

Chapter 82 - ZONING

Footnotes:

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Cross reference— Any ordinance pertaining to rezoning saved from repeal, § 1-5(12); buildings and building regulations, ch. 14; environment, ch. 26; location of junkyards, § 26-36; manufactured homes and trailers, ch. 42; subdivisions and land division, ch. 66.

State Law reference— Township rural zoning act, MCL 125.271 et seq., MSA 5.2963(1) et seq.; township planning, MCL 125.321 et seq., MSA 5.2963(101) et seq.

ARTICLE I. - IN GENERAL

Sec. 82-1. - Purpose.

This chapter is in accordance with a comprehensive plan and is designed to:

- (1) Lessen congestion in the streets;
- (2) Secure safety from fire, panic and other dangers;
- (3) Promote health and the general welfare;
- (4) Provide adequate light and air;
- (5) Prevent the overcrowding of land;
- (6) Avoid undue concentration of population; and
- (7) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

These regulations have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, with a view to conserving property values, encouraging the most appropriate use of land, and to be in keeping with the general trend and character of population and building development.

(Ord. eff. 5-21-1966, § 15.001)

Sec. 82-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory buildings and uses means a subordinate building not exceeding 170 square feet, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one incidental to the main use of the premises.

Agricultural building means a building located on agricultural property and used to shelter farm implements, hay, grain, poultry, livestock or other farm produce, in which there is no human habitation, and which is not used by the public.

Alley means a public or private thoroughfare that affords only a secondary means of access to abutting property, being less than 16 feet but not less than ten feet in width.

Apartment means a room or suite of rooms in a multiple dwelling, or where more than one living unit is established above nonresidential uses, intended or designed for use as a residence by a single family, including culinary accommodations.

Apartment hotel means an apartment building under resident supervision, which maintains an inner lobby through which all tenants must pass to gain access to the apartments and which may furnish services ordinarily furnished by hotels, such as drugstore, barbershop, cosmetologist's shop, cigar stand or newsstand, when such uses are located entirely within the building with no entrance from the street nor visible from any sidewalk, and having no sign or display visible from the outside of the building indicating the existence of such use.

Apartment house means the same as "dwelling, multiple."

Basement means a story having part but not more than half its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes other than by a janitor employed on the premises.

Boardinghouse means a building other than a hotel, where for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more persons, but not exceeding 20 persons, including nursing homes with less than 21 patients.

Building means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property. Poles used for the support of wires and appurtenance equipment for supplying public utility services shall not be considered as buildings or structures under this chapter.

Building inspector or official means the officer charged with the administration and enforcement of this chapter, or his regularly authorized deputy or assistant as described and defined in the Uniform Building Code adopted in [section 14-26](#).

Buildings, height of, means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

Cellar means a story having more than half its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

Clinic means an establishment where patients are admitted for special study and treatment by a group of physicians practicing medicine together.

District means a section of the township for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Duplex means the combination of two single-family dwellings sharing a common wall.

Dwelling means any building or portion of a building or mobile home or premanufactured or precut building designed or used exclusively for residential purposes.

Dwelling, multiple, means a building or mobile home or premanufactured or precut building having accommodations for and occupied exclusively by more than two families.

Dwelling, single-family, means a building or mobile home or premanufactured or precut building having accommodations for and occupied exclusively by one family.

Dwelling, two-family, means a building or mobile home or premanufactured or precut building having accommodations for and occupied exclusively by two families.

Family means one or more persons occupying premises and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodginghouse or hotel.

Floor area means the total number of occupied square feet of floor space within the exterior walls of a building, not including space in cellars, unfinished basements, porches or garages, or any space within a ceiling height of less than 7½ feet.

Frontage means all the property on one side of a street between two intersecting streets (crossing or terminating) measured along the property line of the street, or if the street is dead-ended, all of the property abutting on one side between an intersecting street and the dead end of the street.

Fruit exchange means premises used for the storage, packaging or canning of fruit or vegetables.

Garage, private, means a structure designed or used for the storage of not more than four vehicles owned by the occupants of the building located on the premises.

Garage, public, means a building or portion of a building, other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling or storing vehicles.

Garage, storage, means a building or portion of a building, designed or used exclusively for housing more than four vehicles.

Grade means, for buildings having:

- (1) Walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- (2) Walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets.
- (3) No wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street, and where no sidewalk exists the sidewalk grade shall be established by the township engineer.

Home occupation means any occupation or activity carried on by a member of the family residing on the premises, in connection with which there is used no sign other than a nameplate not more than one square foot in area, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises, except that which is prepared on the premises in connection with such occupation or activity; there is no person employed other than a member of the family residing on the premises; and there is no mechanical equipment used except of a type that is similar in character to that normally used for purely domestic or household purposes. The term includes the use of premises by a physician, surgeon, dentist, lawyer, clergyman or other professional person for consultation or emergency treatment, but not for the general practice of his profession.

Hotel means a building containing six or more rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests. The word "hotel" shall include the word "motel."

Institution means a nonprofit corporation or a nonprofit establishment for public use.

Lodginghouse means a building or place where lodging is provided (or which is equipped to provide lodging regularly) by prearrangement for definite periods, for compensation, for three or more persons.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street.

Lot, corner, means a lot abutting upon two or more streets at their intersection.

Lot, depth of, means the main horizontal distance between the front and rear lot lines.

Lot, double-frontage, means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot of record means a lot that is a part of a subdivision, the plat of which has been recorded in the office of the recorder of deeds of the county at the time of the adoption of this chapter; or a parcel of land as described by a deed recorded with the recorder of deeds of the county at the time of the passage of this chapter.

Nonconforming use means any building or land lawfully occupied by a use at the time of passage of this chapter or amendment to this chapter, which does not conform after the passage of this chapter or amendment to this chapter with the use regulations of the district in which it is situated.

Parking space means an area, enclosed or unenclosed, providing a minimum of 300 square feet for the parking of a vehicle, including turnaround and aisle space within the parking area, but exclusive of alleys, drives and private driveways giving access to the parking area from public streets; however, in determining the required parking space for residential property, each space provided for the storage of a car shall be deemed to constitute a parking space, and residential driveways or drive areas may be included in determining the minimum requirements.

Place means an open unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.

Projected area means the maximum projection of the structure; e.g., roof overhang. It is the point from where the setback is measured.

Regional shopping center means any group of retail establishments that are contiguous in plan and pattern, that include one or more department stores and that contain a gross leasable area, meaning the area to be placed under the operational control of individual lessees, of at least 100,000 square feet.

Roominghouse means the same as "lodginghouse."

Sign means as defined in Article IX of the Benton Charter Township Zoning Ordinances.

Sign, projecting, means a sign suspended from or supported by a building structure or column and projecting out from the sign more than 18 inches.

Story means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between the floor and the ceiling next above it.

Story, half, means a space under a sloping roof that has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than 60 percent of the floor area is finished off for use.

Street means a dedicated and accepted public thoroughfare or a permanent, unobstructed and maintained private road or easement of access; in either case it must have a right-of-way of 30 feet or more in width and a roadway suitable for vehicular travel at least 16 feet wide, which affords the principal means of vehicular access to abutting property.

Street centerline means a line midway between street lines.

Street line means a dividing line between a lot, tract or parcel of land and a contiguous street.

Structural alterations means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, and pergolas.

Tourist home means a building in which not to exceed 20 rooms are rented to transients.

Yard means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front, means a yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections other than the projection of the usual steps, unenclosed balconies, or open porch.

Yard, rear, means a yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, side, means a yard between the main building and the side line of the lot, being the minimum horizontal distance between the building and the side yard line, and extending from the front line to the rear yard line.

(Ord. eff. 5-21-1966, §§ 15.012—15.071; Ord. eff. 4-26-1976, § 15.051; Ord. eff. 2-8-1985, §§ 15.026—15.029; Ord. No. 82-2, eff. 10-12-2001)

Cross reference— Definitions generally, § 1-2.

Sec. 82-3. - Fees.

The fees to be charged for services to be performed by the planning commission in connection with requests for action shall be in accordance with the schedule set by the township board from time to time.

(Ord. eff. 5-21-1966, § 15.600; Ord. eff. 8-20-1977, § 15.600; Ord. eff. 6-24-1978, § 15.600)

Sec. 82-4. - Interpretation, purpose and conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; except that if this chapter imposes a greater restriction, this chapter shall control.

(Ord. eff. 5-21-1966, § 15.500)

Sec. 82-5. - Amendments.

- (a) The township board may from time to time on its own motion or on petition amend, supplement, change, modify or repeal the boundaries of districts or the regulations established in this chapter. No such amendment shall be enacted until a report has been received from the planning commission, which shall hold at least one public hearing on the proposed amendment, notice of which public hearing shall be given as required by MCL 125.279. Following such hearing the planning commission shall submit the proposed amendment to the coordinating zoning committee of the county. The approval of such coordinating zoning committee shall be conclusively presumed unless such committee shall have notified the township clerk of its disapproval within 30 days. The planning commission shall then transmit the amendment to the township board, which may enact the amendment with or without change; however, before any such enactment, the township board shall grant a hearing to any property owner who has filed a written request to be so heard and shall request the planning commission to attend any such hearing.
- (b) Before any action shall be taken as provided in this article, the party proposing or recommending a change in the district regulations or district boundaries shall deposit with the township clerk a sum set by the township board from time to time to cover the cost of this procedure; and under no condition shall that sum or any part of that sum be refunded for failure of the change to be adopted. No deposit of money shall be required when an action is recommended by the township board on its own motion or by any person or group officially designated to participate in the administration of this chapter. If the proposed amendment or change is denied, no new request shall be made for the same or substantially similar amendment or change within one year after said denial thereof.

(Ord. eff. 5-21-1966, § 15.501; Ord. eff. 1-21-1969, § 15.501)

Sec. 82-6. - Transfer of power to planning commission.

All powers, duties and responsibilities of the zoning board provided by Public Act No. 184 of 1943 (MCL 125.271 et seq.), are transferred to, to the extent that they have not heretofore been transferred to, the planning commission pursuant to Public Act No. 168 of 1959 (MCL 125.321 et seq.).

(Ord. eff. 5-21-1966, § 15.502)

Sec. 82-7. - Enforcement.

It shall be the duty of the building official to enforce this chapter. Appeals from a decision of the building official may be made to the board of appeals as provided in article X, section 82-766 et seq.

(Ord. eff. 5-21-1966, § 15.503)

Sec. 82-8. - Violation and penalty.

- (a) The owner or agent of a building or premises in or upon which a violation of any provision of this chapter has been committed or shall exist; or the lessee or tenant of any entire building or entire premises in or upon which violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished in accordance with section 1-11.

- (b) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or an building, structure or land is used in violation of or contrary to this chapter, the appropriate authorities, in addition other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such un. erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violat to prevent the occupancy of the building, structure or land.

(Ord. eff. 5-21-1966, § 15.504)

Sec. 82-9. - Scope, purpose and intent.

This article is adopted pursuant to the authority granted the township board under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq., to establish a planning commission with the powers, duties and limitations provided by those Acts and subject to the terms and conditions of this ordinance and any future amendments to this article.

The purpose of this article is to provide that the Benton Charter Township Board shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., of the Benton Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq.; to establish the appointments, terms, and membership of the planning commission; to identify the officers and the minimum number of meetings per year of the planning commission; and to prescribe the authority, powers and duties of the planning commission.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 1, eff. 10-22-2011)

Sec. 82-10. - Establishment.

The township board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., of the Benton Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq. The Benton Charter Township Planning Commission shall have five members. Members of the Benton Charter Township Planning Commission as of the effective date of this article shall, except for an ex officio member whose remaining term on the planning commission shall be limited to his or her term on the township board, be appointed by the township supervisor as set out in this article, specifically, section 82-11: Appointments and terms.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 2, eff. 10-22-2011)

Sec. 82-11. - Appointments and terms.

The township supervisor, with the approval of the township board by a majority vote of the members elected and serving, shall appoint all planning commission members, including the ex officio member.

When the planning commission is established, the members appointed, other than the ex officio member, shall be appointed to one-year, two-year or three-year terms that, as nearly as possible, the terms of one-third of all the planning commission members will expire each year.

After the initial establishment of the planning commission, the planning commission members, other than an ex officio member, shall serve for terms of three years each.

A planning commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

Planning commission member shall be qualified electors of the township, except that one planning commission member may be an individual who is not a qualified elector of the township. The membership of the planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the township, in accordance with the major interests as they exist in the township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the township to the extent practicable.

One member of the township board shall be appointed to the planning commission as the ex officio member.

An ex officio member has full voting rights. The ex officio member's term on the planning commission shall expire with his or her term on the township board.

No other elected officer or employee of the township is eligible to be a member of the planning commission.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 3, eff. 10-22-2011)

Sec. 82-12. - Removal.

The township board may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure of a member to attend five held planning commission meetings in any 12-month period commencing at the time of the member's appointment constitutes malfeasance in office.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 4, eff. 10-22-2011)

Sec. 82-13. - Conflict of interest.

Before casting a vote on a matter on which a planning commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. Failure of a member to disclose a potential conflict of interest as required by this ordinance constitutes malfeasance in office.

For the purposes of this section, the planning commission shall define conflict of interest in its bylaws.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 5, eff. 10-22-2011)

Sec. 82-14. - Compensation.

The planning commission members may be compensated for their services as provided by township board resolution. The planning commission may adopt bylaws relative to compensation and expenses of its member for travel when engaged in the performance of activities authorized by the township board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 6, eff. 10-22-2011)

Sec. 82-15. - Officers and committees.

The planning commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each office shall be one year, with opportunity for reelection as specified in the planning commission bylaws.

The planning commission may also appoint advisory committees whose members are not members of the planning commission.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 7, eff. 10-22-2011)

Sec. 82-16. - Bylaws, meetings and records.

The planning commission shall adopt bylaws for the transaction of business.

The planning commission shall hold at least four regular meetings each year, and shall by resolution determine the time and place of the meetings.

Unless otherwise provided in the planning commission's bylaws, a special meeting of the planning commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to planning commission members at least 48 hours before the meeting.

The business that the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261 et seq.

The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231 et seq.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 8, eff. 10-22-11)

Sec. 82-17. - Annual report.

The planning commission shall make an annual written report to the township board concerning its operations and the status of the planning activities, including recommendations regarding actions by the township board related to planning and development.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 9, eff. 10-22-2011)

Sec. 82-18. - Authority to make master plan.

Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., and other applicable planning statutes, the planning commission shall make a master plan as a guide for development within the township's planning jurisdiction.

Final authority to approve a master plan or any amendments thereto shall rest with the planning commission unless the township board passes a resolution asserting the right to approve or reject the master plan.

Unless rescinded by the township, any plan adopted or amended under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq., need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 10, eff. 10-22-2011)

Sec. 82-19. - Zoning powers.

All powers, duties, and responsibilities provided for zoning boards or zoning commissions by the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 et seq., or other applicable zoning statutes are transferred to the Benton Charter Township Planning Commission.

Any existing zoning ordinance shall remain in full force and effect except as otherwise amended or repealed by the township board.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 11, eff. 10-22-2011)

Sec. 82-20. - Capital improvements program.

To further the desirable future development of the township under the master plan, the township board, after the master plan is adopted, shall prepare or cause to be prepared by the township supervisor or by a designated nonelected administrative official, a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following six-year period. The prepared master plan, if prepared by someone other than the township board, shall be subject to the final approval by the township board. The planning commission is hereby exempted from preparing a capital improvements plan.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 12, eff. 10-22-2011)

Sec. 82-21. - Subdivision and land division recommendations.

The planning commission may recommend to the township board provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the planning commission shall hold a public hearing on the proposed ordinance or rule. The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the township.

The planning commission shall review and make recommendation on a proposed plat before action thereon by the township board under the Land Division Act, Public Act 288 of 1967, MCL 560.101 et seq. Before making its recommendation, the planning commission shall hold a public hearing on the proposed plat. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

(Ord. eff. 12-25-2008; Ord. No. 2011-006, § 13, eff. 10-22-2011)

Secs. 82-22—82-40. - Reserved.

ARTICLE II. - DISTRICTS

DIVISION 1. - GENERALLY

Sec. 82-41. - Enumerated.

In order to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of the yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, the township is hereby divided into districts, of which there shall be nine in number known as:

A-A	rural district.
A-1	single-family dwelling district.
A-2	single-family dwelling district.
B	two-family dwelling district.
C	multiple dwelling district.
D-1	commercial district.
D-2	commercial district.
E	restricted industrial district.
F	heavy industrial district.

(Ord. eff. 5-21-1966, § 15.100)

Sec. 82-42. - Boundaries.

The boundaries of the districts are shown upon the district map, which is made a part of this chapter. The district map and all the notations, references and other information shown on the map are a part of this chapter and have the same force and effect as if the district map and all the notations, references and other information shown on the map were all fully set forth or described in this chapter.

(Ord. eff. 5-21-1966, § 15.101)

Sec. 82-43. - Effect of vacating area.

Whenever any street, alley or other public way is vacated by official action, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation; and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

(Ord. eff. 5-21-1966, § 15.102)

Sec. 82-44. - Classification of annexed territory.

All territory that may come within the limits of the township shall be immediately placed and continued in the A-1 single-family dwelling district until otherwise changed by ordinance.

(Ord. eff. 5-21-1966, § 15.103)

Sec. 82-45. - Effect of alterations.

Except as otherwise provided:

- (1) No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.
- (2) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit or the floor area limit established for the district in which the building is located.
- (3) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area and parking regulations of the district in which the building is located.
- (4) The minimum yards and other open spaces, including lot area per family, required by this chapter for each and every building on May 21, 1966, or for any building thereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this chapter.
- (5) Every building erected or structurally altered shall be located on a lot, and in no case shall there be more than one main building on one lot except as otherwise provided here in articles V and VIII of this chapter.

(Ord. eff. 5-21-1966, § 15.104)

Sec. 82-46. - Rules where uncertainty may arise.

Where uncertainty exists with respect to the boundaries of the various districts shown on the district map accompanying and made a part of this chapter, the following rules apply:

- (1) The district boundaries are either streets or alleys unless otherwise shown; and where the districts designated on the map accompanying and made a part of this chapter are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.
- (2) Where the district boundaries are not otherwise indicated, and where the property has been divided into blocks and lots, the district boundaries shall be construed to coincide with the lot lines, and where the districts designated on the district map accompanying and made a part of this chapter are bounded approximately by lot lines, the lot shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.
- (3) In unsubdivided property, the district boundary lines on the map accompanying and made a part of this

chapter shall be determined by use of the scale appearing on the map.

(Ord. eff. 5-21-1966, § 15.450)

Secs. 82-47—82-65. - Reserved.

DIVISION 2. - A-A RURAL DISTRICT REGULATIONS

Footnotes:

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Cross reference— *Animals, ch. 10.*

Sec. 82-66. - Generally.

The regulations set forth in this division or set forth elsewhere in this chapter when referred to in this division are the district regulations of the A-A district.

(Ord. eff. 5-21-1966, § 15.150; Ord. eff. 8-23-2019(1))

Sec. 82-67A. - Use regulations permitted by right.

In the A-A district, a building or premises shall be used only for the following purposes:

- (1) Farming, truck gardening and nurseries, including the sale and distribution of agricultural products and products other than machinery that are to be used for agricultural purposes.
- (2) Railroad tracks and yards and similar railroad facilities.
- (3) Single-family dwellings.
- (4) Public elementary and high schools, or charter and/or private schools with a curriculum the same as ordinarily given in public elementary schools and high schools.
- (5) Fruit exchanges and related fruit and/or vegetable processing and packing; provided that adequate provision satisfactory to the health officer is made for water supply and sanitary sewage disposal.
- (6) Accessory buildings and uses customarily incident to any of the uses given in subsections (1)—(5), including bulletin boards and signs not exceeding 12 square feet in area appertaining to the lease, hire or sale of a building or premises or to any material that is mined, manufactured, grown, sold, or treated within the district; however, such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed, stored or sold.
- (7) Signs. See article IX of this chapter.
- (8) Pole or power lines, together with apparatus and equipment for such lines, of any public utility of the size and character corresponding to similar installments that any such utility had installed in any public highway, street, or alley in the township.
- (9) Migratory farm housing for temporary farm equipment.
- (10) Agricultural buildings.

(Ord. eff. 8-23-2019(1))

Editor's note— An ordinance effective Aug. 23, 2019, repealed § 82-67 in its entirety and enacted new provisions to read as herein set out. Former § 82-67 pertained to use regulations, and derived from an ordinance effective May 21, 1966, § 15.151; and an ordinance effective May 6, 1980, § 15.151.

Sec. 82-67B. - Use regulations permitted by special use permit.

The following uses may be permitted upon approval by the township board, who may require special conditions after review by the planning commission in accordance with the provisions of this ordinance relating to special use permits.

- (1) Any public or publicly regulated utility or community building facility.
- (2) Cemeteries.
- (3) Broadcasting towers and stations.
- (4) Off-site, accessory parking.
- (5) Hospitals and nursing homes.
- (6) Colleges, universities and private boarding schools.
- (7) Private and public recreational activities.
- (8) Medical, dental, or professional building and clinics.
- (9) Mortuaries.
- (10) Stables of horses for hire, riding academies, gun clubs, raising of fur bearing animals, kennels and similar uses.
- (11) Office of a veterinarian, animal clinic and similar uses.
- (12) Churches.

(Ord. eff. 8-23-2019(1))

Sec. 82-68. - Height regulations.

No building in the A-A district shall exceed 40 feet in height except as provided in articles V and VIII of this chapter.

(Ord. eff. 5-21-1966, § 15.152)

Sec. 82-69. - Area regulations.

(a) *Front yard.* In the A-A district:

- (1) There shall be a front yard having a depth of not less than 30 feet except as provided in article VIII of this chapter.
- (2) Where lots have double frontage, the required front yard shall be provided on both streets.
- (3) There shall be a front yard on each street side of a corner lot; however, the buildable width of a lot of record need not be reduced to less than 30 feet, except where necessary to provide a yard along the side street with a depth of not less than ten feet. No accessory building shall project beyond the front yard line on either street.

(b) *Side yard.*

- (1) Except as provided in subsection (b)(2) of this section and in article VIII of this chapter, section 82-591 et seq., there shall be a side yard on each side of a building having a width of not less than ten feet.

