structures and Uses, is hereby repealed in its entirety and replaced with the following:

Section 5.8.5 Accessory Structures and Uses

Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right. Accessory structures shall be subject to the requirements of Section 4.2, Accessory Structures.

SECTION 19.

Chapter 8, Special Uses, Section 8.3, Reviewing Authority, first paragraph, is hereby repealed in its entirety and replaced with the following:

Section 8.3 Reviewing Authority

The Planning Commission shall have authority to grant, to deny, or to grant with conditions the Special Use Permit for any telecommunication facility subject to

the requirements of Section 4.11 of this Ordinance. All other applications for Special Use Permits shall be considered by the Planning Commission, hereafter referred to as the "Commission," and a recommendation made to the Township Board. The Township Board shall have the authority to grant, to deny, or to grant with conditions such Special Use Permits.

SECTION 20.

Chapter 8, Special Uses, Section 8.6, Procedure Upon Receipt of Application, subsection "A," is hereby repealed in its entirety and replaced with the following:

Section 8.63 Procedure Upon Receipt of Application

- A. Notice for the required public hearing shall meet the requirements of Section 10.10, Public Notice, of this Ordinance.

SECTION 21.

Chapter 12, Amendments and Rezoning, Section 12.4, Procedure, is hereby repealed in its entirety and replaced with the following:

Section 12.4 Procedure

- A. Each petition by one (1) or more owners or their agents, to amend the text or map (rezoning) of this Ordinance shall be submitted upon an application of standard form to the Zoning Administrator. A fee as established by the Township Board shall be paid at the time of application. The Zoning Administrator shall transmit the application and other information to the Planning Commission for its consideration and recommendations.
- B. The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as set forth in the Township Master Plan, as well as in terms of the merits of the individual proposal and other relevant factors. Review of any proposed amendment to the Official Zoning Map shall include evaluation of the factors listed in Section 12.05, Findings of Fact Required.

The Planning Commission may recommend any additions or modifications to the amendment petition. Following the notice and hearing requirements of this Section, the Planning Commission shall forward a report of findings of fact, conclusions, and recommendations on the proposed amendment along with a copy of the public hearing minutes to the Township Board and the County Planning Commission.

- C. Before making a recommendation on any proposed amendment to this Ordinance, the Planning Commission shall conduct a public hearing, with

the required public notice being given by the Township as specified in Section 10.10, Public Notice.

- D. Upon receipt of the County Planning Commission's recommendation or expiration of thirty (30) days, the Township Board shall review both the County's and the Planning Commission's recommendations. The Township Board shall adopt or reject the proposed amendment unless one (1) or more of the following occurs:
1. The Township Board shall grant a hearing on the proposed amendment to an interested property owner who requests a hearing by certified mail in a timely manner, addressed to the clerk of the Board. Notice of the hearing shall be given to the interested property owner as prescribed in Section 10.10, Public Notice, no other notices are required.
 2. If the Township Board deems advisable any changes or additions to the amendment recommended by the Planning Commission, it shall refer the changes or additions back to the Planning Commission for a report thereon within thirty (30) days. After receiving the report, the Township Board shall grant a hearing on the proposed amendment to any interested property owner who requests a hearing. The request for hearing shall be addressed to the Township Clerk and delivered by certified mail. The Township Board shall request the Planning Commission, or its designated representative, to attend the hearing.
- E. Following a hearing or review of the Planning Commission's report, the Township Board by majority vote of its membership may adopt or reject the proposed amendment with or without changes.

SECTION 22.

Chapter 12, Amendments and Rezoning, is hereby amended to add a new Section 12.5, Findings of Fact Required, as follows:

Section 12.5 Findings of Fact Required

In reviewing any proposed zoning amendment, the Planning Commission shall identify and evaluate all relevant factors in preparing its report of findings of fact, conclusions, and recommendation to the Township Board. The following factors shall apply to Township review of any proposed amendment to the Official Zoning Map:

- A. **Evaluation of Existing Zoning and Development Pattern.**
1. Review the existing zoning and land uses permitted in the zoning district for compatibility with Master Plan policies, the surrounding

development pattern, and site characteristics.

2. Determine whether there are conditions or circumstances that warrant a change or that reasonably prevent the site from being developed or used as zoned.
3. Consider whether the boundaries and size of the proposed district are compatible with the surrounding area and the scale of future development on the site.

B. Apparent Demand.

1. Consider the apparent demand for the types of uses permitted in the existing and proposed zoning districts in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.
2. Consider the amount of land in the Township and in adjoining jurisdictions that is already prepared and ready for development consistent with the proposed zoning district's intent and list of permitted land uses.

C. Public Services and Soil Capacity.

Rezoning of undeveloped land to a more intensive zoning district should only take place in conjunction with the availability of public services and capacity of soils to serve all of the potential land uses in the proposed district. Factors to consider include:

1. Capacity of available utilities and public services to accommodate the uses permitted in the district without compromising the health, safety, and welfare of Township residents or burdening public entities or the Township with unplanned capital improvement or operational costs.
2. Capacity of existing police, fire, ambulance, schools, roads, and other public services to serve all potential land uses on the site.
3. Capacity of the soils on the site to support any necessary private wastewater treatment and disposal facilities to serve all potential land uses in the proposed district.