- (2) Whenever a lot of record has a width of 100 feet or less, the side yard may be reduced to a width of not less than 10 percent of the width of the lot; but in no instance shall it be less than four feet.
- (c) *Rear yard.* Except as provided in article VIII, section 82-591 et seq., there shall be a rear yard having a depth of not less than 30 feet or 20 percent of the depth of a lot of record, whichever amount is smaller.
- (d) *Intensity of use.* Every lot or building site shall have an area not less than 40,000 square feet and width of not less than 150 feet; except if a lot or building site has an area or width less than required in this subsection and its boundary lines were along lands under other ownership on May 21, 1966, and have not since been changed, such parcel of land may be used for a single-family dwelling.

(Ord. eff. 5-21-1966, § 15.153)

Secs. 82-70—82-90. - Reserved.

DIVISION 3. - A-1 SINGLE-FAMILY DWELLING DISTRICT REGULATIONS

Sec. 82-91. - Generally.

The regulations set forth in this division or set forth elsewhere in this chapter when referred to in this division are the district regulations of the A-1 district.

(Ord. eff. 5-21-1966, § 15.170; Ord. eff. 8-23-2019(1))

Sec. 82-92A. - Use regulations permitted by right.

In the A-1 district, a building or premises shall be used only for the following purposes:

- (1) Single-family dwellings when provided with parking as set forth in article IV of this chapter.
- (2) Parks, playgrounds, and community buildings owned or operated by a public agency.
- (3) Public libraries.
- (4) Public schools, elementary and high, or charter and/or private schools having a curriculum equivalent to a public elementary school or public high school.
- (5) Accessory buildings and accessory uses, customarily incident to the uses specified in subsections (1) [and] (4) (not involving the conduct of a business), including a private garage, home occupations, the use of a lot or building site for a vegetable or flower garden not on a commercial basis or on a scale reasonably objectionable to adjacent property owners. However, the parking or storing of trucks, buses or similar commercial vehicles exceeding a three-fourths-ton capacity shall be prohibited on residential property.
- (6) Public utility uses of the public service type, including distribution and communication lines and mains and their appurtenances, but not including towers, telephone exchanges, gas regulators, and electric transformer or substations and other buildings; however such excluded uses may be authorized by the township board, by special permit as provided below and in article V of this chapter.

(Ord. eff. 8-23-2019(1))

Editor's note— An ordinance effective Aug. 23, 2019, repealed § 82-92 in its entirety and enacted new provisions to read as herein set out. Former § 82-92 pertained to use regulations, and derived from an ordinance effective May 21, 1966, § 15.171; and an ordinance effective March 31, 1969 § 15.171.

Sec. 82-92B. - Use regulations permitted by special use permit.

The following uses may be permitted upon approval by the township board, who may require special conditions after review by the planning commission in accordance with the provisions of this ordinance relating to special use permits.

- (1) Any public or publicly regulated utility or community building facility.
- (2) Cemeteries.
- (3) Off-site, accessory parking.
- (4) Hospitals and nursing homes.
- (5) Colleges, universities and private boarding schools.
- (6) Private and public recreational activities.
- (7) Medical, dental, or professional building and clinics.
- (8) Mortuaries.
- (9) Churches.

(Ord. eff. 8-23-2019(1))

Sec. 82-93. - Height regulations.

No building in the A-1 district shall exceed 40 feet in height except as provided in articles V and VIII of this chapter.

(Ord. eff. 5-21-1966, § 15.172)

Sec. 82-94. - Area regulations.

The area regulations of the A-1 district are the same as provided in section 82-69; except that every lot shall have an area of not less than 20,000 square feet and an average width of not less than 100 feet; except that if the lot has less area or width than required in this section and its entire boundary lay along lands under other ownership on May 21, 1966, and has not since been changed, such parcel of land may be used for a single-family dwelling.

(Ord. eff. 5-21-1966, § 15.173)

Secs. 82-95—82-115. - Reserved.

DIVISION 4. - A-2 SINGLE-FAMILY DWELLING DISTRICT REGULATIONS

Sec. 82-116. - Generally.

The regulations set forth in this division or set forth elsewhere in this chapter when referred to in this division are the district regulations of the A-2 single-family dwelling district.

(Ord. eff. 5-21-1966, § 15.180; Ord. eff. 8-23-2019(1))

Sec. 82-117A. - Use regulations permitted by right.

The use regulations permitted by right in the A-2 district are the same as those in the A-1 district.

(Ord. eff. 8-23-2019(1))

Editor's note— An ordinance effective Aug. 23, 2019, repealed § 82-117 in its entirety and enacted new provisions to read as herein set out. Former § 82-117 pertained to use regulations, and derived from an ordinance effective May 21, 1966, § 15.181.

Sec. 82-117B. - Use regulations permitted by special use permit.

The use regulations permitted by special use permit in the A-2 district are the same as those in the A-1 district.

(Ord. eff. 8-23-2019(1))

Sec. 82-118. - Height regulations.

The height regulations in the A-2 district are the same as those in the A-1 district.

(Ord. eff. 5-21-1966, § 15.182)

Sec. 82-119. - Area regulations.

(a) *Front yard.* In the A-2 district:

- (1) There shall be a front yard having a depth of not less than 30 feet except as provided in article VIII of this chapter.
- (2) Where lots have a double frontage, the required front yard shall be provided on both streets.
- (3) There shall be a front yard on each street side of a corner lot; however, the buildable width of a lot of record on May 21, 1966, need not be reduced to less than 28 feet, except where necessary to provide a yard along the side street with a depth of not less than five feet. No accessory building shall project beyond the front yard line on either street.
- (4) Any accessory building that is not a part of the main structure shall be located not less than 60 feet from the front lot line.

(b) *Side yard.*

- (1) Except as provided in subsection (b)(2) and in article VIII of this chapter, there shall be a side yard on each side of a building, having a width of not less than ten feet.
- (2) Whenever a lot of record has a width of less than 75 feet, the side yard on each side of a building may be reduced to a width of not less than ten percent of the width of the lot; but in no instance shall it be less than five feet.

(c) *Rear yard.* Except as provided in article VIII of this chapter, there shall be a rear yard having a depth of not less than 30 feet or 20 percent of the depth of the lot, whichever amount is smaller.

(d) *Intensity of use.* Every lot shall have an area of not less than 8,625 square feet, an average width of not less than 75 feet, and an average depth of not less than 115 feet, except that if a lot has less area, width or depth than required in this section, and its entire boundary lines were along lands other than ownership on May 21, 1966,

and have not since been changed, such parcel of land may be used for a single-family dwelling.

(Ord. eff. 5-21-1966, § 15.183)

Secs. 82-120—82-140. - Reserved.

DIVISION 5. - B TWO-FAMILY DWELLING DISTRICT REGULATIONS

Sec. 82-141. - Generally.

The regulations set forth in this division or set forth elsewhere in this chapter when referred to in this division are the B district regulations.

(Ord. eff. 5-21-1966, § 15.190; Ord. eff. 8-23-2019(1))

Sec. 82-142A. - Use regulations permitted by right.

A building or premises in the B district shall be used only for the following purposes:

- (1) Any use permitted in the A-1 district.
- (2) Two-family dwelling.
- (3) Accessory building and uses customarily incident to either of the uses in subsection (1) or (2) when located on the same lot and not involving the conduct of business. If a garage is not a part of the main building, it shall be located not less than 60 feet from the front street line.

(Ord. eff. 8-23-2019(1))

Editor's note— An ordinance effective Aug. 23, 2019, repealed § 82-142 in its entirety and enacted new provisions to read as herein set out. Former § 82-142 pertained to use regulations, and derived from an ordinance effective May 21, 1966, § 15.191.

Sec. 82-142B. - Use regulations permitted by special use permit.

The use regulations permitted by special use permit in the B district are the same as those in the A-1 and A-2 districts.

(Ord. eff. 8-23-2019(1))

Sec. 82-143. - Parking regulations.

Parking regulations for the B district are given in article IV, section 82-446 et seq.

(Ord. eff. 5-21-1966, § 15.192)

Sec. 82-144. - Height regulations.

No building in the B district shall exceed 40 feet in height, except as provided in articles V and VIII of this chapter.

(Ord. eff. 5-21-1966, § 15.193)

Sec. 82-145. - Area regulations.

(a) *Front yard.* In the B district:

- (1) There shall be a front yard having a depth of not less than 30 feet except as provided in article VIII of this chapter.

(b) *Side yard.*

- (1) Except as provided in subsection (2)b. and in article VIII, there shall be a side yard on each side of a building, having a width of not less than ten feet.

(c) *Rear yard.* Except as provided in article VIII, there shall be a rear yard having a depth of not less than 25 feet or 20 percent of the depth of the lot, whichever amount is smaller.(d) *Intensity of use.* The minimum area requirements of this district are as follows:

- (1) On a lot where there is erected a single-family dwelling, an area of not less than 8,625 square feet and an average width of not less than 75 feet.
- (2) On a lot where there is erected a two-family dwelling, an area of not less than 3,750 square feet per family and an average width of not less than 60 feet.
- (3) Where a line or tract had less area or width than required in this section and its entire boundary lines were along lands under other ownership on May 21, 1966, and have not since been changed, such parcel of land may be used for a single-family dwelling.

(Ord. eff. 5-21-1966, § 15.194)

Secs. 82-146—82-165. - Reserved.

DIVISION 6. - C MULTIPLE DWELLING DISTRICT REGULATIONS

Sec. 82-166. - Generally.

The regulations set forth in this division or set forth elsewhere in this chapter when referred to in this division are the district regulations of the C district.

(Ord. eff. 5-21-1966, § 15.200; Ord. eff. 8-23-2019(1))

Sec. 82-167A. - Use regulations permitted by right.

In the C district, a building or premises shall be used only for the following purposes:

- (1) Any use permitted in the B district.
- (2) Multiple dwellings.
- (3) Boarding houses and lodging houses, and mobile home parks by special permit as provided in article V of this ordinance.
- (4) Private clubs, fraternities, sororities and lodges, excepting those the chief activity or which is a service, customarily carried on as a business.
- (5) Accessory buildings and accessory uses, customarily incident to the uses specified in subsections (1)—(4),

including storage garages, where the lot is occupied by a multiple dwelling, hospital or institutional building. If a storage garage is not a part of the main building, it shall be located not less than 60 feet from the front street line.

(Ord. eff. 8-23-2019(1))

Editor's note— An ordinance effective Aug. 23, 2019, repealed § 82-167 in its entirety and enacted new provisions to read as herein set out. Former § 82-167 pertained to use regulations, and derived from an ordinance effective Feb. 21, 1966, § 15.201; and an ordinance effective May 6, 1980, § 15.201.

Sec. 82-167B. - Use regulations permitted by special use permit.

The following uses may be permitted upon approval by the township board, who may require special conditions after review by the planning commission in accordance with the provisions of this ordinance relating to special use permits.

- (1) Any public or publicly regulated utility or community building facility.
- (2) Cemeteries.
- (3) Broadcasting towers and stations.
- (4) Off-site, accessory parking.
- (5) Hospitals and nursing homes.
- (6) Colleges, universities and private boarding schools.
- (7) Private and public recreational activities.
- (8) Medical, dental, or professional building and clinics.
- (9) Mortuaries.
- (10) Churches.

(Ord. eff. 8-23-2019(1))

Sec. 82-168. - Parking regulations.

Parking in the C district is governed by article IV of this chapter.

(Ord. eff. 5-21-1966, § 15.202)

Sec. 82-169. - Height regulations.

No building in the C district shall exceed 40 feet in height, except as provided in articles V and VIII of this chapter.

(Ord. eff. 5-21-1966, § 15.203)

Sec. 82-170. - Area regulations.

- (a) *Front yard.* The front yard regulations of the C district are the same as those in the B district.
- (b) *Side yard.*
 - (1) The side yard regulations for buildings not exceeding two stories in height are the same as those in the B district.
 - (2) There shall be a side yard, which shall have a width of not less than ten feet.

- (c) *Rear yard*. The rear yard regulations are the same as those in the B district.
- (d) *Intensity of use*. The minimum area requirements of this district shall be as follows:
- (1) On a lot on which there is erected a single-family dwelling, an area of not less than 8,625 square feet and a minimum width of 75 feet.
 - (2) On a lot on which there is erected a two-family dwelling, an area of not less than 3,750 square feet per family and a minimum width of 60 feet.
 - (3) On a lot on which there is erected a multiple dwelling or any other use permitted in this district, an area of not less than 7,500 square feet or 2,000 square feet per family whichever is the larger, and a minimum width of 60 feet.
 - (4) Where a lot of record on May 21, 1966, contains less area or width than required, that lot may be used only for single-family dwelling purposes.

(Ord. eff. 5-21-1966, § 15.204)

Secs. 82-171—82-190. - Reserved.

DIVISION 7. - D-1 COMMERCIAL DISTRICT REGULATIONS

Footnotes:

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Cross reference— *Businesses, ch. 18.*

Sec. 82-191. - Generally.

The regulations set forth in this division or set forth elsewhere in this chapter when referred to in this division are the district regulations of the D-1 district.

(Ord. eff. 5-21-1966, § 15.210; Ord. eff. 8-23-2019(1))

Sec. 82-192A. - Use regulations permitted by right.

A building or premises in the D-1 district shall be used only for the following purposes:

- (1) Any use permitted in the D-2 district.
- (2) Bank.
- (3) Barbershop, beauty parlor, chiropody, massage, or similar personal service shop.
- (4) Bicycle sales and repair shop.
- (5) Dancing or music academy.
- (6) Custom dressmaking, millinery, tailoring, shoe repairing, household utility articles or similar trade; but not more than five employees shall be engaged upon the premises at any one time.
- (7) Dyeing and cleaning works employing not more than five persons on the premises.
- (8) Food storage lockers.
- (9) Automobile repair shops, but no outside storage of wrecked, unrepaired or dismantled cars.

- (10) Storage garages, parking ramps, lots or other similar parking facilities.
- (11) Animal hospitals, shelters or clinics, but no open kennels.
- (12) Hotel, tourist home or motel.
- (13) Key and gun shops.
- (14) Laundrettes.
- (15) Laundry employing not more than five persons on the premises.
- (16) Medical and dental clinic or office.
- (17) Messenger and telegraph service station.
- (18) Nursery or greenhouse.
- (19) Business and professional office, including research facilities.
- (20) Photography services and retail supplies.
- (21) Receiving store for dry or steam cleaning, which cleaning shall be done elsewhere.
- (22) Restaurant, cafeteria and automat.
- (23) Shop for the repair of electrical, radio and television equipment and other similar commodities employing not more than five persons on the premises, and not involving the conduct of any manufacturing on the premises.
- (24) Store or shop for the conduct of a retail business.
- (25) Theater.
- (26) Undertaking establishment.
- (27) Signs, according to article IX of this chapter.
- (28) Accessory buildings and uses customarily incident to the uses given in subsections (1)—(27), including parking lots.
- (29) Bowling alleys and other related commercial recreational activities such as but not limited to pool halls, miniature golf courses and driving ranges not a part of golf courses.
- (30) Bars, taverns and lounges serving alcoholic beverages provided they are properly licensed by the state and otherwise approved by the township.
- (31) Temporary roadside states.
- (32) Power or electrical poles, towers and substations.
- (33) Regional shopping centers.
- (34) Adult entertainment, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, or massage parlors; however none of these establishments shall be located within 1,000 feet of any church, school ground, college campus, residence, dwelling or rooming unit, or branch of the public library or any other place of business classified under this subsection. In determining the distance from a church, school ground, college campus, residence, dwelling or rooming unit, or branch of the public library or any other place of business classified under this subsection, the distance shall be measured from the center of the nearest permanent entrance of these buildings following the usual and customary path of pedestrian travel to the center of the main entrance of the establishment classified under this subsection.

Any building used primarily for any of these purposes may have not more than 40 percent of the floor area devoted to storage purposes incidental to such primary use.

(Ord. eff. 8-23-2019(1))

Editor's note— An ordinance effective Aug. 23, 2019, repealed § 82-192 in its entirety and enacted new provisions to read as herein set out. Former § 82-192 pertained to use regulations, and derived from ordinances effective May 21, 1966, § 15.211; April 26, 1976, § 15.211; Sept. 6, 1976, § 15.211; May 5, 1978, § 15.211; and May 6, 1980, § 15.211.

Sec. 82-192B. - Use regulations permitted by special use permit.

The following uses may be permitted upon approval by the township board, who may require special conditions after review by the planning commission in accordance with the provisions of this ordinance relating to special use permits.

- (1) Any public or publicly regulated utility or community building facility.
- (2) Cemeteries.
- (3) Broadcasting towers and stations.
- (4) Off-site, accessory parking.
- (5) Hospitals and nursing homes.
- (6) Colleges, universities and private boarding schools.
- (7) Private and public recreational activities.
- (8) Mortuaries.
- (9) Gas stations.
- (10) Churches.
- (11) Medical marihuana safety compliance facility.

(Ord. eff. 8-23-2019(1))

Sec. 82-193. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult bookstore means an establishment having as a substantial or significant portion of its stock in trade books, magazines and other periodicals distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.

Adult entertainment means any adult bookstore, adult motion picture theater, adult mini-motion picture theater or any commercial establishment which, for a fee or incidentally to another service, presents material or exhibition distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observations by patrons.

Adult mini-motion picture theater means an enclosed building with a capacity for less than 50 persons used for presenting material depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

Adult motion picture theater means an enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

Massage parlor means any commercial establishment which for a fee provides for the manipulation or rubbing of body parts, except manipulation of body parts for remedial purposes performed by state licensed practitioners with the minimal qualifications of a physical therapist.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered:
 - a. Human genitals, pubic region;
 - b. Buttock; and
 - c. Female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(Ord. eff. 5-21-1966, § 15.211a; Ord. eff. 5-15-1978, § 15.211a)

Cross reference— Definitions generally, § 1-2.

Sec. 82-194. - Parking regulations.

Parking in the D-1 district is regulated in article IV of this chapter.

(Ord. eff. 5-21-1966, § 15.212)

Sec. 82-195. - Height regulations.

No building in the D-1 district shall exceed 40 feet in height, except that the township board may grant an exception for additional height where such added height would:

- (1) Not disrupt or interfere with existing structures or development; and
- (2) Be of such construction as not to constitute a fire hazard.

This fact shall be so certified by the fire inspector or fire chief. The township board in granting additional height for any building may impose any conditions and/or limitations as are reasonable under the circumstances, including but not limited to construction standards, area setback, and side lot requirements in excess of those required of the district and such fire prevention facilities as are deemed necessary for safety and general welfare.

(Ord. eff. 5-21-1966, § 15.213)

Sec. 82-196. - Area regulations.

- (a) *Front yard*. The front yard regulations in the D-1 district are the same as those in the B district, except that on the

side street side of a corner lot the front yard need not exceed ten feet in depth.

- (b) *Side yard.* The side yard regulations for dwellings are the same as those in the C district. Where a lot is used for any of the commercial purposes permitted in this district, a side yard is not required except on the side of a lot abutting on a dwelling district, in which case there shall be a side yard of not less than five feet. If a side yard is provided where it is not required, it shall have a width of not less than five feet. A fire-resistant wall conforming with the requirements of the building code shall be provided if there is no side yard.
- (c) *Rear yard.* The rear yard regulations for dwellings are the same as in the B district. In all other cases a rear yard is not required except where a lot abuts upon a dwelling district, in which case there shall be a rear yard of not less than 20 feet in depth.
- (d) *Intensity of use.* When a lot is improved to a single-family dwelling, two-family dwelling, or a multiple dwelling, or when living facilities are erected with other uses, the intensity of use regulations are the same as those required in the dwelling district closest to the lot being improved.

(Ord. eff. 5-21-1966, § 15.214)

Sec. 82-197. - Gambling prohibited.

All gambling, including bingo and Las Vegas Nights, is prohibited in all regional shopping centers located in the township.

Secs. 82-198—82-220. - Reserved.

DIVISION 8. - D-2 COMMERCIAL DISTRICT REGULATIONS

Footnotes:

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Cross reference— *Businesses, ch. 18.*

Sec. 82-221. - Generally.

The regulations set forth in this division or set forth elsewhere in this chapter when referred to in this division are the district regulations of the D-2 district.

(Ord. eff. 5-21-1966, § 15.220; Ord. eff. 8-23-2019(1))

Sec. 82-222A. - Use regulations permitted by right.

A building or premises in the D-2 district shall be used only for the purpose of office buildings used for professional and other similar services

(Ord. eff. 8-23-2019(1))

Editor's note— An ordinance effective Aug. 23, 2019, repealed § 82-222 in its entirety and enacted new provisions to read as herein set out. Former § 82-222 pertained to use regulations, and derived from an ordinance effective May 21, 1966, § 15.221; and an ordinance effective Sept. 6, 1976, § 15.221.

Sec. 82-222B. - Use regulations permitted by special use permit.

The following uses may be permitted upon approval by the township board, who may require special conditions after review by the planning commission in accordance with the provisions of this ordinance relating to special use permits.

- (1) Any public or publicly regulated utility or community building facility.
- (2) Cemeteries.
- (3) Broadcasting towers and stations.
- (4) Off-site, accessory parking.
- (5) Hospitals and nursing homes.
- (6) Colleges, universities and private boarding schools.
- (7) Private and public recreational activities.
- (8) Mortuaries.
- (9) Churches.

(Ord. eff. 8-23-2019(1))

Sec. 82-223. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Professional offices and other similar services means:

- (1) Medical and/or dental clinics or offices.
- (2) Pharmacy.
- (3) Medical laboratory.
- (4) Attorney's office.
- (5) Accountant's office.
- (6) Architect's office.
- (7) Engineer's office.
- (8) Surveyor's office.
- (9) Real estate office.
- (10) Insurance office.
- (11) Financial institution.
- (12) Barbershop.
- (13) Beauty college or school.
- (14) Beauty parlor or salon.
- (15) Cosmetologist's office.
- (16) Mortuary.

(Ord. eff. 5-21-1966, § 15.222; Ord. eff. 9-6-1976, § 15.222)

Cross reference— Definitions generally, § 1-2.

Sec. 82-224. - Parking regulations.

Parking in the D-2 district is regulated by article IV.

(Ord. eff. 5-21-1966, § 15.223)

Sec. 82-225. - Height regulations.

Height regulations in the D-2 district are the same as in the D-1 district.

(Ord. eff. 5-21-1966, § 15.224)

Sec. 82-226. - Area regulations.

Area regulations in the D-2 district are the same as in the D-1 district.

(Ord. eff. 5-21-1966, § 15.225)

Secs. 82-227—82-245. - Reserved.

DIVISION 9. - E RESTRICTED INDUSTRIAL DISTRICT REGULATIONS

Footnotes:

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Cross reference— *Businesses, ch. 18.*

Sec. 82-246. - Generally.

The regulations set forth in this division or set forth elsewhere in this chapter when referred to in this division are the district regulations of the E district.

(Ord. eff. 5-21-1966, § 15.230; Ord. eff. 8-23-2019(1))

Sec. 82-247A. - Use regulations permitted by right.

A building or premises in the E district may be used for any purpose except the following:

- (1) Acetylene gas manufacture or storage.
- (2) Acid manufacture.
- (3) Alcohol manufacture.
- (4) Ammonia, bleaching powder or chlorine manufacture.
- (5) Arsenal.
- (6) Asphalt manufacture or refining.
- (7) Auto wrecking, salvage or storage and junk yards.
- (8) Bag cleaning.
- (9) Blast furnaces.

- (10) Boiler works.
- (11) Brick, tile, pottery or terra cotta manufacture.
- (12) Cement, concrete, lime, gypsum or plaster of Paris manufacture.
- (13) Coke ovens.
- (14) Creosote manufacture or treatment.
- (15) Disinfectants manufacture.
- (16) Distillation of bones, coal or wood.
- (17) Dye stuff manufacture.
- (18) Explosives or fireworks manufacture or storage.
- (19) Fat rendering.
- (20) Fertilizer manufacture.
- (21) Forge plant.
- (22) Garbage, offal or dead animals reduction or dumping.
- (23) Gas manufacture or storage.
- (24) Glue, size or gelatin manufacture.
- (25) Iron, steel, brass or copper foundry or fabrication plant.
- (26) Oilcloth or linoleum manufacture.
- (27) Oiled rubber goods manufacture.
- (28) Ore reduction.
- (29) Paint, oil, shellac, turpentine or varnish manufacture.
- (30) Paper and pulp manufacture.
- (31) Petroleum or its products, refining or wholesale storage of.
- (32) Rock crusher.
- (33) Rolling mill.
- (34) Rubber or gutta-percha manufacture or treatment.
- (35) Shoe polish manufacture.
- (36) Smelting of tin, copper, zinc or iron ores.
- (37) Stockyards or slaughter of animals or fowls.
- (38) Stone mill or quarry.
- (39) Tanning, curing or storage of raw hides or skins.
- (40) Tar distillation or manufacture.
- (41) Tar roofing or waterproofing manufacture.
- (42) Yeast plant.
- (43) Blacksmith shop.
- (44) All other uses that may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, or noise.
- (45) Any use requiring large amounts of water to be disposed on in sanitary sewers unless a written certification is first obtained from the township engineer, stating that the existing sanitary sewers are adequate to

accommodate the proposed use, and provided further that uses listed in article V of this chapter follow the requirements of this section.

(46) Residential dwellings of any kind.

(Ord. eff. 8-23-2019(1))

Editor's note— An ordinance effective Aug. 23, 2019, repealed § 82-247 in its entirety and enacted new provisions to read as herein set out. Former § 82-247 pertained to use regulations, and derived from an ordinance effective May 21, 1966, § 15.231.

Sec. 82-247B. - Use regulations permitted by special use permit.

The following uses may be permitted upon approval by the township board, who may require special conditions after review by the planning commission in accordance with the provisions of this ordinance relating to special use permits.

- (1) Any public or publicly regulated utility or community building facility.
- (2) Airports, heliports or landing fields.
- (3) Cemeteries.
- (4) Broadcasting towers and stations.
- (5) Off-site, accessory parking.
- (6) Churches.
- (7) Medical marihuana secure transporter.

(Ord. eff. 8-23-2019(1))

Sec. 82-248. - Adult uses.

Any establishment for the use of adult entertainment, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, or massage parlors shall comply with sections 82-192 and 82-193.

(Ord. eff. 5-21-1966, § 15.231a; Ord. eff. 5-5-1978, § 15.231a)

Sec. 82-249. - Parking regulations.

Parking in the E district is regulated by article IV of this chapter.

(Ord. eff. 5-21-1966, § 15.232)

Sec. 82-250. - Height regulations.

The height regulations in the E district shall be the same as in the D district.

(Ord. eff. 5-21-1966, § 15.223)

Sec. 82-251. - Area regulations.

- (a) *Front yard*. The front yard regulations of the E district shall be the same as in the A-A district.
- (b) *Side yard*. Where a lot is used for any of the commercial or industrial purposes permitted in this district, a side yard is not required, except on the side of a lot abutting on a dwelling district, in which case there should be a

side yard of not less than five feet. If a side yard is provided where it is not required, it shall have a width of not less than five feet. A fire-resistant wall conforming with the requirements of the building code shall be provided if there is no side yard.

(c) *Rear yard.* A rear yard is not required, except where a lot abuts upon a dwelling district, in which case there shall be a rear yard of not less than 20 feet in depth.

(d) *Intensity of use.* The intensity of use regulations shall be the same as in the D district.

(Ord. eff. 5-21-1966, § 15.234)

Secs. 82-252—82-270. - Reserved.

DIVISION 10. - F HEAVY INDUSTRIAL DISTRICT REGULATIONS

Footnotes:

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Cross reference— *Businesses, ch. 18.*

Sec. 82-271. - Generally.

The regulations set forth in this division or set forth elsewhere in this chapter when referred to in this division are the F district regulations.

(Ord. eff. 5-21-1966, § 15.240; Ord. eff. 8-23-2019(1))

Sec. 82-272A. - Use regulations permitted by right.

Any building or premises in the F district may be used for any purpose not in conflict with any ordinances regulating nuisances; however, no building shall be erected, reconstructed or structurally altered for residential purposes except for resident watchmen and caretakers employed on the premises; further, uses listed as special land uses, follow the procedures of article V of this ordinance; and further, no building or occupancy permit shall be used for any of the following uses until and unless the location of such uses shall have been approved by the township board after report by the chief of the fire department and the planning commission:

- (1) Acid manufacture.
- (2) Cement, lime, gypsum, or plaster of Paris manufacture.
- (3) Distillation of bones.
- (4) Explosives manufacture or storage.
- (5) Fat rendering.
- (6) Fertilizer manufacture.
- (7) Gas manufacture.
- (8) Garbage, offal or dead animals reduction or dumping.
- (9) Glue manufacture.
- (10) Refining of petroleum or its products.

- (11) Smelting of tin, copper, zinc or iron ores.
- (12) Stockyards or slaughter of animals.
- (13) Wholesale storage of gasoline.
- (14) Auto wrecking yards, salvage or storage yards, coal yards, lumberyards, or contractors' storage yards, junk, iron or rags, storage or baling, except where otherwise licensed by the township board and where the premises upon which such activities are conducted are wholly enclosed within a building or by a tight fence not less than eight feet in height, the material and construction of which shall conform to specifications of and be approved by the building inspector and which fence is erected within all yard lines. Stored material shall not be piled at a height of more than six feet. No advertising may be placed on the fence.

(Ord. eff. 8-23-2019(1))

Editor's note— An ordinance effective Aug. 23, 2019, repealed § 82-272 in its entirety and enacted new provisions to read as herein set out. Former § 82-272 pertained to use regulations, and derived from an ordinance effective May 21, 1966, § 15.241.

Sec. 82-272B. - Use regulations permitted by special use permit.

The following uses may be permitted upon approval by the township board, who may require special conditions after review by the planning commission in accordance with the provisions of this ordinance relating to special use permits.

- (1) Any public or publicly regulated utility or community building facility.
- (2) Airports, heliports or landing fields.
- (3) Cemeteries.
- (4) Broadcasting towers and stations.
- (5) Off-site, accessory parking.
- (6) Churches.
- (7) Medical marihuana grow facility.
- (8) Medical marihuana processing facility.

(Ord. eff. 8-23-2019(1))

Sec. 82-273. - Adult uses.

Any establishment for the use of adult entertainment, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters or massage parlors, shall comply with sections 82-192 and 82-193.

(Ord. eff. 5-21-1966, § 15.241a; Ord. eff. 5-5-1978, § 15.241a)

Sec. 82-274. - Height regulations.

Except as provided in article VIII of this chapter, a building in the F district may be erected to any height not in conflict with other ordinances.

(Ord. eff. 5-21-1966, § 15.242)

Sec. 82-275. - Area regulations.

The area regulations of the F district shall be the same as in the D district.

(Ord. eff. 5-21-1966, § 15.243)

Secs. 82-276—82-295. - Reserved.

DIVISION 11. - FLOOD DISTRICTS

Subdivision I. - Generally

Sec. 82-296. - Purpose.

- (a) The flood hazard areas of the township are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of tax base, all of which adversely affect the public health, safety and general welfare.
- (b) It is the purpose of this division to significantly reduce hazards to persons and damage to property as a result of flood conditions in the township, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent additions, amendments and deletions, and the rules and regulations promulgated in furtherance of this program by the United States Department of Housing and Urban Development, Federal Insurance Administration, as published in the Federal Register, vol. 41, no. 207, Tuesday, October 26, 1976, together with subsequent additions, amendments and deletions. Further, the objectives of this division include provisions designed to:
 - (1) Control floodplain uses such as fill, dumping, storage of materials, structures, buildings, and any other works which, acting alone or in combination with other uses, will cause damaging flood heights and velocities by obstructing flows and reducing valley storage.
 - (2) Protect human life and health.
 - (3) Minimize public and private property damage.
 - (4) Protect individuals from buying lands and structures that are unsuited for intended purposes because of flood hazards.
 - (5) Minimize surface water and groundwater pollution that will affect human, animal or plant life.
 - (6) Control development that will, when acting alone or in combination with similar developments, create an unjustified demand for public investment in flood control works by requiring that uses vulnerable to floods, including public facilities that serve such uses, shall be protected against flood damage at the time in initial construction.
 - (7) Control development that will, when acting alone or in combination with similar development, cause flood losses if public streets, sewer, water and other utilities must be extended below the flood level to serve the development.
 - (8) Control development that will, when acting alone or in combination with similar development, create an additional burden to the public to pay the costs of rescue, relief, emergency preparedness measures, sandbagging, pumping and temporary dikes or levees.

- (9) Control development that will, when acting alone or in combination with similar development, create an addition to the public for business interruptions, factory closings, disruption of transportation routes, interference with utility services, and other factors that result in loss of wages, sales, production and tax write-offs.
- (10) Provide for public awareness of the flooding potential.
- (11) Help maintain a stable tax base by the preservation or enhancement of property values for future floodplain development. In addition, development of future flood blight areas on floodplains will be minimized and property values and the tax base adjacent to the floodplain will be preserved.

(Ord. eff. 5-21-1966, § 15.245.1; Ord. eff. 5-5-1978, § 15.245.1)

Sec. 82-297. - Warning and disclaimer of liability.

The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions, or flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This division does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This division shall not create liability on the part of the township or any officer or employee of the township for any flood damages that result from reliance on this division or any administrative decision lawfully made under this division.

(Ord. eff. 5-21-1966, § 15.245.2; Ord. eff. 5-5-1978, § 15.245.2)

Sec. 82-298. - Delineation of flood hazard area overlay district.

- (a) The report entitled "The Flood Insurance Study for Benton Township," dated January 1977, with accompanying flood insurance rate map and flood boundary and floodway map, serves as the basis for delineation of the flood hazard area, and together with any amendments, is adopted by reference and declared to be part of this division.
- (b) The area indicated on the flood boundary and floodway map as lying within a floodway is declared to be within the floodway overlay district. The area indicated on the flood boundary and floodway map as lying within the floodway fringe of the 100-year flood boundary is declared to be within the flood fringe overlay district.
- (c) In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with this division shall be necessary for all development occurring within a flood hazard area overlay district. Conflicts between the requirements of this division and other requirements of this chapter shall be resolved in favor of this division.

(Ord. eff. 5-21-1966, § 15.245.3; Ord. eff. 5-5-1978, § 15.245.3)

Sec. 82-299. - Special permits.

- (a) *Required.* A special permit shall be obtained before construction or development begins within any area in a flood hazard area overlay district.
- (b) *Standards for review.* The applicant may be required to furnish such of the following information as is deemed necessary by the board of appeals for determining the suitability of the particular site for the proposed use within the flood hazard area:
 - (1) The relationship of the proposed use to the location of the channel, floodway, and the flood protection

elevation.

- (2) A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
- (3) A profile showing the slope of the bottom of the channel or flow line of the stream.
- (4) Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

This information may be required to be certified by a registered professional engineer who shall also evaluate the project in relation to flood heights and velocities; the seriousness of flood damage to the use; the adequacy of the plans for protection; and other technical matters, based on flood hazard data contained within the adopted flood insurance study. Based upon the technical evaluation of the designated engineer or expert, the board of appeals shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.

- (c) *Standards for approval.* In passing upon such applications, the board shall consider all relevant factors specified in other sections of this division and:
- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
 - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - (4) The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
 - (5) The importance of the services provided by the proposed facility to the community.
 - (6) The requirements of the facility for a waterfront location.
 - (7) The availability of alternative locations not subject to flooding for the proposed use.
 - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - (10) The safety of access to the property in times of flood by emergency vehicles.
 - (11) The expected heights, velocity, duration, rate of rising and sediment transport of the floodwaters expected at the site.
 - (12) Such other factors that are relevant to the purposes of this division.

(Ord. eff. 5-21-1966, § 15.245.4; Ord. eff. 5-5-1978, § 15.245.4)

Sec. 82-300. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Area of special flood hazard is the land in the floodplain within the township subject to a one percent or greater chance of flooding in any given year.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Existing mobile home park or mobile home subdivision means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) was completed before May 21, 1966.

Expansion to an existing mobile home park or mobile home subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

Flood insurance rate map (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-tenth foot.

New mobile home park or mobile home subdivision means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) was completed on or after May 21, 1966.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the state inventory of historic places.

(Ord. eff. 5-21-1966, § 15.245e; Ord. eff. 5-5-1978, § 15.245e)

Cross reference— Definitions generally, § 1-2.

Secs. 82-301—82-320. - Reserved.

Subdivision II. - Administration

Footnotes:

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Cross reference— *Administration, ch. 2.*

Sec. 82-321. - Duties of zoning administrator.

- (a) *Generally.* The zoning administrator shall ensure that all development within a flood hazard overlay district shall comply with the standards of this division and the requirements of the Federal Insurance Administration pertaining to the Federal Flood Insurance program. The zoning administrator shall adhere to the procedures given in this section.
- (b) *Permit review.* The administrator shall:
 - (1) Review all development permits to determine that the permit requirements of this division have been satisfied.
 - (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (c) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with section 82-298, the zoning administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer section 82-342.
- (d) *Information to be obtained and maintained.* The administrator shall:
 - (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures.
 - (2) For all new substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level); and
 - b. Maintain the floodproofing certifications required in section 82-341.
- (e) *Alteration of watercourses.* The administrator shall:
 - (1) Notify adjacent communities and the state department of natural resources, water recourse commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - (2) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.
- (f) *Interpretation of overlay boundaries.* The administrator shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

(Ord. eff. 5-21-1966, § 15.245d; Ord. eff. 5-5-1978, § 15.245d)

Secs. 82-322—82-340. - Reserved.

Subdivision III. - Uses in Flood Hazard Area Overlay Districts

Sec. 82-341. - General standards.

In all areas of the flood hazard area overlay district the following standards are required:

(1) *Anchoring.*

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- b. All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 1. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;
 2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;
 3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 4. Any additions to the mobile home be similarly anchored.

(2) *Construction materials and methods.*

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) *Utilities.*

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) *Subdivision proposals.*

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

(Ord. eff. 5-21-1966, § 15.245a.1; Ord. eff. 5-5-1978, § 15.245a.1)

Sec. 82-342. - Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 82-298 and section 82-321, the following standards are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

- (2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:
- a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect so that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in section 82-321.
- (3) *Mobile homes.* For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, require that:
- a. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
 - b. Adequate surface drainage and access for a hauler are provided; and
 - c. In the instance of elevation on pilings, that:
 1. Lots are large enough to permit steps;
 2. Piling foundations are placed in stable soil no more than ten feet apart; and
 3. Reinforcement is provided for pilings more than six feet above the ground level.
 - d. The placement of mobile homes in the floodway shall be prohibited unless placed in an existing mobile home park or mobile home subdivision.

(Ord. eff. 5-21-1966, § 15.245a.2; Ord. eff. 5-5-1978, § 15.245a.2)

Secs. 82-343—82-360. - Reserved.

Subdivision IV. - Floodway Overlay District (FW)

Sec. 82-361. - Generally.

All uses, including fill, new construction, substantial improvements and other development shall not be permitted unless it is demonstrated that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. If permitted, such uses are subject to the provisions of section 82-341 and the standards of this subdivision.

(Ord. eff. 5-21-1966, § 15.245b; Ord. eff. 5-5-1978, § 15.245b)

Sec. 82-362. - Fill.

- (a) A valid permit shall be obtained from the state department of environmental quality provided such fill will cause

less than a one-tenth foot increase in flood heights.

(b) Any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount of fill not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.

(c) Such fill or other materials shall be protected against erosion by riprap, vegetation cover or bulkheading.

(Ord. eff. 5-21-1966, § 15.245b.1; Ord. eff. 5-5-1978, § 15.245b.1)

Sec. 82-363. - Structures (temporary or permanent).

(a) Structures shall not be designed for human habitation.

(b) Structures shall have a low flood damage potential.

(c) Structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.

(1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(Ord. eff. 5-21-1966, § 15.245b.2; Ord. eff. 5-5-1978, § 15.245b.2)

Sec. 82-364. - Storage of material and equipment.

(a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

(b) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(Ord. eff. 5-21-1966, § 15.245b.3; Ord. eff. 5-5-1978, § 15.245b.3)

Secs. 82-365—82-385. - Reserved.

Subdivision V. - Flood Fringe Overlay District (FF)

Sec. 82-386. - Special regulations.

The flood fringe overlay district provides special regulations designed to reduce flood losses. All uses must meet the requirements of section 82-341 in addition to those contained in the basic underlying zoning district.

(Ord. eff. 5-21-1966, § 15.245c; Ord. eff. 5-5-1978, § 15.245c)

Secs. 82-387—82-415. - Reserved.

ARTICLE III. - NONCONFORMING USES

Sec. 82-416. - Continuation authorized.

- (a) The lawful use of a building and premises existing on May 21, 1966, may be continued although such use does not conform to the provisions of this chapter. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use such use shall not thereafter be changed to a less restricted use.
- (b) Whenever the use of a building becomes a nonconforming use through a change in the zoning ordinance or district boundaries, such use may be continued; and if no structural alterations are made, it may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- (c) If a nonconforming use of any building or premises is discontinued, or its normal operation is stopped for a period of one year, the use of the building or premises shall thereafter conform to the uses permitted in the district in which it is located. If any building or premises is unoccupied or any use is inactive for a period of one year, it shall be deemed to have been discontinued.
- (d) No building devoted to a use not permitted by this chapter in the district in which such building is located, except when required to do so by law or order, shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a use permitted in the district in which such building is located or by special permit as provided in article V of this chapter, section 82-481 et seq.
- (e) When a building, the use of which does not conform to the provisions of this chapter, is damaged by fire, explosion, act of God, or the public enemy, to the extent of more than 50 percent of its fair market value, it shall not be restored except in conformity with the district regulations of the district in which the building is situated, or as provided in section 82-481 et seq.
- (f) Where land within the A-1, A-2 and B districts contained no buildings and was used solely for open storage at the time of the passage of this chapter, use of such land for open storage shall be discontinued within two years. Where land within the A-1, A-2 and B districts contained no buildings and was used solely for signs at the time of the passage of this chapter, use of such land for signs shall be discontinued and the signs removed within two years.
- (g) Nothing in this section shall be interpreted as authorization for or approval of the continuance of the use of a building or premises in violation of zoning regulations in effect on May 21, 1966.

(Ord. eff. 5-21-1966, §§ 15.250—15.256)

Secs. 82-417—82-445. - Reserved.

ARTICLE IV. - PARKING REGULATIONS

Footnotes:

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Cross reference— *Traffic and vehicles, ch. 70.*

Sec. 82-446. - Generally.

- (a) A building or premises existing on May 21, 1966, shall be exempt from the provisions of this article. Added floor space resulting from any modification of the existing structure or premises after May 21, 1966, shall be subject to the requirements of this article. Buildings erected after May 21, 1966, shall comply with the provisions of this article.
- (b) No building or premises for which the required parking space is already provided may lawfully be used for the purposes specified in this article if the parking space so provided is reduced below the amount required in this article.
- (c) No permit may lawfully be granted for the erection of a new building or use nor for the alteration of an existing building or use unless the plans and specifications provide for the parking space required by the provisions of this article.
- (d) The permit may be applied for and granted upon a prospective estimate of the amount of space that will be needed for conformity with the provisions of this article, but the granting of a permit shall not legalize the use of any building or premises constructed in accordance with its terms if the amount of space provided does not in fact conform with the requirements set out in this article.
- (e) Nothing in this article shall be taken to preclude the use of property for parking of vehicles to a greater extent than is required in this article if such additional use is not otherwise prohibited.
- (f) The parking space required shall be off the public streets but readily accessible from the public streets by means of a public street or alley and shall be kept available for use by the occupants, employees or other users of the building, though nothing in this article shall be deemed to preclude a reasonable charge for such use.
- (g) The required parking space may be open, or within the building itself, or within a separate building. If the space is enclosed, the enclosing building must conform to the provisions of the building code of this township.
- (h) The requirements for vehicle parking space and loading space applicable to new or additions to existing or altered buildings or uses shall be a continuing obligation of the owner of the real estate on which any such building or use is located so long as the building structure or use is in existence and its use requiring vehicle parking space continues; and it shall be unlawful for an owner of any building or use affected by this article to discontinue, change or dispense with, or to cause the discontinuance or change of the required vehicle parking space or loading space apart from the discontinuance, sale or transfer of such building or use without establishing alternative vehicle parking space that meets the requirements of and is in compliance with this article, or for any other person to use such building or premises without acquiring such land for vehicle parking space or without establishing alternative vehicle parking space that meets with the requirements of and is in compliance with this article.
- (i) A parking space shall be a minimum of 300 square feet including the drive.