D. Compatibility.

Evaluate the existing zoning of land and uses permitted in the surrounding area to determine whether all permitted land uses under the proposed zoning district(s) would be compatible with the surrounding area and adjacent zoning classifications.

E. Consistency with the Master Plan.

Determine whether the intent and all of the allowable uses within the requested zoning district are compatible with the goals, objectives, and policies of the Master Plan, including the future land use designation(s) for the site.

1. **Rezoning inconsistent with the Master Plan.** A rezoning inconsistent with the Master Plan should only be considered where specific findings are made that demonstrate conditions have changed significantly since the Plan was prepared, and/or new information supports a change.
2. **Phasing in of new development.** The future land use recommendations of the Master Plan are based upon a ten to twenty year timeframe. Consider whether the timing of the proposed rezoning is appropriate, given trends in the area, infrastructure capacity, and other factors.

F. Additional Factors.

Additional factors to be considered shall include, but shall not be limited to:

1. Whether or not the proposed zoning change is justified by a change in conditions since the original Ordinance was adopted, or by an error in the Ordinance.
2. The precedents, and the possible effects of such precedents, that might result from approval or denial of the proposed zoning change.
3. Effect of approval of the proposed zoning change on the condition and/or value of property in the Township and adjacent municipalities.

SECTION 23.

Chapter 12, Amendments and Rezoning, is hereby amended to add a new Section 12.6, Effective Date of Amendment, as follows:

Section 12.6 Effective Date of Amendment

If the amendment is adopted and an effective date is not specified, the amendment will take effect seven (7) days after publication of the required notice of adoption, subject to the provisions of Section 12.8, Referendum.

SECTION 24.

Chapter 12, Amendments and Rezoning, is hereby amended to add a new Section 12.7, Notice of Adoption, as follows:

Section 12.7 Notice of Adoption

The amendment shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation within fifteen (15) days of adoption. The notice shall contain:

1. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;
2. The effective date of the amendment; and
3. The time and place where a copy of the amendment may be purchased or inspected.

SECTION 25.

Chapter 12, Amendments and Rezoning, is hereby amended to add a new Section 12.8, Referendum, as follows:

Section 12.8 Referendum

Within seven (7) calendar days after publication of the notice of adoption for an amendment to the Zoning Ordinance or Official Zoning Map, a registered elector residing in the unincorporated portion of the Township may file with the Township Clerk a notice of intent to file an application for referendum under this Section.

- A. If a notice of intent is filed, then within 30 days following publication of an approved amendment, an application signed by a number of registered voters residing in the unincorporated portion of Hope Township equal to not less than fifteen percent (15%) of the total votes cast in the Township for all candidates for Governor of the State of Michigan at the last preceding general election at which the Governor was elected may be filed with the Township Clerk requesting that the amendment be submitted to the electors residing in the unincorporated portion of Hope Township for their approval.
- B. Upon the filing of a notice of intent, the approved amendment shall not take effect until one (1) of the following occurs:
 1. The expiration of 30 calendar days after publication of the notice of adoption for an approved amendment, if the application for referendum is not filed within that time period.

2. If an application is filed within 30 calendar days after publication of a notice of adoption, the Township Clerk determines that the application is inadequate.
3. If an application is filed within 30 calendar days after publication of a notice of adoption, the Township Clerk determines that the application is adequate, and the amendment is approved by a majority of the registered electors residing in the unincorporated portion of the Township. The referendum shall be held at the next regular election date that provides sufficient time for proper notices and printing of ballots, as determined by the Township Clerk. The Township Board shall provide the manner of submitting the amendment to the electors for their approval or rejection, and determining the result of the election.

SECTION 26.

Chapter 12, Amendments and Rezoning, is hereby amended to add a new Section 12.9, Conformance to Court decree, as follows:

Section 12.9 Conformance to Court Decree

An amendment for the purpose of conforming a provision of the Zoning Ordinance to the decree of a court of competent jurisdiction as to any specific land may be adopted by the Township Board and the notice of the adopted amendment published without a hearing or referring the amendment to any other board or agency provided for in this Ordinance.

SECTION 27.

All ordinances and amendments thereto that are in conflict with this Ordinance are hereby repealed.

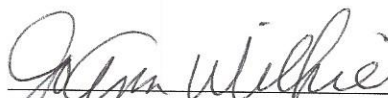
SECTION 28.

This ordinance shall become effective on the eighth (8th) day following publication thereof. Adopted by the Township Board, Township of Hope, Midland County, Michigan, at a meeting of the Township Board held on the 12TH day of MAY, 2015.

Dated: MAY 12, 2015



Andy Kobisa, Supervisor



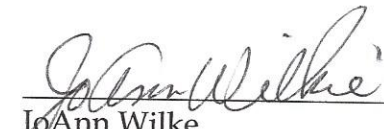
JoAnn Wilke, Clerk

Draft Date: October 8, 2014

Accessory Structures; Keeping of Animals & Bees, Non-Farm; Medical Marijuana; and State-Mandated Updates

CERTIFICATION

The above Ordinance No. ²⁰¹⁵~~5-1~~ was adopted at a meeting of the Hope Township Board on the 12TH day of MAY, 2015, and published in the Midland Daily News, a newspaper of general circulation in the Township of Hope, on the 20TH day of MAY, 2015.



JoAnn Wilke
Clerk, Hope Township