(Ord. eff. 5-21-1966, § 15.320)

Sec. 82-447. - Number of spaces.

- (a) The minimum amount of required off-street parking space for new buildings or uses or additions and additional floor or use area in existing buildings or uses shall be determined in accordance with the following (when the application of a unit of measurement for parking spaces to a particular use or structure results in a fractional

space, any fraction under one-half shall be disregarded, and fractions of one-half and over shall be counted as one parking space):

Use	Minimum Parking Spaces Required
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- (1) Dwellings, for each family unit2
- (2) Lodginghouses, roominghouses, and boardinghouses, for each 3 guest rooms or each 6 beds for guest, whichever amount is greater2
- (3) Private clubs and lodges:
 For each 5 active members1

 Plus, for each employee with a minimum of 1 space for each 150 square feet of floor area1
- (4) Hospitals:
 For each 3 beds1

 Plus, for every 3 employees1
- (5) Sanitariums or convalescent or nursing homes, for each 3 beds1
- (6) Homes for aged, orphanages or asylums, for each 5 beds1
- (7) Hotels, for each 3 guest rooms1
- (8) Motels and tourist homes, for each sleeping room1
- (9) Theaters, auditoriums, stadiums, for each 4 seats1
- (10) Dance halls, assembly halls, and convention halls without fixed seats, for each 100 square feet of floor area open to the public1
- (11) Bowling alleys, for each alley3
- (12) Private, elementary and junior high schools, for each 3 employees normally engaged in or about the buildings and grounds2
- (13) Senior high schools and institutions of higher learning, for each 3 employees normally engaged in or about the buildings and grounds2
 Plus, for each 10 students enrolled in the institution1
- (14) Churches, for each 4 seats in the main worship unit1
- (15) Libraries, museums and post offices, for each 100 square feet of floor area1
- (16) Professional offices and buildings, for each 150 square feet of floor area1
- (17) Restaurants and nightclubs, for each 100 square feet of floor area1
- (18) Medical doctors office, for each 100 square feet1
 Plus, for each employee1
- (19) Banks, business offices and public buildings not specifically mentioned elsewhere, for each 150 square feet of floor area1

- (20) Mortuaries or funeral homes, for each 100 square feet of floor area used for services1
- (21) Retail stores, supermarkets, department stores, billiard or pool rooms, personal service shops, for each 150 square feet of floor area in the basement and on the first floor used for retail sales1
 Plus, for each 200 square feet of floor area on the second floor used for retail sales1
 Plus, for each 300 square feet of floor area on the third floor used for retail sales1
 Plus, for each 400 square feet of floor area on any additional floors used for retail sales1
- (22) Regional shopping centers, for each 200 square feet of gross leasable area, meaning the area to be placed under the operational control of individual lessees1
- (23) Manufacturing buildings and/or business offices and/or research laboratories and/or other facilities related, but not necessarily connected to a manufacturing or industrial building, for each employee on the maximum shift or peak employment period1
- (b) In the case of buildings used for uses not specifically mentioned in subsection (a), those provisions for off-street parking facilities for a use that is so mentioned and to which the use is similar in terms of parking demand shall apply.
- (c) In the case of mixed uses in the same building, the amount of parking space for each use specified shall be provided; and the space for one use shall not be considered as providing required spaces for any other use except as to churches and auditoriums incidental to public and parochial schools.

(Ord. eff. 5-21-1966, § 15.330; Ord. eff. 4-26-1976, § 15.330(22))

Sec. 82-448. - Joint use of facilities.

Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases the total space requirement is the sum of the individual requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for some uses occur at distinctly different times of the day from the peaks for the other.

(Ord. eff. 5-21-1966, § 15.335)

Sec. 82-449. - Location of facilities.

Off-street parking facilities shall be located as specified in this section. When a distance is specified, it shall be the walking distance measured from the nearest point of the parking facility to the nearest normal entrance to the building or use that such facility is required to serve. Property owners shall be responsible to have at all times maintained the minimum standards set forth in this section.

- (1) For all residential buildings and for all nonresidential buildings and uses in residential zones, required parking shall be provided on the premises with the building or use they are required to serve.
- (2) For commercial and all nonresidential buildings and uses in business zones, required parking shall be provided within 300 feet of the building or use they are required to serve.
- (3) For industrial buildings or uses, required parking shall be provided within 1,000 feet of the buildings or uses they are required to serve.

(Ord. eff. 5-21-1966, § 15.336)

Sec. 82-450. - Development of parking facilities.

- (a) Off-street parking facilities shall be effectively screened on any side that adjoins or faces premises situated in any residence zone by either:
 - (1) A solid, uniformly painted fence of continuous and uniform material and construction or wall not less than four or more than six feet in height maintained in good condition; or
 - (2) A screening of hedge or other natural landscaping not less than four feet properly maintained and uniformly trimmed.
- (b) The space between such fence and the adjoining lines of premises situated in residence zones shall be landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition.
- (c) All facilities used for parking shall be constructed and maintained in such a manner so as to be free of nuisances.
- (d) Any lighting shall be arranged so that the source not visible from nor glare is produced upon any adjoining premises in residential zones.

(Ord. eff. 5-21-1966, § 15.337)

Secs. 82-451—82-480. - Reserved.

ARTICLE V. - SPECIAL LAND USE DISTRICTS

Sec. 82-481. - Authorized.

- (a) The development and execution of this chapter is based upon the division of the township into districts, within any one of which the use of land and buildings and the bulk and location of buildings or structures, as related to the land, are essentially uniform. It is recognized, however, there are special uses that, because of their unique character, cannot be properly classified in any particular district without consideration in each case of the impact of those uses upon neighboring lands and upon public need for the particular use or the particular location. Such special uses normally fall into two categories:
 - (1) Uses operated by a public agency or publicly regulated utility, or uses traditionally affected with a public interest.
 - (2) Uses entirely private in character, but of such a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- (b) The planning commission may authorize the location of buildings or uses in the districts specified in each individual district as set out in this ordinance, which are in addition to the principal permitted and accessory uses as set forth in the specific district zoning regulations.
- (c) In addition to the special uses referred to in each individual district, any use not designated as a permitted principal use or a permitted accessory use as set forth in the specific zoning regulations shall be deemed a special use of land in the township and shall be subject to the requirements of this article.
- (d) All requests for special use permits shall be submitted to the planning commission in writing, describing the proposed use of the property, together with a site plan and any supporting material considered to be appropriate to the request, by the planning commission, in accordance with Article XII, [section] 82-836 et seq. of

this ordinance.

- (e) Prior to the granting of any special use, the planning commission shall conduct a public hearing on the special use request and shall so advise any property owner or the occupant of any structure located within 300 feet of the property being considered for a special use. Notice of the public hearing shall be published in a newspaper that circulates in the township, in accordance with section 16b of Public Act No. 184 of 1943 (MCL 125.286b, MSA 5.2963, (16b)).
- (f) Following the public hearing, the planning commission shall review the application for the special use permit, together with the public hearing findings, reports, and recommendations of township staff, consultants, and other reviewing agencies. The planning commission shall submit its recommendation to the township board to deny, approve, or approve with conditions, the request for special use approval. Such decision shall include the standards relied upon, findings of fact, conclusions, approval or denial, and conditions, if any, attached to any recommendation to either deny or approve.
- (g) The planning commission may stipulate such additional conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as deemed necessary for the protection of the public interest as deemed necessary by the planning commission.
- (h) Approval of a special use permit shall be based on the determination that the proposed use will comply with the requirements of this ordinance. In addition, the following standards shall be met:
 - (1) The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.
 - (2) The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents, businesses, and landowners immediately adjacent; or the township as a whole.
 - (3) The proposed special use shall be compatible with and in accordance with the general principles and future land use configuration of the township master plan and shall promote the intent and purpose of this ordinance.
 - (4) The planning commission and township board shall find that a need for the proposed use exists in the community at the time the special use application is considered.
 - (5) The proposed use shall be designed, constructed, operated, and maintained so as to assure long-term compatibility with surrounding land uses. Consideration shall be given to:
 - a. The size, placement, and materials of construction of the proposed use in relation to the surrounding development.
 - b. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
 - c. The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
 - d. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
 - e. The hours of operation of the proposed use. Approval of a special use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.

- f. Potential environmental impact of any part of the proposed development.
- (i) The proposed special use shall demonstrate that such use will comply with all applicable requirements of local, state, and federal law.
 - (j) The location of the proposed special use within a zoning district shall minimize the impact of traffic generated by the proposed use. Consideration shall be given to the following:
 - (1) Proximity and access to major thoroughfares.
 - (2) Estimated traffic generated by the proposed use.
 - (3) Proximity and relation to intersections.
 - (4) Location of and access to off-street parking.
 - (5) Required vehicular turning movements.
 - (6) Provision for pedestrian traffic.
 - (k) The proposed special use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
 - (l) The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare or flashing lights.
 - (m) The proposed use shall be compatible with the natural environment.
 - (n) The proposed use shall conform to any standards set forth for that use elsewhere in this ordinance.
 - (o) In all cases in which a special use is granted, the planning commission shall require such evidence and guarantees as it deems necessary as proof that the conditions it stipulates are being and will be complied with before the special use permit is issued. Special use permits shall expire one year from the date of planning commission approval unless all future conditions and requirements are met.
 - (p) In addition to the provisions of subparagraph (o), approval of a special use permit and site plan may be revoked by the township board if construction is not in conformance with the approved plans, or if the special use is not in compliance with all conditions and/or restrictions attached to the granting of the special use permit. In such case, the township shall place the special use on the agenda for board consideration and shall give written notice to the applicant at least five days prior to such meeting. The applicant shall be given an opportunity to address the charged violations and answer board questions.
 - (q) Any special use not implemented within six months of the date of approval, shall automatically lapse and may be revoked by the township board upon written notice to the applicant. Additionally, any special use granted upon a property, which is then not at use at any future time for a period of six months or more may be revoked by the township board upon written notice to the applicant. In such case, the township shall place the special use revocation on the agenda for board consideration and shall give written notice to the applicant at least five days prior to such meeting.

(Ord. eff. 12-23-1994, § 15.340; Ord. eff. 8-23-2019(2))

ARTICLE V.5. - COMMUNICATION TOWERS

Sec. 82-482. - Short title.

This article shall be known and cited as the "Benton Charter Township Communication Tower Ordinance."

(Ord. No. 82-482, § I, eff. 5-11-2001)

Sec. 82-483. - Purpose.

It is the general purpose and intent of this article to comply with the intent and purpose of the Federal Telecommunications Act of 1996, as amended and the Michigan Telecommunications Act of 1995, as amended, by authorizing communication facilities needed to operate wireless communications systems. It is the further purpose and intent of this article to establish general guidelines for the siting of wireless communication towers and antennas. The goals of this article are to:

- (1) Protect residential areas from potential adverse impacts of towers and antennas;
- (2) Encourage the location of towers in nonresidential areas;
- (3) Minimize the negative visual impact of towers throughout the community;
- (4) Strongly encourage the joint use of new and existing tower sites rather than construction of additional single-use towers;
- (5) Require the disclosure of information about plans for wireless communication facilities so as to permit the township to effectively plan for the location of such facilities, and
- (6) Minimize the adverse affect of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

(Ord. No. 82-482, § II, eff. 5-11-2001)

Sec. 82-484. - Definitions.

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

Alternative tower structure means man-made trees, clock towers, bell steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structures and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

Co-location shall mean the location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, in an effort of reducing the overall number of structures required to support wireless communication antennas within the township.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Lot means a parcel of land consisting of a lot of record and any contiguous lots of record or contiguous portions of lots of record held in single or common ownership.

Preexisting towers and preexisting antennas means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the ordinance from which this article derives, including permitted towers or antennas that have not yet been constructed so long as such approval is current and unexpired.

Tower or communications tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice or skeleton towers, guyed towers, or monopole towers. The term also includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereof.

(Ord. No. 82-482, § III, eff. 5-11-2001)

Sec. 82-485. - Application for special land use permit to construct communication tower.

(a) *Special land use permit requirements.*

- (1) *Permit.* No telecommunication tower shall be erected in the township without first having acquired a permit as described in this section.
- (2) *Application.* An application shall be submitted by the owner of record with the application fee as required by board resolution. Such application shall be submitted to the chief building official for the township, who shall then review the application for completeness, pursuant to the conditions contained herein.
- (3) *Contents.* In addition to the information required on the application form, an application submitted under this article shall include:
 - a. A statement describing the efforts utilized by the applicant to determine the feasibility of co-location. If co-location is unavailable or not practical the applicant shall provide a statement which identifies the facts, characteristics and/or circumstances which render co-location unavailable or technically not practical for the coverage area and capacity needs. Any such documentation must be verified by a Certified Michigan Professional Engineer.
 - b. A site plan prepared in accordance with the requirements found in section 82-839. The site plan shall so identify the zoning districts of all property within two miles of the proposed site.
 - c. An engineering drawing of the tower design signed by a Certified Michigan Structural or Professional Engineer verifying that the tower design meets all wind load and soil load bearing requirements for the intended site.
 - d. A maintenance plan, and any applicable maintenance agreement shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long term, continuous maintenance to a reasonably prudent standard.
 - e. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated by the applicant during all times the facility is on the premises.
 - f. A list of all property owners within a one-half mile radius of the proposed site.
 - g. A map showing the locations, name and address of the owners, and/or operators of any other telecommunication tower with the township and any other tower within a five-mile radius of the proposed site, identifying any other co-location utilized on each tower.
 - h. An application fee in the amount established for special use permits along with a sufficient deposit to

cover any mailing and publication costs required for the public hearing.

(Ord. No. 82-482, § IV, eff. 5-11-2001)

Sec. 82-486. - Public hearing requirement.

Providing all of the above requirements have been satisfied, the township shall schedule a public hearing to be held no sooner than 28 days after the commission meeting at which the public hearing was scheduled. All property owners within a half-mile radius of the proposed site shall be notified by first class mail of the public hearing.

(Ord. No. 82-482, § V, eff. 5-11-2001)

Sec. 82-487. - Standards for approval of special land use permit to construct communication tower.

(a) *Qualifying conditions.* The following site and developmental requirements shall apply:

- (1) A minimum site of 0.75 acre. The applicant may apply to the board of appeals for a variance under unique site plan proposal conditions.
- (2) Communication towers are prohibited in zoning districts A-1, A-2, B, and C.
- (3) The base of the tower and wire cable supports shall be fenced with a minimum five-foot high fence.

(b) *Special performance standards.*

- (1) The tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the township engineer that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall incur all cost associated with township engineering review.
- (2) Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to front or side property lines than 30 feet. Nothing shall prevent an applicant from applying to the board of appeals for a set back variance.
- (3) Accessory structures shall not exceed 600 square feet of gross building area.
- (4) All bufferyard requirements within the zoning ordinance shall be met.
- (5) All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
- (6) The plans of the tower construction shall be certified by a Michigan registered structural engineer.
- (7) The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a Michigan registered professional engineer and that the installation is in compliance with all applicable codes.
- (8) All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
- (9) No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required set back area for the district in which the antenna or tower is to be located. In no case shall a tower or antenna be located within 30 feet of a front or side property line. Nothing shall prevent an applicant from applying to the board of appeals for a set back variance.
- (10) Metal towers shall be constructed of, or treated with, corrosive-resistant material.
- (11) Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.

- (12) Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code
- (13) All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.
- (14) Towers shall be located so that they do not interfere with television or radio reception in nearby residential areas.
- (15) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and or leased by the applicant.
- (16) The base of the tower shall occupy no more than 500 square feet.
- (17) Minimum spacing between tower locations shall be one mile in order to prevent a concentration of towers in one area. This requirement may be waived by the planning commission upon a showing of technological impossibility to comply.
- (18) Height of the tower shall not exceed 200 feet from grade within a commercial district, and 300 feet from grade within an industrial district.
- (19) Towers shall not be artificially lighted unless required by the Federal Aviation Administration. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (20) There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
- (21) The antenna shall be painted to match the exterior treatment of the tower. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- (22) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- (23) Structures shall be subject to any state and federal regulations concerning nonionizing electromagnetic radiation as set forth in the National Environmental Policy Act of 1969, as amended. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the special use approval will be subject to revocation by the township board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
- (24) There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- (25) All parking and drive areas must be paved as provided in this article.
- (26) Where the property adjoins any residentially zoned property or land use, the developer shall plant two alternating rows of evergreen trees with a minimum height of five feet on 20-foot centers along the entire perimeter of the tower and related structures. In no case shall the evergreens be any closer than ten feet to any structure. The trees shall be maintained by the applicant, and dead trees shall be replaced during the following planting season. Replacement trees shall be as set forth above.
- (27) The applicant shall submit to the township planning commission a signed and notarized statement certifying the applicant's compliance with all federal and state laws, rules, and regulations.

(Ord. No. 82-482, § VI, eff. 5-11-2001)

The tower shall be removed by the applicant, property owner, or lessee within six months of being abandoned. The footings and anchors shall be removed to a depth of ten feet below grade when the tower has been removed. If the applicant fails to comply herewith within six months of abandonment, the special use shall be considered revoked. The township may, at its sole option, enter the property and cause demolition of the tower, antennae, and any associated structure. Prior to demolition, the township shall provide written notice of demolition, via first class mail, to the applicant not less than 30 days prior to demolition. All costs, including attorney fees, associated with demolition shall be placed on the tax bill of the property as a special assessment.

If there are two or more users of a single tower, then this provision shall not become effective until all owners cease use of the tower.

(Ord. No. 82-482, § VII, eff. 5-11-2001)

Sec. 82-489. - Co-location.

Co-location shall be required whenever possible. The following co-location requirements shall apply:

- (1) Newly constructed towers shall have three times the capacity of intended use in order that secondary users could lease the balance of the tower capacity at a reasonable rate.
- (2) The applicant must include a statement in the application and an affidavit stating space on a proposed tower will be made available to future users when technically possible.
- (3) The applicant shall send a written notice via certified mail to all potential users of the new communication tower offering an opportunity for co-location. The list of potential users shall be provided by the township based on those entities who have requested approval of communication towers in the past, current FCC license holders, and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the township at the time the application is filed. If, during a period of 30 days after the notice letters are sent to potential users, a user or users request, in writing, to co-locate on the new communication tower, the applicant shall accommodate the request(s), unless co-location is not reasonably possible based on the criteria of this subsection.

(Ord. No. 82-482, § VIII, eff. 5-11-2001)

ARTICLE V.7. - TELECOMMUNICATIONS IN THE PUBLIC RIGHTS-OF-WAY

Sec. 82-490. - Purpose.

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of Michigan of 2002) ("Act") and other applicable law, and to ensure that the township qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

(Ord. No. 82-490, § 1, 7-17-2003)

Sec. 82-491. - Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the Act or other applicable law.

(Ord. No. 82-490, § 2, 7-17-2003)

Sec. 82-492. - Terms defined.

The terms used in this article shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of Michigan of 2002), as amended from time to time.

Permit means a non-exclusive permit issued pursuant to the Act and this chapter to a telecommunications provider to use the public rights-of-way in the township for its telecommunications facilities.

All other terms used in this chapter shall have the same meaning as defined or as provided in the Act, including without limitation the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "commission" in the Act.

Person means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication facilities or facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider and telecommunications services mean those terms as defined in Section 102 of the Michigan Telecommunications Act, Act No. 179 of the Public Acts of Michigan of 1991, MCL 484.2102.

Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the Communications Act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this article only, a provider also includes all of the following:

- (1) A cable television operator that provides a telecommunications service.
- (2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (3) A person providing broadband internet transport access service.

Township means Benton Charter Township.

Township board means the township board of trustees of Benton Charter Township or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the township board.

Township supervisor means the township supervisor or his or her designee.

(Ord. No. 82-490, § 3, 7-17-2003)

Sec. 82-493. - Permit required.

- (a) *Generally.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the township for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.
- (b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file the application with the township's chief building official. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.
- (c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
- (d) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.
- (e) *Additional information.* The township's chief building official may request an applicant to submit such additional information which the chief building official deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the chief building official. If the township and the applicant cannot agree on the requirement of additional information requested by the township, the township or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.
- (f) *Previously issued permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the township under Section 251 of the Michigan Telecommunications Act, Act No. 179 of the Public Acts of Michigan of 1991, MCL 484.2251 and authorizations or permits issued by the township to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.
- (g) *Existing providers.* Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the township as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, Act No. 179 of the Public Acts of Michigan of 1991, MCL 484.2251, shall submit to the township an application for a permit in accordance with the requirements of this article. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay

the \$500.00 application fee required under subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the authority, as provided in Section 5(4) of the Act.

(Ord. No. 82-490, § 4, 7-17-2003)

Sec. 82-494. - Issuance of permit.

- (a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the township's chief building official. Pursuant to Section 15(3) of the Act, the township supervisor shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under section 82-4934(b) for access to a public right-of-way within the township. Pursuant to Section 6(6) of the Act, the chief building official shall notify the MPSC when the chief building official has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The township shall not unreasonably deny an application for a permit.
- (b) *Form of permit.* If an application for permit is approved, the township's chief building official shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Sections 6(1), 6(2) and 15 of the Act.
- (c) *Conditions.* Pursuant to Section 15(4) of the Act, the township's chief building official may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (d) *Bond requirement.* Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the township's chief building official may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 82-490, § 5, 7-17-2003)

Sec. 82-495. - Conduit or utility poles.

Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 82-490, § 6, 7-17-2003)

Sec. 82-496. - Route maps.

Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the township, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the township. The route maps should be in either paper or electronic format as determined by the MPSC, in accordance with Section 6(8) of the Act.

(Ord. No. 82-490, § 7, 7-17-2003)

Sec. 82-497. - Repair of damage.

Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the township, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

(Ord. No. 82-490, § 8, 7-17-2003)

Sec. 82-498. - Establishment and payment of maintenance fee.

In addition to the non-refundable application fee paid to the township set forth in section 82-493(d), a telecommunications provider with telecommunications facilities in the township's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to Section 8 of the Act.

(Ord. No. 82-490, § 9, 7-17-2003)

Sec. 82-499. - Modification of existing fees.

In compliance with the requirements of Section 13(1) of the Act, the township hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the authority. In compliance with the requirements of Section 13(4) of the Act, the township also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the township's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The township shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the township's policy and intent, and upon application by a provider or discovery by the township, shall be promptly refunded as having been charged in error.

(Ord. No. 82-490, § 10, 7-17-2003)

Sec. 82-500. - Savings clause.

Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under section 82-499 shall be void from the date the modification was made.

(Ord. No. 82-490, § 11, 7-17-2003)

Sec. 82-501. - Use of funds.

Pursuant Section 10(4) of the Act, all amounts received by the township from the authority shall be used by the township solely for rights-of-way related purposes.

(Ord. No. 82-490, § 12, 7-17-2003)

Sec. 82-502. - Annual report.

The township's chief building official shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority, as required under Section 10(5) of the Act.

(Ord. No. 82-490, § 13, 7-17-2003)

Sec. 82-503. - Cable television operators.

Pursuant to Section 13(6) of the Act, the township shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 82-490, § 14, 7-17-2003)

Sec. 82-504. - Existing rights.

Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the township may have under a permit issued by the township or under a contract between the township and a telecommunications provider related to the use of the public rights-of-way.

(Ord. No. 82-490, § 15, 7-17-2003)

Sec. 82-505. - Compliance.

The township hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The township shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (1) Exempting certain route maps from the Freedom of Information Act, Act No. 442 of the Public Acts of Michigan of 1976, MCL 15.231 to 15.246, as provided in section 82-493(c);
- (2) Allowing certain previously issued permits to satisfy the permit requirements of this chapter, in accordance with section 82-493(f);
- (3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with section 82-493(g);
- (4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the township, in accordance with section 82-494(a);
- (5) Notifying the MPSC when the township has granted or denied a permit, in accordance with section 82-494(a);
- (6) Not unreasonably denying an application for a permit, in accordance with section 82-494(a);
- (7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 82-494(b);
- (8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 82-494(c);
- (9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's

access and use, in accordance with section 82-494(d);

- (10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 82-495;
- (11) Providing each telecommunications provider affected by the township's right-of-way fees with a copy of this article, in accordance with section 82-500;
- (12) Submitting an annual report to the authority, in accordance with section 82-503; and
- (13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 82-504.

(Ord. No. 82-490, § 16, 7-17-2003)

Sec. 82-506. - Reservation of police powers.

Pursuant to Section 15(2) of the Act, this article shall not limit the township's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the township's authority to ensure and protect the health, safety, and welfare of the public.

(Ord. No. 82-490, § 17, 7-17-2003)

Sec. 82-507. - Authorized township officials.

The township's chief building official or his or her designee is hereby designated as the authorized township official to issue misdemeanor violation citations directing alleged violators to appear in court for violations of this article.

(Ord. No. 82-490, § 19, 7-17-2003)

Sec. 82-508. - Misdemeanor violations.

A violation of this article shall be a misdemeanor. Nothing in this section 82-508 shall be construed to limit the remedies available to the township in the event of a violation by a person of this article or a permit.

(Ord. No. 82-490, § 20, 7-17-2003)

Secs. 82-509, 82-510. - Reserved.

ARTICLE VI. - REMOVAL OR RELOCATION OF SOIL, WASTE AND FILL MATERIAL

Sec. 82-511. - Permit required.

It shall be unlawful for any person to remove, deposit or relocate any sand, gravel, topsoil, clay, marl, minerals, waste or fill materials, or other similar materials, in or from lands in the township except as hereinafter provided, without first obtaining a written permit from the township board.

(Ord. eff. 3-12-1990, § 15.341(art. I))

Sec. 82-512. - Permit application.

- (a) Any person desiring to obtain a permit as provided in section 82-511 shall first file an application with the township. Such application shall be addressed to the township board and shall set forth the following information:
- (1) Name and address of petitioner.
 - (2) Legal description of land involved.
 - (3) Maximum amount of material to be moved, removed, deposited or relocated.
 - (4) Type or kind of material to be moved, removed or relocated or used for fill material.
 - (5) Measures to be taken by the applicant to control noise, vibration, dust and traffic during the operations.
 - (6) A description of any traffic control devices, public facilities or public services that will be required by the proposed operations and that such costs be paid.
 - (7) Any measures the applicant proposes to take to ensure public safety, the exclusion of children from the premises, and the lateral support of surrounding land and structures.
 - (8) The time required for the proposed operations.
- (b) In addition, the applicant shall describe in detail, by contour maps or otherwise, the contour and condition of the lands as he proposes to leave them upon completion of the operations. Such a statement shall include proposed plans of landscaping or other stabilization control to be employed to leave the premises in a reasonably level and usable condition and to prevent erosion, dust and unsightly conditions.

(Ord. eff. 3-12-1990, § 15.341(art. II))

Sec. 82-513. - Permit fee.

Each application for a permit required by section 82-511 et seq. shall be accompanied by a fee in an amount set by resolution of the township board from time to time. If the permit is denied, the fee shall be refunded to the applicant.

(Ord. eff. 3-12-1990, § 15.341(art. III))

Sec. 82-514. - Planning commission recommendation.

Upon receipt of any application and fee, the application shall be transmitted forthwith by the township clerk to the planning commission for its advice and recommendation, and no action shall be taken by the township board until the clerk has received a report from the planning commission or until the expiration of 40 days from the filing of the application, whichever is sooner. The recommendation of the planning commission shall not be binding upon the township board. Either the township board or the planning commission may make suggestions regarding amendment of the application by the applicant, and no application that has been amended in pursuance of any such suggestion need be referred to the planning commission a second time as a result of such amendment.

(Ord. eff. 3-12-1990, § 15.341(art. IV))

Sec. 82-515. - Findings of township board.

No permit shall be issued unless the township board, after considering the application and the recommendation of the planning commission, if any, and after giving the applicant an opportunity to be heard in person or by counsel, shall find that:

- (1) The proposed operations are not likely to cause any dangerous, unsanitary or unhealthy condition;

- (2) They will impose no undue financial burden upon the township;
- (3) They are not likely to create any public or private nuisance;
- (4) They are not likely to be conducted in violation of any state law or township ordinance;
- (5) There is adequate assurance that the premises will be left in such condition as will protect them from erosion; and
- (6) After completion of the operations, the premises will be at least as usable for purpose permitted by the chapter as at the time of granting the permit.

To this end, as a condition of granting the permit, the township board may require the applicant to post bond or escrow funds to assure that operations will be conducted and the premises left as required in this article, and that any undertakings of the application will be carried out.

(Ord. eff. 3-12-1990, § 15.341(art. V))

Sec. 82-516. - Other considerations.

In addition to the matters mentioned in section 82-515, the township board, in considering the granting of a permit, may hear any other person or consider any other factor that may bear on the public health, safety or general welfare in the particular situation. The effect upon surrounding property values may be considered as a factor affecting the general welfare, but no permit shall be denied solely because its granting would have an adverse effect upon property values.

(Ord. eff. 3-12-1990, § 15.341(art. VI))

Sec. 82-517. - Township board decision.

After the township board has reached a decision regarding the granting or denial of an application for a permit, the applicant shall be advised in writing by the township clerk; and if the application is favorably acted upon by the township board, such permit shall be issued forthwith.

(Ord. eff. 3-12-1990, § 15.341(art. VII))

Sec. 82-518. - Permit revocation.

Each permit shall apply only to the lands described in the application and may be revoked if the permit holder operates in any manner inconsistent with the statements in the application or any amendment or fails to comply with any special requirement the township board may order set forth in the permit to protect the public health, safety and welfare in the special circumstances of the situation, or if it shall at any time appear that any of the findings set forth in this section could not be made if the matter were then before the township board for decision; however, no permit shall be revoked unless the permit holder is given written notice, mailed or personally served at least five days prior to the date of the meeting at which revocation is considered, and the opportunity is given to the permit holder to be heard in person or by counsel. The notice shall specify the date, time and place of the meeting at which revocation will be considered and inform the permit holder of the reasons why revocation is under consideration and of his right to be heard either in person or by counsel. Revocation of a permit shall not exempt the permit holder from punishment for any violation of this article.

(Ord. eff. 3-12-1990, § 15.341(art. VIII))

Sec. 82-519. - Application.

This article shall not apply to normal and necessary excavation or grading done in the connection with construction of roads, farm ponds, farm erosion control projects, normal and acceptable farming procedures, drains, sewers, construction of dwellings and other buildings where a construction permit is granted under other township ordinances, nor shall it apply in any case where the amount removed from or relocated or deposited on any parcel of land in any one calendar year is less than 500 cubic yards of sand, gravel, clay, marl, minerals, waste and fill materials or other similar materials. However, nothing contained in this article shall in any way permit any kind of mining, mineral removal or relocation or dumping of waste and fill materials in any amount where such use would be apt to interfere with the public health, safety or welfare, or create a public or private nuisance, or such use would be apt to endanger children or deprive adjoining owners of property of the beneficial use and enjoyment of their lands.

(Ord. eff. 3-12-1990, § 15.341(art. IX))

Sec. 82-520. - Penalty for violation.

Any person who shall violate any of the provisions of this article shall, upon conviction, be punished by a fine not to exceed \$100.00, or by commitment to the county jail for a period not to exceed 90 days or by both fine and commitment. Each and every day that such violation continues shall constitute a separate offense.

(Ord. eff. 3-12-1990, § 15.341(art. X))

Secs. 82-521—82-550. - Reserved.

ARTICLE VII. - ADDITIONAL USE REGULATIONS

Sec. 82-551. - Duplex dwellings.

Duplex dwellings may be erected in those locations in the A-2 district where on May 21, 1966, 40 percent or more of the frontage on the same side of a street between two intersecting streets was occupied by duplex dwellings or two-family and multiple-family dwellings; however, the area and parking regulations of the B district must be complied with.

(Ord. eff. 5-21-1966, § 15.387)

Sec. 82-552. - Multiple family dwellings.

Three or more family dwellings may be erected in C multiple dwelling districts. The minimum floor area per dwelling unit shall be as follows:

- (1) One bedroom: 550 square feet.
- (2) Two bedrooms: 650 square feet.
- (3) Three bedrooms: 750 square feet.
- (4) Four bedrooms: 1,000 square feet.

Sec. 82-553. - Requirements for single-family dwellings.

(a) Each dwelling shall provide the following in A-A, A-1, A-2, B and C districts:

- (1) The minimum floor area for single-family dwellings shall be 1,000 square feet.

- (2) The minimum width shall be 24 feet.
 - (3) The minimum room height shall be 7½ feet.
 - (4) The maximum height, unless otherwise provided in this chapter, shall be 40 feet.
 - (5) The minimum lot area shall be in accordance with the district requirements of this chapter. The building area shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to the exterior door area or to porches connected to the door areas where a difference in elevation requires the steps.
 - (6) There must be a continuous foundation extending to below the frost line for all residential structures within ten feet of a projected overhang.
 - (7) If there is no basement or cellar, there shall be a crawl space with a minimum vertical clearance of 18 inches with protection from moisture by an approved vapor barrier and with proper ventilation.
 - (8) There must be a separate water system and a separate sewerage system.
 - (9) If there is a mobile home, it must have its wheels removed; and its towing mechanism and undercarriage must not be exposed.
 - (10) No dwelling may contain additions or rooms not of the same as or better workmanship than the original structure.
- (b) Before occupancy, each dwelling shall be inspected and approved by the building inspector; or in the case of precut, premanufactured or mobile homes, such dwelling shall contain a HUD and/or BOCA sticker or other proof of inspection and compliance meeting the HUD and/or BOCA code.

(Ord. eff. 5-21-1966, § 15.389; Ord. eff. 2-8-1985)

Sec. 82-554. - Trailers; mobile homes.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Mobile home means a trailer that is used as a permanent dwelling, is connected to utilities, and is designed without permanent foundation.

Trailer means:

- (1) One that trails, a highway or industrial plant vehicle designed to be hauled (as by a tractor).
 - (2) An automobile-drawn highway vehicle designed to serve wherever parked as a dwelling or a place of business.
 - (3) To transport (as a boat) by means of a trailer, to live or travel in a trailer, to be transportable by trailer.
- (b) *Use regulations.* No trailer or mobile home may be used for any residential, commercial or industrial purpose or stored either transiently or permanently unless located in a trailer camp or mobile home park complying with the requirements of section 82-481 et seq., or unless in compliance with section 82-553; however, this shall not apply to trailers used for residential purposes by farm workers during harvesting season and while being employed for

this purpose on farms containing ten or more acres. This section does not limit the parking of travel trailers built for recreational purposes that are self-contained and can be pulled down the highway without a special permit or as authorized by section 82-604.

- (c) *Exceptions.* The provisions of subsections (a) and (b) of this section shall not be applicable to mobile homes located in a mobile home park as provided in section 82-481.

(Ord. eff. 5-21-1966, § 15.390; Ord. eff. 2-8-1985; Ord. eff. 6-22-1985)

Cross reference— Manufactured homes and trailers, ch. 42.

Sec. 82-555. - Tents.

No tent except tents of children may be used for any purpose either permanently or temporarily, except temporary tents may be used when approved by the township board.

(Ord. eff. 5-21-1966, § 15.391)

Sec. 82-556. - Outside storage.

All material stored outside a building shall be stored in such a manner that there is an air space of at least one foot between the material and the ground.

(Ord. eff. 5-21-1966, § 15.392)

Sec. 82-557. - Semitrailers; use and/or presence on premises.

- (a) No person engaged in wholesale or retail sale of goods and/or consumer items shall have or maintain any semitrailer upon his premises unless such semitrailer is being loaded or unloaded in the normal course of business. No semitrailer shall be used under this section for the purpose of the temporary or permanent storage of the goods or consumer items offered for sale.
- (b) For purposes of this section, a semitrailer is defined as every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle or so constructed that some part of its weight and that of its load normally rests upon or is carried by another vehicle.
- (c) Any person who shall violate or fail to comply with any provision of this section shall upon conviction thereof be punished as provided in section 1-11.

(Ord. eff. 5-21-1966, § 15.394; Ord. eff. 7-24-1989, § 15.394)

Secs. 82-558—82-590. - Reserved.

ARTICLE VIII. - ADDITIONAL HEIGHT AND AREA REGULATIONS

Sec. 82-591. - Generally.

The district regulations set forth in this article qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(Ord. eff. 5-21-1966, art. XVII)

Sec. 82-592. - Effect of airport zoning.

All buildings shall observe the height regulations of the airport zoning ordinance.

(Ord. eff. 5-21-1966, § 15.400)

Sec. 82-593. - Maximum height.

Public and semipublic buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet; and churches and temples may be erected to a height not exceeding 75 feet if the building is set back from each yard line at least one foot for each two feet of additional building height above the height limit otherwise provided in the district in which the building is located.

(Ord. eff. 5-21-1966, § 15.401)

Sec. 82-594. - Exemptions.

Chimneys, church steeples, cooling towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, wireless towers, grain elevators, or necessary mechanical appurtenances are exempt from the height regulations as contained in this article.

(Ord. eff. 5-21-1966, § 15.402)

Sec. 82-595. - Accessory buildings; location.

Accessory buildings may be built in a rear yard; but such accessory buildings shall not occupy more than 30 percent of a rear yard and shall not be nearer than two feet to any side or rear lot line, except that when a garage is entered from an alley it shall not be located closer than ten feet to the alley line. If a garage is located closer than ten feet to the main building, the garage shall be regarded as part of the main building for the purpose of determining the side and rear yards.

(Ord. eff. 5-21-1966, § 15.403)

Sec. 82-596. - Time of construction of accessory buildings.

No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes other than by domestic servants employed entirely on the premises.

(Ord. eff. 5-21-1966, § 15.404)

Sec. 82-597. - Required yards.

Every part of a required yard shall be open to the sky, unobstructed by a building, except for accessory buildings in a rear yard, and except for the ordinary projection of sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches.

(Ord. eff. 5-21-1966, § 15.405)

Sec. 82-598. - Reserved.

Sec. 82-599. - Fences.

Fences in which the openings between the materials of which the fence is constructed represent less than 70 percent of the total surface may be erected to a height not exceeding six feet along the boundaries of a lot except that such fence in the front yard area shall not exceed four feet in height, and excepting further that no such fence shall be erected within 30 feet of the intersection of two street lines. Wire fences and other fences in which the openings between the materials of which the fence is constructed represent more than 70 percent of the total fence area may be erected to a height of eight feet, except within 30 feet of the intersection of two street lines. This section shall not apply to fences required for certain uses in section 82-271 et seq. No barbed wire or electrified fences are allowed except in the AA or F districts.

(Ord. eff. 5-21-1966, § 15.407; Ord. eff. 3-3-1981, § 15.407)

Sec. 82-600. - Fire escapes; projection.

Open lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the building inspector for a distance of not more than 3½ feet and where the same are so placed as not to obstruct light and ventilation.

(Ord. eff. 5-21-1966, § 15.408)

Cross reference— Fire prevention and protection, ch. 30.

Sec. 82-601. - Porch, terrace, vestibule; projections.

An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten feet. An unenclosed vestibule containing not more than 40 square feet may project into a front yard for a distance not to exceed four feet.

(Ord. eff. 5-21-1966, § 15.409)

Sec. 82-602. - First floor elevation.

Unless otherwise directed by the building inspector, the first floor elevation of buildings shall be at least 18 inches above the grade of the center of the street at the center of the lot being built upon. Terraces, uncovered porches, platforms and ornamental features that do not extend more than three feet above the floor level of the ground (first) story may project into a required yard, provided these projections be distant at least two feet from the adjacent side lot line.

(Ord. eff. 5-21-1966, § 15.410)

Sec. 82-603. - Side yard regulations for two-family, multiple dwellings.

For the purpose of the side yard regulations, a two-family dwelling, or a multiple dwelling, shall be considered as one building occupying one lot.

(Ord. eff. 5-21-1966, § 15.411)

Sec. 82-604. - Temporary buildings during construction work.

Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the building is being constructed, but such temporary buildings shall be removed upon completion of the construction work.

(Ord. eff. 5-21-1966, § 15.412)

Sec. 82-605. - Uses on commercial, industrial lots.

Where a lot or tract is used for a commercial or industrial purpose, more than one main building may be located upon the lot or tract but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

(Ord. eff. 5-21-1966, § 15.413)

Sec. 82-606. - Multiple related buildings.

If a lot is to be occupied by a group of two or more related buildings to be used for residential, institutional or hotel purposes, there may be more than one main building on the lot; however, open space between the buildings that are parallel or within 45 degrees of being parallel shall have a minimum dimension of 20 feet for one-story buildings, 30 feet for two-story buildings and 40 feet for three-story buildings.

(Ord. eff. 5-21-1966, § 15.414)

Sec. 82-607. - Minimum width of open space.

Where an open space is more than 50 percent surrounded by a building, the minimum width of the open space shall be at least 20 feet for one-story buildings, 30 feet for two-story buildings, and 40 feet for three-story buildings.

(Ord. eff. 5-21-1966, § 15.415)

Sec. 82-608. - Dwelling units over commercial, industrial structures.

No side yards are required where dwelling units are erected over commercial and industrial structures.

(Ord. eff. 5-21-1966, § 15.416)

Sec. 82-609. - Reserved.

Sec. 82-610. - Buildings used for storage.

Buildings that are to be used for storage purposes only may exceed the maximum number of stories that are permitted in the district in which they are located, but such buildings shall not exceed the number of feet of building height permitted in such districts.

(Ord. eff. 5-21-1966, § 15.418)

Sec. 82-611. - Front yard adjustments.

Required front yards shall be adjusted in the following cases:

- (1) Where 40 percent or more of the frontage on the same side of a street between two intersecting streets is developed with buildings that have (with a variation of five feet or less) a front yard greater in depth than required in this chapter, no new buildings shall not be erected closer to the street than the front yard so established by the existing buildings.
- (2) Where 40 percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that do not have a front yard:
 - a. Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent building on each side; or
 - b. Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

(Ord. eff. 5-21-1966, § 15.419)

Sec. 82-612. - Off-street parking or storage.

- (a) Parking or storage of vehicles, motor homes, recreational vehicles, boats, snowmobiles, camping trailers, motorcycles or similar equipment shall not be allowed in the front, back, or side yards of all residential areas except as follows:
 - (1) Such parking shall be permitted on paved driveways where the principal purpose of the driveway is to provide access to a garage or entryway of the dwelling.
 - (2) Such parking shall be permitted in the front and side yards if the parking area is improved with at least a four-inch macadam base surfaced with asphaltic concrete or some other all weather dustless material. Such an improved parking area must, however, be situated at least five feet from any lot line or public right-of-way.
- (b) Violation of this section is punishable by 90 days in the county jail and/or a \$500.00 fine. After notification of a violation, either by a warning notice or receipt of a citation, each day the violation continues constitutes a separate offense.

(Ord. eff. 3-12-1990, § 15.420; Ord. eff. 7-8-2019(1))

Cross reference— Traffic and vehicles, ch. 70.

Sec. 82-613. - Sidewalks.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Person includes any individual as well as any firm, corporation, partnership, voluntary association, and organization of every nature.

Sidewalk means any sidewalk adjoining any public street but shall not include any portion of a driveway between the street and the proposed or existing sidewalk or any crosswalk.

- (b) *Permit requirement.* A permit shall be obtained from the township building department prior to construction, repair, reconstruction or removal of any sidewalk within the township. Permit fees shall be set by the township board from time to time.
- (c) *Standards for construction, repair and reconstruction.* The following standards shall be adhered to for all sidewalk construction, repair, or reconstruction:

- (1) The township's chief building official shall establish the line, grade, slope and design standards for all sidewalk construction, repair, or reconstruction.
 - (2) All sidewalks shall be made of materials approved in advance by the chief building official.
 - (3) All sidewalks shall be located within the street right-of-way, when possible, and adjacent to the property line, except that all reasonable effort shall be made to avoid cutting trees. If space within the street right-of-way is inadequate, the sidewalk shall be placed at the direction of the township building department.
 - (4) All sidewalks shall be constructed five feet wide.
- (d) *New construction.* All new commercial building within the D-1, D-2, and C districts (when the C district is located within 1,000 feet of any commercial district) occurring within the township, which is adjacent to a public street where sidewalks do not presently exist, shall provide for the construction of sidewalks in accordance with this section.

Provision for such sidewalk construction shall be included as part of site plan review, subdivision approval and/or as part of plans submitted for obtaining a building permit. Such newly constructed sidewalk shall be at the sole expense of the property owner.

- (e) *Unsafe sidewalks; duty of property owners.* No person shall permit any sidewalk which adjoins property owned by him to fall into a state of disrepair or to be unsafe as determined by the chief building official. All required repairs shall be born solely by the owner(s) of the property or properties adjacent to the sidewalk based upon the percentage of property frontage along such sidewalk.

Failure to make any such repairs within 60 days of notification by the township building department shall result in the township undertaking such repairs at the sole cost of the property owner plus an additional 15 percent administrative fee. Any such costs/fees not paid by August 31 of each year shall become a lien on the property, which lien shall be enforced in the manner provided by law for the enforcement of tax liens.

- (f) *Snow, ice, or debris; duty of property owners.* Property owners shall be responsible to clear all snow, ice, and debris from the sidewalk adjacent to their property at their own expense. If any owner, agent, or occupant shall refuse or neglect to clear all snow, ice, and debris from the sidewalk, the township, through its employees or agents, may enter upon such lands and clear such snow, ice, and debris at the sole expense of the property owner. Any such costs/fees not paid by August 31 of each year shall become a lien on the property, which lien shall be enforced in the manner provided by law for the enforcement of tax liens. Additionally, any such person who shall violate or fail to comply with this subparagraph, shall be subject to the provisions of the municipal civil infractions ordinance, section 2-161 et seq.

- (g) *Additional sidewalks.* Whenever the township board shall consider the necessity for construction, reconstruction or resurfacing of a public street, the township board shall also consider the necessity for construction, repair or reconstruction of the sidewalk. Whenever feasible, such sidewalk work shall be completed in conjunction with the street project as approved by the township board.

The cost for new sidewalk construction, where no sidewalk has existed before, or for sidewalk repair or reconstruction shall be borne solely by the owner(s) of the property or properties adjacent to the sidewalk, based upon the percentage of property frontage along such sidewalk.

All sidewalk assessments determined under this section shall be due and payable, and collectible and shall become a lien on the property in the same manner as a special assessment.

(Ord. eff. 3-8-2019(2))

Secs. 82-614—82-645. - Reserved.

ARTICLE IX. - SIGN REGULATIONS

Footnotes:

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Editor's note— Ord. No. 82-646—82-765, adopted Oct. 12, 2001, amended Art. IX in its entirety, in effect repealing and reenacting said article to read as herein set out. The former Art. IX, §§ 82-646—82-648, 82-671—82-767, 82-696—82-701, 82-721—82-732, pertained to similar subject matter and derived from §§ 15.293 and 15.295 of an ordinance effective May 21, 1966; §§ 15.293 and 15.295 of an ordinance effective March 21, 1988; § 15.275 of an ordinance effective May 11, 1992; and §§ 15.271(B), (C), 15.275, 15.281—15.286, 15.291—15.294, 15.296, 15.300, 15.307, and 15.309—15.318 of an ordinance effective June 17, 1994.

DIVISION 1. - GENERALLY

Sec. 82-646. - Purpose and scope.

- (a) The purpose of this article is to protect and further the health, safety welfare of the residents of the township; to prevent traffic hazards; to provide safer conditions for pedestrians; to improve community appearance; and to promote economic development by regulating and the construction, alteration, repair, maintenance, size, location, and number of signs not located within a building.
- (b) When more restrictive with respect to location, use, size, height or other requirements relating to structural safety, the provisions of the building code of the township shall take precedence over this article.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-647. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Awning or canopy means a retractable or fixed shelter constructed of materials on a supporting framework that projects from the exterior wall of a building.

Awning or canopy sign means a sign fixed to or integral with the surface of an awning or canopy.

Balloon sign means a sign composed of an inflatable, nonporous bag.

Banners sign means a fabric, plastic, or other sign made of nonrigid material without an enclosing structural framework.

Billboard or off-premises advertising sign means a sign which contains a message or advertises an establishment, product, service, space or activity not available on the lot on which the sign is located.

Building code means the current code or codes in effect in the township which governs the erection, alteration, maintenance and removal of structures, including all signs not specifically exempted from the provisions hereof.

Canopy. Refer to *awning or canopy* definition.

Construction sign means a sign which identifies the owners, financiers, contractors, architects, engineers, or tenants of a project under construction.

Election campaign signs means signs, not exceeding five square feet of display area, advertising candidates or soliciting votes in support of or against any proposition or issue at any general, primary, special, school or any other election.

Essential services means equipment and accessories reasonably necessary for the furnishing of utility services or for the public health, safety, or general welfare by public utilities or municipal departments and commissions.

Freestanding sign means a permanent sign which is not attached to a building.

Government sign means a temporary or permanent sign erected by the township, county or the state or federal government including temporary signs as necessary in conjunction with the improvement of public infrastructure.

Marquee means a permanent structure constructed of rigid materials that projects from the exterior wall of a building.

Marquee sign means a sign affixed flat against the surface of the marquee.

Mural means a design or representation painted or drawn on a wall which does not contain promotion or commercial advertising.

Permanent sign means a sign which has a permanent location on the ground or which is attached to a structure having a permanent location and which meets the structural requirements for signs as established in the building code.

Placard means a sign which provides notices of a public nature, such as "No Trespassing" or "No Hunting" signs.

Projecting sign means a double-faced sign attached to a building or wall.

Reader board means a portion of a sign on which copy is changed periodically either manually or electronically.

Real estate sign means a sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.

Roof line means the eave line of a roof or building parapet, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.

Roof sign means a sign erected above a roof line of a building.

Sign means a device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity provided on the site on which the sign is located.

Sign face means the section of a billboard or off-premises advertising sign that displays a message or messages facing in one direction. It shall include the entire area of the portion of the billboard or off-premises advertising sign that is above the supporting poles and any or part that displays a message.

Temporary sign means a sign intended for a limited period of display.

Wall sign means a single-faced sign painted or attached directly to and parallel to the exterior wall of a building.

Window sign means a sign placed on the inside of a window and intended to be viewed from the outside.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-648. - General provisions.

- (a) Any sign and supporting structure (other than a billboard or off-premise advertising sign) which for a period of 60 days no longer advertises or identifies a bona fide business conducted or product sold shall be removed by the owner, agent, or person, having the beneficial use of the building, structure, or property upon which such sign is

located, within 30 days of receipt of written notice by the building official.

- (b) No light pole, utility pole, or other supporting member of a building or property shall be used for the placement of any sign unless the owner of the pole or supporting member has given permission for such use and the sign conforms to all requirements of this Article IX.
- (c) Except for signs for home occupations, all signs may be internally or externally illuminated. If externally illuminated, the source of the light, shall be enclosed and directed to prevent the source of light from shining directly onto traffic, or residential property.
- (d) A sign accessory to a nonconforming use or structure shall conform to the provisions of the zone district in which the nonconforming use or structure is located.
- (e) Painted or paper-faced signs shall be maintained free of peeling paint or paper, sun fading, staining, rust, or other conditions which impair the visibility or intelligibility of such sign.
- (f) Any signs permitted by the provisions of this article, including all supports, braces, guys and anchors, shall be maintained in conformance with this article and in such a manner so as not to cause a hazard to the public.
- (g) Signs shall not be placed in, upon, or over any public right-of-way, alley, or other public place, except as may be otherwise permitted by this article and unless a revocable license is approved by the township board.
- (h) Reader boards are permitted on a wall or a freestanding sign but not on both signs at one business, property, address or location.
- (i) Any sign not resting directly on the ground, exceeding six square feet and set back less than ten feet from the right-of-way, shall maintain a minimum clear space of eight feet from the bottom of the sign to the ground.
- (j) Awning, canopy, marquee signs or projecting signs which extend over the township right-of-way shall maintain a clear space of eight feet from the bottom of the awning, canopy or marquee to the grade. In the event the awning, canopy, marquee or projecting sign extends over the township right-of-way, a revocable license from township board is necessary prior to receiving a permit.
- (k) All signs shall comply with the building and electrical codes of the township. Underground wiring shall be required for all illuminated signs, or signs requiring electrical connections except for permitted temporary signs.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-649. - Sign prohibitions.

- (a) Strings of light bulbs, pennants, streamers, banners, or flags (other than those of a governmental nature not used for the purpose of commercial advertisement) are prohibited, except as permitted in section 82-673 as temporary signs for promotions.
- (b) Signs, including reader boards, shall not employ any flashing, moving, blinking, or variable intensity light, however, variable time-temperature signs may be permitted.
- (c) Signs shall not contain any moving or animated parts or be designed so as to give the appearance of movement.
- (d) A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of or be confused with any authorized traffic signs, signal, or device, or constitute a nuisance per se.
- (e) A sign shall not be erected in a manner that would confuse or obstruct the view or interpretation of any official traffic sign, signal or device.
- (f) No sign or sign structure shall be located in such a manner as to materially impede the view of any street or

highway intersection; or in such a manner as to materially impede the view of the intersection of a street or highway with a railroad crossing.

- (g) No sign or sign structure other than official highway markers shall be placed upon any street or highway right-of-way.
- (h) A wall sign shall not extend beyond the edge of the wall to which it is affixed nor extend above the roof line of a building.
- (i) Roof signs are not permitted.
- (j) Billboards and advertising signs are not permitted.
- (k) Balloon signs are prohibited except as permitted in section 82-673 as a temporary sign for promotions.
- (l) Any vehicle (including trailers) which has the primary function of acting as a sign shall not be permitted.
- (m) Any sign which is not specifically permitted by, or does not conform, to the provisions of this article is prohibited.
- (n) The regulations of this article are not intended to permit any violation of the provisions of any other lawful ordinance.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-650. - Enforcement.

- (a) *Authority.* The building official is authorized and directed to enforce all the provisions of this article.
- (b) *Right of entry.* The building official shall have all rights and authorization as set forth in the township building codes.
- (c) *Violations.* It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use or maintain any sign or sign structure in the township, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this article.
- (d) *Removal of unsafe or unlawful signs.* If the building official determines that any sign regulated by this article is unsafe or constitutes a hazard to the public, such as obstructing vision of vehicle drivers or pedestrians, or has been constructed, erected or maintained in violation of the provisions of this article, the official or inspector may remove the sign or require its immediate removal. Failure to comply with a notice of violation by the official or inspector shall be deemed a misdemeanor or nuisance per se.
- (e) *Penalty.* Any person violating any provision of this article shall be fined not less than \$10.00 nor more than \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Secs. 82-651—82-670. - Reserved.

DIVISION 2. - PERMITS, FEES AND INSPECTIONS

Sec. 82-671. - Permits required.

No sign shall be erected, reerected, constructed, altered or maintained, except as provided by this article and after a permit for the sign has been issued by the building official. A separate permit shall be required for a sign for each business entity, and a separate permit shall be required for each group of signs on a single supporting structure. In addition, electrical permits shall be obtained for electric sign.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-672. - Application for permit.

Application for a sign permit shall be made in writing upon forms furnished by the building official. Such application shall contain the location by street and number of the proposed sign structure, as well as the name and address of the owner and the sign contractor or erector. The building official may require the filing of plans or other pertinent information where in his opinion such information is necessary to ensure compliance with this article. Standard plans may be filed with the building official.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-673. - Exemptions.

The following signs shall not require a sign permit. These exemptions shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this article or any other law or ordinance regulating signs.

- (1) The changing of the advertising copy or message on a painted or printed sign only. Except for theater marquees and similar signs specifically designed for the use of replaceable copy, electric signs shall not be included in this exemption.
- (2) Painting, repainting or cleaning of an advertising structure or the changing of the advertising copy or message on the sign shall not be considered an erection or alteration that requires a sign permit unless a structural change is made.
- (3) The use of strings of light bulbs, pennants, streamers, banners, balloons, or flags (other than those of a governmental nature not used for the purpose of commercial advertisement) are permitted as temporary signs for promotions.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-674. - Fees.

Permits for sign work shall be issued upon payment of fees as set forth in the building code and/or ordinances adopted by the township.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-675. - Maintenance.

All signs and sign structures shall be kept in repair and in proper state of preservation.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-676. - Inspections.

All signs for which a permit is required shall be subject to inspection by the building official.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Secs. 82-677—82-695. - Reserved.

DIVISION 3. - DESIGN AND CONSTRUCTION

Sec. 82-696. - Design and construction generally.

All signs and sign structures shall be designed and constructed in accordance with the building codes.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-697. - Display area.

(a) The sign surface area of all signs, on lots where less than ten percent of the lot area is covered by buildings, shall not exceed an amount equal to two square feet in area for each lineal foot of street frontage. In addition, in case of a corner lot, 20 percent of the allowable sign surface area for one street frontage may be deducted and added to the other street frontage.

(b) The permitted sign surface area of all signs, on lots where ten percent or more of the lot area is covered by buildings, shall be determined as follows:

(1) *Lower level signs.*

- a. The total permitted sign surface area of all signs located on a building within the first two stories or 26 feet, whichever is lower, shall not exceed an amount equal to 25 percent of such lower level area of the building facade, or other architectural elevation to which the sign is oriented, measured from grade level to the top of the second story, or 26 feet, or to the actual height of the building, whichever is lowest; however, if more than one sign or sign structure is erected for any grade level use (except for one sign indicating only the name and/or address of the use, not exceeding one foot in height by six feet in length) the total permitted sign surface area shall be reduced by one-fifth for each additional sign.
- b. Regardless of the number of signs, the total permitted sign surface area shall not be reduced to less than an amount equal to one-fifth of the area.

(2) *Upper level signs.*

- a. The total permitted sign surface area of all signs located on a building above the first two stories or ten percent of the area of only one building facade or other architectural elevation to which the sign is oriented (measured from the top of the second story or 26 feet above grade level, whichever is lower, to the top of the facade). However, if more than one upper level sign per building facade is erected, the total permitted upper level sign surface area shall be reduced by four-fifths.
- b. One continuous sign may extend from a lower level sign into an upper level sign provided that the sign area above the limits required the lower level sign does not exceed one-fifth of the total permitted upper level sign surface area. (For the purpose of determining the number of permitted signs, a continuous sign

shall be considered as a lower level sign and shall be included in determining total upper level sign surface area, under subsection a. of this section.)

- c. Except as provided in subsection b., there shall be at least 13 feet or one story, whichever is the lesser, between upper level and lower level signs. If not, however, the total permitted upper level sign surface area shall be reduced by four-fifths.

(c) Rooftop signs shall be considered upper level signs for purposes of subsection (b)(2).

(d) Lower level signs may be located only on facade fronting on a public street.

(e) Upper level signs may be located on any facade or other architectural elevation of a building.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-698. - Maximum heights.

No freestanding shall exceed 40 feet in height. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the ground immediately beneath the sign.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Secs. 82-699—82-720. - Reserved.

DIVISION 4. - USE REGULATIONS

Sec. 82-721. - Nonconforming use.

- (a) Every permanent legally existing sign which does not conform to then height, size, area, or location requirements of this article as of the date of the adoption of the ordinance from which this article derives, is hereby deemed to be nonconforming.
- (b) Nonconforming signs may not be expanded, enlarged or extended, however, said signs may be maintained and repaired so as to continue the useful life of the sign.
- (c) For purposes of this section, a nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of nonconforming use.
- (d) Any nonconforming sign, sign structure, or frame substantially destroyed by fire or other casualty loss shall not be restored or rebuilt.
- (e) When a nonconforming sign, or portion thereof, is removed, it shall be replaced only with a sign that conforms with all requirements of this article. A sign which is removed for maintenance or repair purposes in accordance with the requirements of section 82-675, following a permit from the building official that the sign would be reinstalled within 90 days of removal, or the right of nonconforming use shall be deemed abandoned.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Sec. 82-722. - Placement of election campaign sign.

Election campaign sign may be placed in any zoning district; however, such sign may be placed and kept in place only during the period commencing on the 30th day prior to an election and ending on the tenth day following an election.

(Ord. No. 82-646—82-765, eff. 10-12-2001)

Secs. 82-723—82-765. - Reserved.

ARTICLE X. - BOARD OF APPEALS

Footnotes:

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Cross reference— *Boards, commissions and committees, § 2-86 et seq.*

Sec. 82-766. - Created.

A board of appeals is created in accordance with MCL 125.288, MSA 5.2963(18).

(Ord. eff. 5-21-1966, § 15.425)

Sec. 82-767. - Membership.

- (a) There shall be five members of the board of appeals. The first member shall be a member of the planning commission. The remaining members shall be selected from the electors of the township residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the township. One member may be a member of the township board. An elected officer of the township shall not serve as chairman of the board. An employee or contractor of the township board may not serve as a member or an employee of the board. The total amount allowed the board in any one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the township board. Members of the board shall be removable by the township board for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office.
- (b) The term of each member shall be for three years, except that of the member's first appointed, two shall serve for two years and the remaining members for three years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- (c) The board shall not conduct business unless a majority of the members of the board are present.

(Ord. eff. 5-21-1966, § 15.426; Ord. eff. 11-6-1976, § 15.426)

Sec. 82-768. - Meetings.

Meetings of the board of appeals shall be held at the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall maintain a record of its proceedings, which shall be filed in the office of the township clerk and shall be a public record.

(Ord. eff. 5-21-1966, § 15.427)

Sec. 82-769. - Actions.

- (a) The board of appeals shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of the zoning maps, and may fix rules and regulations to govern its procedures sitting as such a board of appeals.
- (b) It shall hear and decide appeals from and review any order, requirements, decision or determination made by an administrative official charged with enforcement of any ordinance adopted pursuant to the provisions of this chapter. It shall also hear and decide all matters referred to it or upon which it is required to pass under any ordinance adopted pursuant to this chapter. The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under any such ordinance or to effect any variation in such ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the township, county or state. The grounds of every such determination shall be stated.
- (c) A fee set from time to time by resolution of the township board shall be paid to the township clerk at the time the notice of appeal is filed to be credited to the general revenue fund.

(Ord. eff. 5-21-1966, § 15.428)

Sec. 82-770. - Powers.

The board of appeals shall have the following powers:

- (1) *Powers relative to errors.* To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.
- (2) *Powers relative to variations.* Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the neighborhood, the strict application of the area regulations of this chapter would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, is hereby empowered to authorize upon an appeal relating to such property, variation from such strict application so as to relieve such difficulties or hardships.
- (3) *Powers relative to exceptions.* Upon appeal, the board is hereby empowered to permit the following exceptions:
 - a. To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record.
 - b. To permit the reconstruction of a nonconforming building that has been destroyed, or partially destroyed, by fire or act of God where the board shall find some compelling public necessity requiring a continuance of the nonconforming use.
 - c. To permit the erection and use of a building or the use of premises in any location for a public service corporation for public utility purposes which the board deems reasonably necessary for the public convenience or welfare. Such uses lawfully existing on May 21, 1966, shall be deemed to have received

such a permit, shall be provided with such a permit by the building inspector upon request, and shall not be nonconforming uses; however, a permit shall be required for the enlargement, extension or relocation of any of these existing uses.

- d. To interpret the provisions of this chapter where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this chapter.
- e. To vary the parking regulations of this chapter whenever the character or use of a building is such as to make unnecessary the full provisions of parking facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

(Ord. eff. 5-21-1966, § 15.429)

Sec. 82-771. - Taking of appeal.

- (a) An appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by the filing with the officer from whom the appeal is taken and with the board of appeals of a notice of appeal specifying the grounds of appeal. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- (b) An appeal stays 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 in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (c) The board shall fix a reasonable time for the hearing of the appeal and give due notice to the parties, and decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the board shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of this chapter shall be observed, public safety secured and substantial justice done. The decision of such board shall not be final, and any person having an interest affected by any ordinance shall have the right to appeal to the circuit court on questions of law and fact.

(Ord. eff. 5-21-1966, § 15.430)

Sec. 82-772. - Effect of appeal.

In considering all appeals to this chapter, the board of appeals shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change in the district map and will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare.

(Ord. eff. 5-21-1966, § 15.431)

Sec. 82-773. - Review of criteria for zoning appeal.

Consideration of an appeal shall conform to all of the following conditions. Failure to conform to all conditions shall be reason for denial. The request shall:

- (1) Not be contrary to the content and purpose of the zoning ordinances.
- (2) Not cause substantial adverse effect upon adjacent properties, including property values.
- (3) Relate only to the property under ownership of the applicant.
- (4) Not essentially alter the character of the surrounding area.
- (5) Not increase the hazard from fire, flood or similar dangers.
- (6) Not increase traffic congestion.

Secs. 82-774—82-800. - Reserved.

ARTICLE XI. - BUILDING AND OCCUPANCY PERMITS

Sec. 82-801. - Building permits.

- (a) It shall be unlawful to proceed with the erection, alteration, repair, enlargement, demolition or removal of any building, or the excavation for any building within the township without first obtaining a building permit as provided in this article.
- (b) If a building permit had been issued for a nonconforming building prior to the passage of this chapter, such proposed building shall be permitted, provided, construction is begun within 30 days after the passage of this chapter, that the construction is continuous until the building is completed, and that the building permit was not issued more than 60 days prior to the passage of this chapter.
- (c) Building permits shall be issued by the building department upon an application meeting all of the requirements of subsections (e) and (f) of this section, and shall be valid for a period of no longer than six months with a six-month extension based upon substantial progress and approval of the building department.
- (d) Application in duplicate for a building permit shall be filed in writing with the building department, signed by the person requesting the permit, or by the duly authorized agent of such person.
- (e) The application shall contain the following information:
 - (1) Location and dimensions of the lots or acreage;
 - (2) Nature of the proposed construction, alteration or repair;
 - (3) Situs of the proposed construction, alteration or repair upon the lots or acreage affected;
 - (4) The estimated total cost; and
 - (5) Use of which any structure affected is being made and its proposed use.

To each copy of the application, there shall be annexed an inked or blue print copy of the plan to be followed accurately scaled, which plan shall also disclose the lot dimensions and the location of the proposed construction, alteration or repair. There shall be submitted with each building permit application a drawing at a space provided

under the requirements of this chapter, together with the location of all principal buildings, accessory buildings, drives, driveways, aisles or entrances giving access from public streets or alleys. The plan shall be on a sheet with a minimum 8½ inches by 11 inches. The building department is authorized and empowered to refuse to receive any application unless the application shall comply substantially with the requirements set forth.

- (f) Upon receipt of an application for the building permit, the building department shall examine the application to determine whether the proposed construction, alteration, repair, enlargement, demolition or removal and proposed use shall conform to the terms of this chapter as well as all building and health ordinances or regulations of the township or similar requirements of state law; and upon so determining affirmatively, the department shall issue a building permit to the applicant in manner and form as shall have been approved by the township board; such permit shall be affixed to one copy of the application and returned to the applicant and a copy of the permit shall be affixed to the second copy of the application and retained permanently as part of the records of the building department. If it shall be determined that, for any reason, the building permit requested in such application may not be issued, the building department shall return both copies of the application with the fee deposited, to the applicant, with a memorandum as to the reason assigned for not issuing the permit.

(Ord. eff. 5-21-1966, § 15.440)

Sec. 82-802. - Building official.

The building official upon notification from the permit holder or his agent shall make all inspections required by the Uniform Building Code.

(Ord. eff. 5-21-1966, § 15.441)

Sec. 82-803. - Occupancy permits.

- (a) Subsequent to May 21, 1966, no change in the use or occupancy of land, nor any change of use or occupancy in an existing building other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied until a certificate of occupancy has been issued by the building inspector. Every certificate of occupancy shall state that the new occupancy complies with all provisions of this article.
- (b) No permit for excavation for or the erection or alteration of any building shall be issued before the application has been made and approved for a certificate of occupancy and compliance, and no building or premises shall be occupied until such certificate and permit is issued.
- (c) A certificate of occupancy shall be required of all lawful nonconforming uses of land or buildings created at the time of passage of this chapter. Application for such certificates of occupancy for nonconforming uses shall be filed with the building inspector by the owner or lessee of the land or building occupied by such nonconforming use within two years from May 21, 1966. It shall be the duty of the building official to issue a certificate of occupancy for a lawful nonconforming use, but failure to apply for such certificate of occupancy for nonconforming use, or failure of the building inspector to issue such certificate of occupancy for nonconforming use, may be considered evidence that such nonconforming use did not lawfully exist on May 21, 1966, or has been discontinued.
- (d) A record of all building permits and certificates of occupancy shall be kept on file in the office of the township clerk, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or building affected by such certificate of occupancy.

(Ord. eff. 5-21-1966, § 15.442)

Sec. 82-804. - Conflicts.

If there exists any inconsistency between the provisions of this chapter and the township building or housing code, the more restrictive will be deemed controlling.

(Ord. eff. 5-21-1966, § 15.443)

ARTICLE XI.5. - REGISTRATION OF HABITABLE RENTAL PROPERTIES

Sec. 82-805. - Annual registration requirement.

No person shall hereafter occupy, allow to be occupied or let to another person for occupancy any residential rental property within the township for which an annual registration statement has not been properly made and filed with the building department of the township and for which a certificate of occupancy has not been issued. Registration shall be made annually upon forms furnished by the building department of the township for such purpose and shall specifically require the following minimum information:

- (1) Name, address, and phone number of the property owner.
- (2) Name, address and phone number of the designated local property manager if the property owner lives outside of Berrien County.
- (3) The street address of the rental property.
- (4) The number and types of units within the rental property (dwelling units or sleeping rooms).
- (5) The maximum number of occupants permitted for each dwelling unit or sleep room.
- (6) The name, phone number and address of the person authorized to make or order made repairs or services for the property, if in violation of township or state codes, if the person is different than the owner or local manager.

(Ord. No. 82-805, § 1, eff. 6-5-00; Ord. eff. 7-5-2017(3))

Sec. 82-806. - Manner of registering.

The registration must be made annually on or before January 31 of each year, by the property owner or designated local property manager in the office of the building department of the township. The applicant/owner or his/her designated representative, by filing an application, shall be deemed to have given consent to the code enforcement officials of the township to enter each rental unit, as well as any other portions of the structure, at reasonable times and upon reasonable notice, to inspect the premises at any time after the application is made or a certificate of compliance is issued. Each applicant will suggest a convenient date for inspection at the time of application.

(Ord. No. 82-805, § 2, eff. 6-5-00; Ord. eff. 7-5-2017(3))

Sec. 82-807. - Transfer of property.

Every new owner of rental property (whether as fee owner or contract purchaser) shall be required to furnish to the building department the new owner's name, address, and phone number and the name, address, and phone number of the owner's designated local manager before taking possession of the rental property. No registration fee shall be required of the new owner during the year in which possession takes place provided that the previous owner has paid all registration fees and has complied with all requirements of this article and any notices from the township concerning violations of health, zoning, fire, or safety codes of the township. If any change in the type of occupancy as originally registered is contemplated by the new owner, a new registration statement will be required. It is the responsibility of the property owner to notify the township immediately if a formerly non-rental becomes a rental property at any time during the calendar year or if a rental property become non-rental at any time during the calendar year.

(Ord. No. 82-805, § 3, eff. 6-5-00; Ord. eff. 7-5-2017(3))

Sec. 82-808. - Initial inspection; orders; power to vacate.

After registration, an initial compliance inspection of the rental unit(s) shall be conducted based upon the agreed upon date at the time of application. If the rental unit(s) is not in compliance with the rules, regulations, laws, or housing codes of the township and/or the state, the code enforcement official shall furnish the applicant with a written list of the specific violations which shall be corrected before the rental certificate of occupancy is issued, provided further, that the violation(s) does not render the unit(s) unfit for occupancy or is of a nature which if not corrected would result in further deterioration and subsequent danger to human life, safety or welfare. However, if occupancy can continue safely, the township building department shall issue a temporary certificate of occupancy allowing occupancy to continue while the violations are being corrected. No certificate of occupancy shall be issued if occupancy will endanger the health, safety, or welfare of the public. In such cases, an order to vacate shall be issued.

Benton Charter Township may require the owner of a rental unit(s) to do one or more of the following:

- (1) Be present at the time of inspection.
- (2) Provide the code enforcement official access to the rental unit.
- (3) Provide access to areas other than a rental unit or areas open to public view, or both.
- (4) Notify a tenant of the code enforcement official's request to inspect the rental unit, and make a good faith effort to obtain permission for an inspection, and to arrange for the inspection. If a tenant vacates a rental unit after the code enforcement official has requested to inspect that leasehold, an owner of the leasehold shall notify the code enforcement official of that fact within ten days after the leasehold is vacated, and allow for the inspection.
- (5) Provide access to the leasehold if a tenant of that leasehold has made a complaint to the township.

(Ord. No. 82-805, § 4, eff. 6-5-00; Ord. eff. 7-5-2017(3))

Sec. 82-809. - Issuance of certificate of occupancy.

If, after the initial inspection conducted pursuant to this article, the dwelling unit is found to be in compliance with the rules, regulations, laws, and ordinances of the township and/or the state, the township building department shall issue a certificate of occupancy for the unit(s) in the name of the owner or designated representative.

(Ord. No. 82-805, § 5, eff. 6-5-00; Ord. eff. 7-5-2017(3))

Sec. 82-810. - Reinspection; revocation.

- (a) No later than 60 days after the initial inspection, a follow-up inspection shall be conducted, if necessary, to verify that all the violations listed pursuant to section 82-808, have been corrected. If not corrected, either a second reinspection shall be scheduled, or, if in the opinion of the inspector, a good faith effort to correct the code violations has not been made, the temporary certificate of compliance, issued pursuant to section 82-808, shall be revoked and the unit(s) vacated.
- (b) The landlord shall have the right to request additional inspections at no fee. This subsection does not apply to the initial compliance inspection nor to any follow-up compliance inspections.

(Ord. No. 82-805, § 6, eff. 6-5-00; Ord. eff. 7-5-2017(3))

Sec. 82-811. - Fees.

- (a) An annual fee shall be charged and be payable at the time of making the annual registration required under this article to off-set the township's cost for the annual compliance inspection, follow-up inspections, and administrative costs. In addition, there shall be an additional fee assessed for late registration. Fees for units that are not inspected, due to failure of the owner or tenant to allow or arrange for inspection, shall remain due and shall not be refunded to the owner.
- (b) There shall be a fee assessed against the property, property owner or designated local property manager for each additional inspection required because violations have not been corrected. Additional inspections shall mean inspections required after the initial and follow-up compliance inspections.
- (c) There shall be a fee assessed against the property, property owner or designated local property manager for the failure of the owner or manager to appear at the designated date and time set for inspection. Additionally, a misdemeanor criminal charge may apply pursuant to section 82-818 below.
- (d) Fees shall be adopted by the Benton Charter Township Board in a schedule of fees relating to this article and amended from time to time.
- (e) Any unpaid registration fees or other assess fees or penalties left unpaid for more than 120 days shall be charged an additional 15 percent penalty and shall be charged against the real estate upon which the structure or structures are located and shall be a lien upon such real estate.

(Ord. No. 82-805, § 7, eff. 6-5-00; Ord. eff. 7-5-2017(3))

Sec. 82-812. - Certificate of compliance requirement.

- (a) After the initial inspection of the rental unit(s), pursuant to section 82-808, no single unit dwelling, multiple unit dwelling, boarding house, lodging house, or other rental property offered to let or hire shall be occupied unless the township building department has issued a certificate of occupancy for the single unit dwelling, multiple unit dwelling, boarding house, or lodging house in the name of the owner or his/her designated representative.
- (b) Each certificate of occupancy shall be effective until revoked by the township, however, all units must be registered annually as set forth herein.

(Ord. No. 82-805, § 8, eff. 6-5-00; Ord. eff. 7-5-2017(3))

Sec. 82-813. - Maintenance of records.

All records, files, and documents pertaining to the rental registration and rental unit inspection program shall be maintained by the building department and made available to the public as allowed or required by state law or township ordinance.

(Ord. No. 82-805, § 9, eff. 6-5-2000; Ord. eff. 7-5-2017(3))

Sec. 82-814. - Appeal.

Any person who is grieved by a decision of the code enforcement official or whose certificate of occupancy has been revoked or if the unit(s) are found to be unfit for occupancy, shall be entitled to reconsideration by appealing the decision to the township board of appeals as provided in the property maintenance code then in effect.

(Ord. No. 82-805, § 10, eff. 6-5-2000; Ord. eff. 7-5-2017(3))

Sec. 82-815. - Distribution.

A certificate of occupancy shall be given to the owner or his/her designated representative and a copy shall be retained by the township building department.

(Ord. No. 82-805, § 11, eff. 6-5-2000; Ord. eff. 7-5-2017(3))

Sec. 82-816. - Transferability.

A certificate of occupancy shall not be transferred to any other dwelling or unit other than for which it was originally issued.

(Ord. No. 82-805, § 12, eff. 6-5-2000; Ord. eff. 7-5-2017(3))

Sec. 82-817. - Tenant responsibility.

In the event a violation exists or occurs which prevents the issuance of a certificate of occupancy or violates the currently approved property maintenance code due to the actions or failure to act by the tenant, then the tenant may also be cited for the violation and subject to punishment under section 82-818.

(Ord. No. 82-805, § 13, eff. 6-5-2000; Ord. eff. 7-5-2017(3))

Sec. 82-818. - Penalties; separate offense.

Any person, owner or designated representative admitting responsibility or found guilty of violating any provisions of this article, shall be guilty of a misdemeanor, and punished in accordance with section 1-11 of the Benton Charter Township Ordinances.

(Ord. No. 82-805, § 14, eff. 6-5-2000; Ord. eff. 6-10-2004; Ord. eff. 7-5-2017(3))

Sec. 82-819. - Enforcement.

- (a) The township zoning official, in addition to the ordinance enforcement officer, is authorized to enforce this article.
- (b) The enforcement duties of the zoning official shall include, among others, the following:

- (1) Investigating violations of this article;
- (2) Serving notice of violations;
- (3) Serving appearance tickets as authorized by state statute;
- (4) Appearing in administrative or judicial proceedings to assist in the prosecution of violators of this article.

(Ord. eff. 7-5-2017(3))

ARTICLE XI.6. - FIRE SAFETY INSPECTIONS

Footnotes:

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Note— *The building department, in connection with the fire department, shall conduct an annual safety inspection of all multi-unit dwelling, boarding house, lodging house, and commercial occupancies to include all hotels and motels, pursuant to the International Fire Code, 2006 edition, as amended, adopted by reference in section 30-1 of these ordinances.*

Sec. 82-820. - Annual fire safety inspection requirement.

No person shall hereafter occupy, allow to be occupied, or let to another person for occupancy any multi-unit dwelling, boarding house, lodging house, or commercial occupancy within the township for which an annual fire safety inspection certificate of compliance has not been issued by the building department.

(Ord. eff. 3-8-2019(1))

Sec. 82-821. - Compliance with fire suppression requirements.

The owner of such multi-unit dwelling, boarding house, lodging house, or commercial occupancy shall be responsible for maintaining all fire suppression equipment and meeting other fire suppression and safety requirements as required by law. Any violations found during the inspection shall be corrected at the sole cost of the owner. The building department shall furnish the owner or owner's representative with a written list of the specific violations which shall be corrected before the certificate of compliance is issued.

Should any violations not be corrected within 60 days of the inspection date, the chief building official may revoke the occupancy permit of the premises until such time as the corrections are made.

(Ord. eff. 3-8-2019(1))

Sec. 82-822. - Duty to allow inspection.

The township may require the owner or owner's representative of such multi-unit dwelling, boarding house, lodging house, or commercial occupancy to do one of more of the following:

- (1) Be present at the time of inspection.
- (2) Provide the code enforcement official with access to the building.
- (3) Provide access to areas other than a rental unit or areas open to the public views, or both.
- (4) Notify a tenant of the code enforcement official's request to inspect the rental unit for fire safety purposes and make a good faith effort to obtain permission for the inspection, and to arrange for the inspection.

(5) Provided access to the building if a tenant of that building has made a complaint to the township.

(Ord. eff. 3-8-2019(1))

Sec. 82-823. - Fees.

- (a) An annual fee shall be charged and be payable at the time of inspection to off-set the township's cost for the annual compliance inspection, follow-up inspections, and administrative costs.
- (b) There shall be a fee assessed against the property, property owner or owner's representative for each additional inspection required because violations have not been corrected. Additional inspections shall mean inspections required after the initial inspection and one follow-up compliance inspection.
- (c) There shall be a fee assessed against the property, property owner, owner's representative for the failure of the owner or representative to appear at the designated date and time for inspection. Additionally, a misdemeanor criminal charge may apply pursuant to section 82-825 below.
- (d) Fees shall be adopted by the Benton Charter Township Board in a schedule of fees relating to this article and amended from time to time.
- (e) Any unpaid fees or penalties left unpaid for more than 120 days shall be charged an additional 15 percent penalty and shall be charged against the real estate upon which the structure or structures are located and shall be a lien upon such real estate.

(Ord. eff. 3-8-2019(1))

Sec. 82-824. - Certificate of compliance with fire inspection.

No multi-unit dwelling, boarding house, lodging house, or commercial occupancy shall remain occupied unless a certificate of compliance with the annual fire inspection has been issued by the building department.

(Ord. eff. 3-8-2019(1))

Sec. 82-825. - Violations.

Any person, owner, or designated representative admitting responsibility or found guilty of violation any provisions of this article shall be guilty of a misdemeanor, and punished in accordance with section 1-11 of the Benton Charter Township Ordinances.

(Ord. eff. 3-8-2019(1))

Secs. 82-826—82-835. - Reserved.

ARTICLE XII. - SITE PLAN REVIEW

Sec. 82-836. - Zoning compliance permit required.

Before a building permit may be issued, the building department must issue a zoning compliance permit for any building other than a single-family residence or two-family dwelling.

(Ord. eff. 5-21-1966, § 15.445; Ord. eff. 6-24-1978, § 15.445)

Sec. 82-837. - Procedures.

Any person seeking a zoning compliance permit must first secure and file ten copies of a site plan application with the building department and pay the fee provided in this article for site plan reviews.

- (1) The site plan application must be filed at least 20 days prior to the planning commission meeting at which it will be reviewed.
- (2) The applicant shall be notified in writing of the date, time and place of any meeting at which the application will be on the agenda for official review or action.

(3) a.

If the site plan application is disapproved, the applicant may file an appeal with the zoning board of appeals for relief and approval. If the plan is disapproved by the board, the applicant may file for relief in the county circuit court.;

- b. Upon approval of the site plan application, the building department shall issue a zoning compliance permit; and upon approval of the site plan application, the application shall be submitted to the township board at its next regularly scheduled meeting; and upon approval, the building department shall issue a zoning compliance permit; and if the site plan application is disapproved, the applicant may file an appeal with the zoning board of appeals for relief and approval. If the plan is disapproved by the board, the applicant may file for relief in the county circuit court.

(Ord. eff. 5-21-1966, § 15.445A; Ord. eff. 6-24-1978, § 15.445)

Sec. 82-838. - Criteria for approval.

- (a) The proposed use, site plan construction, and the resulting activities of the use must be reasonably compatible with the surrounding conforming uses and their development.
- (b) The site plan must be properly related to all aspects of ingress, egress and parking, so as to optimize the safety and convenience of both pedestrians and vehicles. In this connection, requirements of the county road commission shall be considered before any permit is issued.
- (c) All buildings and structures must be properly related to all existing and planned building structures on neighboring properties.
- (d) Plans and specifications must provide for proper development of roads, easements and utilities so as to reasonably assure protection of the public health, safety and general welfare.

(Ord. eff. 5-21-1966, § 15.445B; Ord. eff. 6-24-1978, § 15.445)

Sec. 82-839. - Requirements for site plans and actions.

- (a) All site plan applications must be either approved, disapproved or approved with conditions within 45 days of the receipt of the application by the planning commission.
- (b) Site plan applications shall include the following: a site plan, a plan drawing, and a vicinity map.
 - (1) The sealed plan drawing produced by a state licensed architect, engineer or surveyor shall include appropriate legend or key, scale, north arrow, name of development, name of owner and/or firm developing the site, name of firm or party preparing the site plan, along with any required embossed, professional seal

and date.

- (2) The plan drawing shall include a property survey showing all property lines, including dimensions and angles or bearings that coincide with the legal description of the property. The property survey shall also show on its drawing the topography at least at two-foot contour intervals, an indication of the type of soils, existing trees of four-inch caliper and up shall be noted, any standing water, groundwater tables, and such natural features as wood lots, specimen trees, streams, rivers, lakes, drainage ways, and all utilities, showing locations. The property survey shall also show all buildings and other manmade structures such as pipelines, easements and roadways on the property and within 100 feet.
- (3) The vicinity map shall show property boundaries and their relation to surrounding geographic features including streets, streams or other special, natural or developed features.
- (4) The site plan shall be on a scale of no less than one inch equals 20 feet to no more than one inch equals 80 feet.
- (5) The site plan shall also show all proposed, finished, principal and accessory building floor elevations, finished grading of the entire site, the location, dimensional spacing and relationship of all buildings and structures, the height of all buildings and structures, the square footage of the ground floor and the sum total of all floors and all existing and proposed buildings and structures which can be measured.
- (6) The site plan shall show all public and private streets, curb cuts and driveways, parking areas (showing number of spaces), loading and unloading areas, outdoor lighting (including illumination level), trash pickup system and location of trash areas, provisions for future expansion if contemplated, pedestrian walkways and entries, malls, plazas, provisions for fire protection, provisions for utilities (including additional loads expected), and water drainage (including impact on existing waterways, if any).
- (7) The site plan shall also show the location, size and use of all open land areas, the location, size or other general specifications for site development features, such as plantings, landscaping, walls, fencing, furniture (such as seats, trash receptacles, sculptures and fountains), signs, and an existing topography and proposed grading plan, including any changes to be made in natural features and the environmental character of the site.
- (8) The site plan application may include such other special information and considerations relative to the existing or proposed site plan as may be deemed appropriate by the developer or owner or as may be required by the planning commission if it deems them necessary for the protection of the public health, safety and general welfare.

(Ord. eff. 5-21-1966, § 15.445C; Ord. eff. 6-24-1978, § 15.445)

Sec. 82-840. - Approval or disapproval.

The approval or disapproval of the site plan application shall be made by the township planning commission at any regular or special meeting called for that purpose. In this connection, the planning commission may approve a site plan application contingent on certain conditions set out by the planning commission. These conditions shall be provided to the applicant in writing at the time of the conditional approval.

(Ord. eff. 5-21-1966, § 15.445D; Ord. eff. 6-24-1978, § 15.445)

Sec. 82-841. - Enforcement.

Upon the approval of the final site plan and subsequent issuance of a zoning compliance permit, the building department shall enforce compliance of the developer and owner with both the site plan and all other applicable ordinances, rules and regulations, including any approved conditions granted by the board of appeals, or circuit court ruling on a specific site plan.

(Ord. eff. 5-21-1966, § 15.445E; Ord. eff. 6-24-1978, § 15.445)

Sec. 82-842. - Period of validity.

Approval of a site plan, whether by the planning commission, zoning board of appeals, or circuit court ruling, whichever comes later, shall remain valid for a period of one year. If construction is not commenced within one year of final approval, the approval shall become null and void.

(Ord. eff. 5-21-1966, § 15.445F; Ord. eff. 6-24-1978, § 15.445)

Secs. 82-843—82-875. - Reserved.

ARTICLE XIII. - PLANNED UNIT DEVELOPMENTS

DIVISION 1. - GENERALLY

Sec. 82-876. - Definition, purpose, intent and objective.

- (a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Planned unit development or *PUD* means a zoning district unique to itself. It applies to the development of an area of land as a single entity with a number of unassociated uses. It is a plan for lot size, bulk or type of dwelling, density, lot coverage, required open space, or uses that do not exist in a singular zoning district. It may incorporate all or part of the other zoning districts into one planned unit development.

- (b) *Purpose.* It is the purpose of this article to establish zoning regulations, controls and standards for minimum land areas, the use of land and buildings, amount and kind of open space land, provisions for off-street parking and other similar accessory requirements necessary to regulate planned unit developments within the township and in accordance with the laws of the state.

- (c) *Intent.*

- (1) The basic intent of this article recognizes that, while the standard zoning function (use and bulk) and the subdivision function (platting and design) are appropriate for the regulation of land uses in areas or neighborhoods of the community that are already substantially developed, these controls represent a type of preregulation and regulatory rigidity that would frustrate the application of the PUD concept.
- (2) Thus, where PUD techniques are deemed appropriate by the township board in keeping with the intent and purpose of the PUD, the set of use and dimensional specifications contained elsewhere in this chapter are replaced by an approval process in which an approved plan becomes the basis for continuing land use controls.

(d) *Objective.* In order to carry out the intent of this article, a PUD shall achieve the following objectives:

- (1) A maximum choice in the types of environments occupancy tenure (i.e., individual ownership, cooperatives, condominium, leasing, etc.), types of housing, lot sizes and community facilities available to existing and potential township residents at all economic levels.
- (2) Usable open space land and recreational areas.
- (3) Convenience in location of accessory commercial service and industrial areas.
- (4) The preservation of trees, outstanding natural topography, and geologic features and the prevention of soil erosion.
- (5) A creative use of land related to physical development that allows an orderly transition of land from rural to urban uses.
- (6) An efficient use of land resulting in more efficient networks of utilities and streets.
- (7) A development pattern in harmony with the objectives of the township comprehensive plan.
- (8) A desirable environment than would be possible through the strict application of the provisions of this chapter.

(Ord. eff. 5-21-1966, §§ 15.620—15.624; Ord. eff. 7-20-1987, §§ 15.620—15.624)

Cross reference— Definitions generally, § 1-2.

Sec. 82-877. - Minimum area.

The minimum area required for a tract of land to qualify for PUD shall be ten contiguous acres.

(Ord. eff. 5-21-1966, § 15.631; Ord. eff. 7-20-1987, § 15.631)

Sec. 82-878. - Ownership.

The PUD application must be filed by the owner or jointly by the owners or contract purchasers of all properties included in the project. The PUD shall be in a single ownership by the time the final development is approved.

(Ord. eff. 5-21-1966, § 15.632; Ord. eff. 7-20-1987, § 15.632)

Sec. 82-879. - Permitted uses.

- (a) *Housing types.* In developing a PUD, the use of a variety of housing types shall be deemed most in keeping with this article.
- (b) *Accessory commercial service and other nonresidential uses.* Such uses are permitted or required where such uses are scaled to serve the residents of the PUD and the surrounding area.
- (c) *Accessory or associated uses.* Uses such as private garages, storage spaces, recreational and community facilities, churches, schools, golf courses, private parks, lakes, waterways, marinas, or any other accessory use which in the opinion of the planning commission will enhance the use and enjoyment of the PUD may be permitted as appropriate to the PUD and may also be permitted if appropriate to the development of the region as a whole.

(Ord. eff. 5-21-1966, §§ 15.635—15.638; Ord. eff. 7-20-1987, §§ 15.635—15.638)

Sec. 82-880. - Area and bulk requirements.

All structures shall be shown on the preliminary plan, except in large PUDs (in excess of 40 acres) all structures shall be shown for the first two phases, with the balance shown on a land use and major circulation plan stating the total density and type of uses and other information needed in support of the general plan.

(Ord. eff. 5-21-1966, § 15.640; Ord. eff. 7-20-1987, § 15.640)

Sec. 82-881. - Minimum lot sizes.

Minimum lot sizes, building setbacks, yard lines, lot coverage and lot width are not regulated specifically by this article. However, the relationship of buildings to each other, the local street system, and open space land shall be consistent with the objectives of this article and afford no less open space than would be found under standard zoning.

(Ord. eff. 5-21-1966, § 15.641; Ord. eff. 7-20-1987, § 15.641)

Sec. 82-882. - Intensity of land use.

- (a) Because land is used more efficiently in a PUD, improved environmental quality and needed public land facilities can be produced even though a greater population density per acre is possible than usually permitted in traditionally zoned districts.
- (1) Population density shall be based on persons per gross acre of PUD area; and in computing this density, a factor of 1.0 persons per efficiency unit, 2.0 persons per one-bedroom unit, 3.0 persons per two-bedroom unit, 4.0 persons per three-bedroom unit, 5.0 persons per four-bedroom unit, and 6.0 persons per five-bedroom unit.
- (2) The population density permitted in a PUD shall not exceed the calculated density of 30 persons per gross acre of PUD area, but excluding land for commercial and industrial uses.
- (3) a.
The township board may make adjustments in the overall permitted population density of individual projects where deemed appropriate. The determination of adjusted population densities shall be completely documented, including all facts, opinions and judgments justifying the selection of the adjusted density.
- b. Adjacent to the planned development, the planning commission shall impose either of the following requirements and may impose both:
1. Structures located on the perimeter of the planned development must be set back by a distance sufficient to protect the privacy and amenity of adjacent existing uses.
 2. Structures located on the perimeter of the planned development must be permanently screened in a manner that is sufficient to protect the privacy and amenity of adjacent existing uses.
- (b) The requirements of this section apply only to structures located within 200 feet of the perimeter of a planned development.

(Ord. eff. 5-21-1966, § 15.642; Ord. eff. 7-20-1987, § 15.642)

Sec. 82-883. - Building coverage.

Within the PUD the project buildings shall cover only 30 percent of the project site.

(Ord. eff. 5-21-1966, § 15.643; Ord. eff. 7-20-1987, § 15.643)

Sec. 82-884. - Township authority to initiate.

When in the opinion of the township board it is deemed necessary and appropriate to facilitate future development within the township, the township board may identify and designate those appropriate areas as PUD zoned areas. All required procedures shall be adhered to when changing a previously zoned area to a PUD zoning status. If the board initiates the PUD zoning change, the board shall identify all specific requirements as related to this division.

(Ord. eff. 4-9-1990, § 15.644)

Secs. 82-885—82-905. - Reserved.

DIVISION 2. - APPLICATION PROCEDURE AND APPROVAL PROCESS

Sec. 82-906. - Generally.

Whenever any PUD is proposed, before any permit for the erection of a permanent building in such PUD is granted and before any subdivision plan for any part of the PUD may be filed, the developer or his authorized agent shall apply to the planning commission for their preliminary approval and the township board for final approval of such development in accordance with the procedures of this division.

(Ord. eff. 5-21-1966, § 15.646; Ord. eff. 7-20-1987, § 15.646)

Sec. 82-907. - Preapplication conference.

- (a) The PUD applicant shall request the planning commission by letter addressed to the chairman, to call a meeting of the planning commission for a preliminary discussion of the proposed PUD; and the planning commission shall call such meeting, which may be continued from time to time. The applicant shall present such exhibits and written information as may be necessary to fully acquaint the planning commission with the proposed development, which shall include but not necessarily be limited to the following:
- (1) A tentative sketch plan, which may be in freehand sketch form, showing the location and extent of the types of land uses proposed.
 - (2) The existing topography at five-foot contour intervals, which may be taken from U.S.G.S. information.
 - (3) Existing streets surrounding the subject property.
 - (4) Existing utilities, including storm drainage facilities.
 - (5) The following shall be provided by either graphic exhibits or written statements:
 - a. The density of residential uses and the number of dwelling unit by type.
 - b. The ancillary and nonresidential uses to be provided in a residential PUD.
 - c. The off-street parking and other service facilities proposed.
 - d. The exceptions or variations to the other township zoning or subdivision requirements being requested as part of the PUD application.
 - (6) A statement of proposed financing and developmental schedule.

- (b) Within 30 days after the preapplication conference, the planning commission shall submit to the township board a report outlining the development plan.
- (c) Within 30 days after the township board receives and considers the report submitted by the planning commission, the board shall direct the planning commission to inform the applicant to present the outline development plan proposal.

(Ord. eff. 5-21-1966, § 15.647; Ord. eff. 7-20-1987, § 15.647)

Sec. 82-908. - Outline development plan.

The applicant shall appear before the planning commission and present a written request containing the following, which is needed to determine the basic policy decisions required by the proposal:

- (1) A statement of his intention to construct a PUD.
- (2) A property line survey including topography at not less than two-foot contours to be included in the PUD prepared and sealed by an engineer or surveyor licensed to practice in the state.
- (3) A map showing ownership of all land to be included in the PUD.
- (4) General statements or maps regarding:
 - a. The nature of the proposed land uses.
 - b. The general location of the proposed land uses.
 - c. The generalized land use pattern surrounding the proposed PUD, showing approximate locations of existing buildings and other structures and the approximate density of existing dwellings surrounding the proposed PUD.
 - d. A general circulation plan showing principal traffic routes and other circulation features within the PUD.
 - e. Schematic public and private facilities plan, including schools, parks, playgrounds and other open spaces, as well as provisions for storm drainage.
 - f. The applicant's financing ability to carry out such a project.
 - g. The applicant's knowledge of the PUD concept and his understanding of the ordinance and conditions under which he will operate.
 - h. A map or a statement as to the availability of utilities (location, size, capacity).
 - i. Such other reasonable information as the planning commission may direct. Note: Map scale shall be one inch equals 50 feet.
- (5) A statement requesting the planning commission make a recommendation to the township board, as to whether this outline development plan will apply to the PUD ordinance.
- (6) In its request, the applicant shall demonstrate that his proposed PUD will meet the stated intent of this article.
- (7) A sketch plan with sufficient detail to allow the planning commission to adequately judge the merits of the applicant's proposal.
- (8) Preliminary architectural plans and elevations or perspectives in sufficient detail to denote the character of the development.
- (9) If shopping, office or industrial areas are to be part of the PUD, preliminary market analyses are required at the preliminary plan approval stage.

(10) Within 60 days after the filing of the outline development plan, the planning commission shall give a notice of a public hearing to be held on the plan, before the planning commission. Subsequent to the public hearing, the planning commission shall forward the plan to the township board with a report recommending that the plan be disapproved, approved or approved with modifications, and giving the reasons for these recommendations, based on the purpose, objectives and intent of this article. This report shall include two recommendations whether:

- a. Zoning should be changed to PUD.
- b. Permission should be granted for the applicant to proceed to preliminary plan approval.

The planning commission shall forward the application information to the county planning commission for their recommendations.

(Ord. eff. 5-21-1966, § 15.648; Ord. eff. 7-20-1987, § 15.648)

Sec. 82-909. - Application for preliminary plan approval.

(a) Following approval of the applicant's request for permission to proceed under the requirements of this article by the township board, the applicant must submit preliminary plans to the planning commission for review within nine months from the date of approval. In order to allow the planning commission and the applicant to reach an understanding on the basic design requirements prior to detailed design, the applicant shall submit a preliminary plan of his proposal to the planning commission for their review. This submittal shall include not fewer than five copies of the proposed plan and all other required documents and filed not less than 15 days prior to the date of the planning commission meeting or hearing at which the PUD will be considered. The planning commission shall give notice and provide an opportunity to be heard to each of the following:

- (1) Any person who is on record as having appeared at the hearing on the outline development plan.
- (2) Any other person who has indicated to the planning commission in writing that he wishes to be notified.

(b) The preliminary plan and all subsequent plans shall be prepared by a state registered architect or engineer. The planning commission may require the applicant's consultants to submit their credentials and experience for review and conformance with the intent of this subsection.

(c) The application for preliminary plan approval shall contain but need not be limited to the following written statements concerning:

- (1) Facts regarding the suitability of the site for a PUD, the proposed density, the suitability of the proposed uses, the approximate percentage allocation of dwelling units by type, methods for solving known engineering problems connected with the site and probable phasing of the project.
- (2) Scale. The preliminary plan shall be drawn to scale of not smaller than one inch equals 100 feet.
- (3) Disposition of open space lands and provisions for maintenance and control of open space lands. The financial responsibility for such open space lands must be clearly indicated.
- (4) Evidence of how the developer's approximate mix of land uses meets existing housing demands. Such evidence concerning demands may be in the form of specific studies or reports initiated by the developer or in the form of references to existing studies or relevant comprehensive plan reports.
- (5) Demonstration of the applicant's financial ability and professional competency to carry out the plan and his awareness of the physical and financial scope of such a project.

(Ord. eff. 5-21-1966, § 15.649; Ord. eff. 7-20-1987, § 15.649)

Sec. 82-910. - Preliminary plan approval.

- (a) The planning commission shall review the preliminary PUD plan and its related documents and shall inform the applicant of their review of the plan in writing. The review shall relate the findings of the preliminary plan hearing and shall be provided the applicant within 60 days. It shall be the responsibility of the applicant to submit his plans to other public bodies required to approve the plan. It is expected that some deviation from the standard subdivision regulation requirements will be required. In addition, it is expected that the subdivision regulations will not tell all of the standards required for the various site improvements generated by the PUD.
- (b) The developer may submit for approval the proposed deviation from the detailed design and construction standards set forth in the subdivision regulations for site improvements. The developer may also submit such additional construction details as required to establish the materials and methods of construction for those site improvement elements not included in the subdivision regulations.
- (c) The planning commission shall forward its recommendations concerning the preliminary plan to the township board. The board shall then approve or disapprove the preliminary plan. In disapproving a preliminary plan, the board shall make clear their finding of facts for such action. The applicant shall have the right to appeal to the board of appeals.

(Ord. eff. 5-21-1966, § 15.650; Ord. eff. 7-20-1987, § 15.650)

Sec. 82-911. - Submission of final plan and all documents.

Application for final PUD site plan approval shall be submitted to the planning commission and shall contain the following documents:

- (1) Any revisions required in plan subject to township board approval of preliminary plan.
- (2) A plan to the scale of one inch equals 50 feet, showing:
 - a. The applicant's entire land holding;
 - b. That portion of the applicant's property under construction (if less than the entire holding);
 - c. All easements affecting the property; and
 - d. All properties, subdivisions, streets and major easements within 300 feet of the applicant's property.
- (3) Two topographic maps at two-foot contour intervals shall be provided on the site plan, not as a separate survey. Also included on these maps shall be important physical features (watercourses, etc.), the location and extent of major trees and tree masses, existing structures, roads, sewer lines, water lines, power and gas lines and related elements. One map shall show existing conditions, and one shall show completed development.
- (4) A site plan drawn to scale showing the location of all proposed structures, the location and size of all roads, parking areas, loading areas, ingress and egress drives, location and other features of the proposed development, and disposition for all open space land, including parks, playgrounds, open reservations, the location of all existing or proposed site improvements, including drains, culverts, retaining walls, fences, descriptions of the method of sewage disposal and the location of such facilities, the location and size of all signs, the location and proposed development of buffer areas, location and design of lighting facilities, and the amount of building area proposed for nonresidential uses, if any. The site plan shall be drawn over existing topography as required in this article.

- (5) A separate plan for recording, showing the individual properties to be recorded, as well as common property, all way, land dedicated to the public easements, and covenants or restrictions relating to such land.
- (6) Ten copies of all documents and those relating to home associations, open space land maintenance provisions, restrictive covenants applying to the building and utilities.
- (7) Working drawings and specifications for all land improvements be prepared by an engineer licensed by the state.
- (8) Within the PUD, a sanitary sewerage system, which shall be of sufficient size and design to collect all sewage from all present and proposed structures in the PUD, shall connect with the township system if available, and shall be otherwise constructed and maintained in conformity with the statutes, ordinances and regulations of the state, the county health department, and the township. Such system shall be reviewed and approved by the township engineer prior to submission for site plan review by the commission.
- (9) The developer shall provide within the PUD a storm drainage system, which shall be of sufficient size and design to carry off and dispose of all predictable surface water runoff within the development and any adjoining contributory areas, and shall be so constructed as to conform with the statutes, ordinances and regulations of the state, the county drain commissioner, and the township. Such system shall be reviewed and approved by the township engineer prior to submission for site plan review by the commission.
- (10) If a public water system is not available, the developer shall provide within the PUD a potable water system, which shall be of a sufficient size and design to supply potable water to each of the structures to be erected in the development.
 - a. The developer shall provide a fire hydrant within 400 feet of each structure.
 - b. Water systems shall conform to the statutes, ordinances and regulations of the state, the county health department, the county board of public works, and the township.
 - c. Such water system shall be reviewed and approved by the township engineer prior to submission for site plan review by the commission.
- (11) The dimensions and specifications of roads, alleys and parking areas within the development, whether or not dedication of them to the township or other county agencies is contemplated, conforming to minimum county road commission and state department of highways specifications.
- (12) Such other reasonable additional requirements as the planning commission may prescribe.

(Ord. eff. 5-21-1966, §§ 15.651, 15.652; Ord. eff. 7-20-1987, §§ 15.651, 15.652)

Sec. 82-912. - Action on final plan by township.

- (a) The planning commission shall give notice and provide an opportunity to be heard on the PUD final development plan to:
 - (1) Any person who appeared on record at the hearing on the preliminary development plan or at the hearing on the outline development plan.
 - (2) Any other person who has indicated to the planning commission in writing that he wishes to be notified.
- (b) The planning commission shall, within 60 days of receipt of the final plan, recommend approval or disapproval of the final plan to the township board for their approval in whole or in part, based upon, but not limited to, the following considerations, and so advise the applicant in writing:
 - (1) Conformance of the final plan with the spirit and intent of the PUD as stated in this article.

- (2) General conformance of the final plan with the preliminary plan submitted under the requirements of this article
 - (3) The adequacy and arrangement of vehicular traffic access and on-site circulation, including intersections, road widths, traffic controls, and ingress and egress.
 - (4) The adequacy, location and arrangement of off-street parking and loading facilities.
 - (5) The relationship of buildings to each other, the circulation system, and the open space pattern.
 - (6) The adequacy of the preliminary landscape plan for providing visual and physical buffering between adjacent uses and adjoining lands.
 - (7) The adequacy of water supply and sanitary and storm sewage disposal facilities and provisions.
 - (8) The PUD is consistent with the comprehensive plan, if any, for the community.
 - (9) The PUD is an effective and unified treatment of the development possibilities on the project site (and the development plan makes appropriate provision for the preservation of streams and stream banks, wooded cover, rough terrain, and similar areas).
 - (10) The PUD can be planned and developed to harmonize with the existing or proposed development in the area surrounding the project site.
 - (11) Financing is available to the applicant on conditions and in an amount which is sufficient to assure the completion of the PUD.
- (c) Approval of the final plan by the township board and all attending documents shall constitute approval for recording, if submitted concurrently. If the final plan for recording is submitted at a later date, such a plan shall conform substantially to the final plan in order for such plan to receive approval.
 - (d) If no construction has begun or no use established in the PUD within one year from the approval of the final development plan, the final development plan shall lapse and be of no further effect.
 - (e) Upon approving the submission of a final plan, the township board shall endorse the ordinance with approval dates and so signed, and shall forward a copy of the final plan to the applicant if the project conforms to all other applicable codes and ordinances.
 - (f) Should the final plan be disapproved, the township board shall also notify the applicant in writing of its decision and its reasons for disapproval.

(Ord. eff. 5-21-1966, § 15.655; Ord. eff. 7-20-1987, § 15.655)

Secs. 82-913—82-935. - Reserved.

DIVISION 3. - PHASING AND PLAN CHANGES

Sec. 82-936. - Phasing.

Any plan that requires more than 24 months to be completed may be constructed in phases, and a phasing plan must be developed.

(Ord. eff. 5-21-1966, § 15.661; Ord. eff. 7-20-1987, § 15.661)

Sec. 82-937. - Plan changes.

In a phased PUD, it is expected that changes in the approved final plan will be required from time to time. In order to preserve the flexibilities that are fundamental to a PUD, plan changes are permitted subject to the following limitations:

- (1) The changed plan must meet the basic objectives and all regulations and requirements of this chapter.
- (2) All plan changes must be submitted through the approval process (review by the planning commission and sent with their recommendations to the township board for formal approval or disapproval).

(Ord. eff. 5-21-1966, § 15.662; Ord. eff. 7-20-1987, § 15.662)

Secs. 82-938—82-955. - Reserved.

ARTICLE XIV. - SPECIAL USE PERMITS AND ZONING CHANGES

Sec. 82-956. - Procedure for special use permit.

The procedure for a special use permit is as follows:

- (1) Submit request in writing with \$75.00 deposit to the building department on forms provided.
- (2) Matter is referred to the planning commission (meetings are held on the second and fourth Thursdays of every month; request must be made on or before the Friday prior to the meeting).
- (3) The planning commission refers matter to the land use committee (report is usually given at the next meeting) and a recommendation is given at that time to recommend approval or denial of the request to the township board. Petitioner can request a public hearing be held at any time before or after recommendation is made. Deposit can be refunded only if notice is not published. The date of public hearing is set.
- (4) Notice of public hearing must:
 - a. Be advertised in local newspaper not more than 15 days or less than five days before the hearing.
 - b. Contain places and times at which the tentative text and maps may be examined (may include address or identification in addition to property description).
 - c. Notify property owners and occupants within 300 feet of all property lines not less than five days nor more than 15 days before the hearing by mail.
- (5) Following the public hearing, the planning commission then transmits its final recommendation to the township board and also notifies the county planning commission. The township board then takes final action. Public hearing by the township board is not necessary unless a request is made in writing by the petitioner.

Sec. 82-957. - Procedure for zoning changes.

The procedure for zoning changes is as follows:

- (1) Submit request in writing with \$75.00 deposit to the building department on forms provided.
- (2) Matter is referred to the planning commission (meetings are held on the second and fourth Thursdays of every month; request must be made on or before the Friday prior to the meeting).
- (3) The planning commission refers matter to the land use committee (report is usually given at the next regular meeting) and a recommendation is given at that time to recommend approval or denial of the request to the

township board. Petitioner can request a public hearing be held at any time before or after recommendation is made. Deposit can be refunded only if notice is not published. The date for public hearing is set.

- (4) Notice of public hearing must:
 - a. Be advertised twice in local newspaper; first publication must be not less than 20 days nor more than 30 days from the date of the hearing; second notice must be published not more than eight days prior to the hearing.
 - b. Contain places and times at which the tentative text and maps may be examined (may include address or identification in addition to property description).
 - c. Give 20 days' notice of time and place of meeting by certified mail to each electric, gas, pipeline and telephone utility company that registers its name and address with the planning commission and to each railroad operating within the district or zone affected.
 - d. Post property at least eight days prior to hearing date (file affidavit of posting for records). Notice must include time, place, date and purpose of meeting.
 - e. Give notice to property owners and occupants within 300 feet of all property lines not less than eight days prior to hearing and not more than 20 days prior to hearing.
- (5) Following the public hearing, the planning commission shall submit the proposed change, including any maps, to the county planning commission. The approval of the county commission shall be presumed unless the township clerk is notified within 30 days of the receipt of the proposed change.
- (6) The planning commission then transmits its recommendation to the township board for final action. Public hearing by the township board is not necessary unless a request is made in writing by the property owner.
- (7) Change, if adopted, should be published.